

ETWB(T) CR 11/986/00

Tel. 2189 7348

Fax. 2537 5246

By fax: 2121 0420

Mr Andy Lau,
Clerk to Transport Panel,
Legislative Council Secretariat,
3/F., Citibank Tower,
3 Garden Road,
Central,
Hong Kong.

20 May 2006

Dear

**Merger of MTR and Kowloon-Canton Railway (KCR) Systems
- Proposed Way Forward**

At the meeting of the Panel on Transport held on 28 April 2006, Members requested the Administration to follow-up in conjunction with the two railway corporations on the following four issues. We have discussed with the two railway corporations and would like report as follows:

- (a) **To report back in three weeks' time whether the proposal from the Alliance of Five Unions in Two Rails (the Five Unions) concerning the setting up of an appeal mechanism that involves participation of representatives of staff unions would be implemented:**

The two corporations have confirmed that future staffing arrangements will be handled fairly and equitably. On this basis, the two corporations will make reference to their existing arrangements for handling appeals in setting up an appeal mechanism for handling appeals arising from the rail merger. The existing appeal mechanisms of the two corporations have

provided for involvement of staff representatives. Such arrangement will continue for the handling of future merger-related appeals regarding staffing arrangements. The staff representatives will include representatives of Staff Consultative Committees (SCC) / Consultative Committees (CC) and unions. The corporations will consult and notify staff members later on the detailed arrangement.

Same as current practice, it is not appropriate for the Government to be involved directly in the handling of staff appeal matters in future.

- (b) To report back in three weeks' time whether the Five Unions' proposal concerning the establishment of a regular communication system among the Government, the corporations and the Five Unions would be implemented:**

The two corporations have well established mechanisms for consultation and communication with representatives of the SCC/CC and the unions. The established mechanisms have proven to be effective in resolving matters of common concern to both the management and staff in the past. We encourage staff to maintain direct communication with the management through these channels. Staff arrangements are matters that should best be resolved through discussion between staff and the management.

The corporations will arrange for involvement of staff representatives (including representatives of the SCC / CC and unions) in the relevant merger working groups and will consult staff on matters affecting them before any final decision. The corporations have made tremendous efforts in maintaining good and harmonious staff relations and are committed to continuing doing so in future.

The Administration is concerned about the impact of the proposed rail merger on staff. We have met with representatives of the staff unions in the past to listen to their concerns. We will maintain our communications with the Five Unions and future arrangements will be made having regard to the development of the subject.

- (c) To consider providing to the staff unions of the two rail corporations the report of the external human resources consultant appointed by the corporations on the assessment of the area and magnitude of synergy**

which could be brought about by the merger:

The two corporations advised that the study was an internal study which focused on a high-level and broad assessment on the overall functions. The study was not intended to identify exactly which position or grade could be deleted if there were a rail merger. According to the corporations, they had appointed an independent consultant to assist in the study and the consultant's suggestions were for the management's reference only. As such, they are not prepared to disclose the consultant's advice to the staff or external parties.

(d) To provide a written response to the various views and proposals put forward by the staff unions at the meeting:

As for the views and proposals put forward by the Five Unions, the Hong Kong Mass Transit Railway Staff General Association, the Kowloon Canton Railway Workers Union and the Staff Consultative Council of MTRCL at the above-mentioned meeting (other than on the setting up of an appeal mechanism and a regular communication system which have been addressed in (a) and (b) above respectively), our response is as follows:

Definition of frontline staff

We would reiterate that assurance of the job security for frontline staff is a key parameter in our consideration of the proposed rail merger. Since a number of railway projects are currently underway and would be completed in the coming few years, the railway corporations indicated that there would continue to be a demand for staff positions in future.

In general, a company would have regard to its actual operation in classifying frontline jobs. We understand that the staff unions hope to extend the job security to office staff and certain managerial positions. We understand that the definition of frontline staff is the result of careful consideration by the two corporations. The definition was agreed by the two corporations after lengthy discussion and its scope has already covered a wide range of staff positions. The two corporations believe that the definition is clear and appropriate.

Apart from provision of job security as it relates to the rail merger for frontline staff, the two corporations have committed to looking after the

interests of all staff. As we mentioned in our letter dated 27 April 2006 to the Clerk to the Panel on Transport, the two railway corporations estimated that due to business growth including commissioning of new railways as well as retirement and turnover, a total of 1,300 jobs vacancies would be available in the first 3 years after the merger, which is more than adequate to absorb the estimated 650 – 700 staff synergy. The railway corporations expect that majority of the staff would stay in their current jobs after the rail merger. The post-merger corporation would make every effort to re-deploy affected staff to available vacancies and take every possible steps to minimize the impact of the merger on staff.

The two railway corporations have indicated that they would consult the line management on the detailed arrangement, including the interpretation of the definition of frontline staff and the delineation of individual job positions which would fall within the definition. They would decide on the detailed delineation after consultation with their staff. Individual staff would be notified by the management in due course on whether they belong to frontline staff.

