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Panel on Financial Affairs
Panel on Transport

Meeting on 18 March 2011

**Proposal to appoint a subcommittee to study issues relating to the
difficulties encountered by the transport sector in obtaining insurance
coverage**

Purpose

This paper seeks members' views on the proposal for the appointment of a subcommittee to study issues relating to the difficulties encountered by the transport sector in obtaining insurance coverage.

Background

2. A joint meeting of the Panel on Financial Affairs and Panel on Transport ("the Panels") was held on 28 February 2011 to discuss with deputations and the Administration issues relating to the difficulties encountered by the transport sector in obtaining insurance coverage. A total of 27 deputations from the transport and insurance sectors attended the meeting. During the discussion, members and deputations pointed out that the difficulties encountered by the transport sector in obtaining insurance coverage were attributable to a number of factors and might involve policy, legal, operational as well as enforcement issues. A summary of the views and concerns expressed by Panel members and deputations is given at **Appendix I**. In order to follow up the relevant issues in a comprehensive and focused

manner, some members suggested that consideration should be given to establishing a subcommittee to study the relevant issues.

Advice sought

3. Members are invited to decide the following matters --

- (a) whether a subcommittee should be appointed to study the issues relating to the difficulties encountered by the transport sector in obtaining insurance coverage, and if so, under which Panel(s) should such a subcommittee be formed; and
- (b) the terms of reference, work plan and time frame¹ for the subcommittee, if it is decided that a subcommittee should be appointed under the Panel on Financial Affairs and/or the Panel on Transport.

4. In connection with the matters under paragraph under 3(b) above, members are requested to note that according to House Rule 26, the maximum number of subcommittees on studying policy issues that may be in operation at any one time is eight. When eight such subcommittees are already in operation and new subcommittee(s) has been appointed, a waiting list will be formed. If the number of Bills Committees in operation is less than 16, the House Committee may activate subcommittees on the waiting list after having considered the following –

- (a) the number of vacant slots for Bills Committees;
- (b) the number of bills likely to be introduced to the Council in the next three months;
- (c) the number of subcommittees on subsidiary legislation already or likely to be appointed by the House Committee and by Bills Committees; and
- (d) the availability of resources in the Secretariat.

¹ A draft version of the terms of reference, work plan and time frame is in **Appendix II** for members' reference.

5. Subject to the Panels' decisions on the matters set out in paragraph 3 above, the advice of the House Committee would be sought regarding the activation of the subcommittee.

Council Business Division 1
Legislative Council Secretariat
16 March 2011

**Summary of views and concerns expressed by
members and deputations at the joint meeting of the Panel on
Financial Affairs and Panel on Transport on 28 February 2011**

1. Views of the transport sector

(a) Continuous rise in insurance premium

The continuous rise in premium and prepayment/deposit (i.e. commonly known as "insurance excess" in the transport sector) of third party risks insurance for taxis and public light buses (PLBs) made it difficult for many vehicle owners to take out and renew their insurance policies. The transport sector considered that the premium rise was attributed to monopoly by a few insurers engaging in motor vehicle insurance business in the market, and the payment of huge compensation in claims which involved illegal acts, such as organized frauds to deceive claims and champerty. The sector was of the view that rampant activities of the recovery agents led to rise in fraudulent claims.

(b) Vehicle owners held liable even not at fault

The sector pointed out that in the event of traffic accidents, insurers would deduct the no claim discount (NCD) enjoyed by vehicle owners and would increase the insurance premium even if they were subsequently found not at fault. This arrangement was unfair to vehicle owners.

(c) Refusal of insurers to process claim applications

Some taxi and PLB drivers might sign a reconciliation agreement with the third party involved in the accident after a traffic accident. In some cases, the third party filed a claim against the owner of the taxi or PLB involved in the accident after the deadline for filing a claim. The insurers often refused to process claim applications or accept the reconciliation agreement.

(d) Problems in relation to the operation of insurers

The sector considered that despite the increased premium, the insurers did not provide comprehensive service. For example, in drink/drug

driving accidents, the behaviour of the drivers involved was beyond the control of vehicle owners. However, the insurers would not make compensation in these cases. Representatives from the trades also highlighted some problems in relation to the operation of insurers, which included: (i) lack of clear guidelines in respect of certain circumstances, such as whether vehicles running on the roads were covered when typhoon signal No. 8 was hoisted; and (ii) it was difficult for vehicle owners less proficient in English to understand the provisions in the motor vehicle insurance policies as only English copies were available.

(e) Cross-border transportation

Cross-border transportation operators pointed out that they must conduct annual examinations and take out relevant insurance for their vehicles in Hong Kong and the Mainland separately before they were permitted to operate. When a cross-border vehicle was involved in an accident in the Mainland, most of the injured persons (including their family members) would choose to return to Hong Kong immediately for medical treatment and would often file upon recovery their claims according to the legal procedures of Hong Kong. As such claims were made in Hong Kong, the insurers in the Mainland might refuse to process the claims or make any compensation. On the other hand, the insurers in Hong Kong might also refuse to compensate as the accidents occurred in the Mainland. As a result, the operators of the vehicles concerned were unable to obtain any insurance coverage. Therefore, the sector suggested that the Government should assist the trades to take out insurance which could provide comprehensive coverage against accidents in both Hong Kong and the Mainland.

(f) Expectation on the Government

The sector considered that the Office of the Commissioner of Insurance (OCI), which was not provided with de facto power, could only relay the problems raised by the transport sector in relation to insurance coverage to the relevant departments. It could not address the problems itself. The sector also expected the relevant government bureaux/departments to work together to step up measures against illegal activities, such as fraudulent claims and champerty.

(g) Loopholes in the existing system

The sector considered that there were loopholes in the Traffic Accident Victims Assistance Scheme as the drivers and passengers in minor traffic accidents could be granted assistance easily by just claiming that they were injured, and they were not required to take up any responsibilities.

2. Views of the insurance sector

- (a) The insurance sector understood the difficulties faced by the transport sector, but pointed out that there were at least 12 insurers providing insurance coverage for taxis and/or PLBs in the market. Moreover, keen competition existed among vehicle insurers, and those which engaged in taxi and PLB insurance business continued to incur losses. This was why only a few insurers engaged in the business.
- (b) The insurance sector was of the view that increased illegal activities in the community, such as fraudulent claims and champerty, were the main cause leading to losses of insurers. Since it was easy for people to seek approval from the Legal Aid Department for legal aid service, illegal activities might have been indirectly encouraged. The sector also considered that