As for the concern of the staff unions over whether, during the merger process, a staff member falling within the definition of a frontline staff but who is subsequently transferred to a non-frontline job position on the initiative of the management would continue to have job security. The corporations have indicated that they would continue to provide job security as it relates to the merger integration process to the staff members concerned.

As regard the concern over the lack of a time period specified for the assurance of job security for frontline staff, we would like to point out that the merger package has ensured job security for the frontline staff. This arrangement has addressed the concern expressed by some staff over the uncertainty that would arise when the time period of the assurance of job protection for frontline staff expires if the assurance was time-limited.

Job Security

Under the merger package, the post-merger corporation would provide job security, as it relates to the merger integration process, for all of MTRCL and KCRC frontline staff. The relevant undertaking was extended to cover the period between the date when the rail merger package was

announced (i.e. on 11 April 2006) and Day One of the merger. No frontline staff would lose his/her job because of the merger proposal.

While job security is provided for frontline staff, the two corporations will look after the interest of all staff. It is expected that the majority of all the staff would stay in their current jobs after the rail merger. As for the 650-700 staff synergy, as mentioned in the above, there would be over 1,300 job vacancies arising from network expansion and other business growth, retirement and projected turnover in the first three years. For those affected staff, the post-merger corporation would make every effort to make appropriate re-deployment arrangements. Since most of existing staff have had the benefit of their working experience in the corporations, we believe that the post-merger corporation would seriously consider making the best use of existing staff in filling the job vacancies.

Both corporations have a good track record in carrying out staff re-deployment. In the past few years, the two corporations have successfully re-deployed over 1,000 staff to take up positions in various disciplines/fields. The post-merger corporation will provide necessary assistance to redeploy and retrain affected staff. It will also set up a special team to provide support to help staff settling in their new jobs.

Employment Terms and Conditions / Pay and Benefits

Upon the rail merger, staff of the two corporations will continue to be employed by the post-merger corporation on their prevailing terms and conditions of employment. The post-merger corporation will align the terms and conditions of employment and grading structure of MTRCL and KCRC to facilitate the integration of the human resources of the two corporations.

The two corporations are making arrangements to engage an independent consultant to conduct a detailed study on the grading structure and the employment terms and conditions. The study would make comparisons with other companies for benchmarking purpose to ensure that the employment terms and conditions of the post-merger corporation would be competitive. The new employment terms and conditions would be treated as a total package. The two corporations expect that they would not differ significantly from the existing employment terms and conditions and would be competitive in the market. The two corporations will brief their staff

including representatives of SCC/CC and unions on the approach and methodology of the study. Staff views collected during the study will be duly considered. After completion of the study, staff will be consulted on the recommendations on the new employment terms and conditions before a final decision is made.

Staff Selection Process

Under the merger package, all serving staff would be employed by the post-merger corporation at the time of the merger. Staffing arrangements including selection and appointment of MTRCL and KCRC staff to job positions in the post-merger corporation will be conducted in a fair and equitable manner. Apart from top management and department heads who would be selected before the formation of post-merger corporation, the selection and appointment of all other staff would be made after Day One of the merger.

The selection criteria will be drawn up jointly by the two corporations. The criteria will include requirements of the jobs, performance, experience and capability of the individual concerned. Selection panels comprising representatives from both MTRCL and KCRC will be appointed to conduct objective assessments. As the selection of all managers and general staff will take place after Day One of the merger, the principles, systems and procedures for the selection will be formulated at a later stage. Staff will be consulted before they are finalized.

Contract Staff

It is a common market practice that certain staff of a company are employed on contract terms, having regard to the operational need of the company concerned. The adoption of such practice has no direct relationship with the rail merger. The two corporations have indicated that they would look after the interest of all staff. Job security as it relates to the merger integration process would be provided to staff who are employed either on continuous terms or contract terms for a duration of two years or more. As regards the non-frontline contract staff, depending on the nature of the job positions of these contract staff and in order to retain talents, the post-merger corporation would explore other development opportunities for them upon expiry of their contracts.

Eligibility of Ex-KCR Staff for Certain Civil Service Benefits

At present, there are some 500 ex-KCR staff who are working in the KCRC. They were transferred from the Government to KCRC in the corporatisation exercise of KCR in 1983. Assurance from the Government was then given to these ex-KCR staff that, as long as they remain employed by KCRC without a break, they could continue to be eligible for certain civil service benefits. The Administration undertakes that the eligibility of these ex-KCR staff for the relevant civil service benefits would be retained for as long as they remain continuously employed by the post-merger corporation.

I should be grateful if you would circulate this letter to all Members of the Panel on Transport.

Yours sincerely,

(Miss Ida LEE)
for Secretary for the Environment,
Transport and Works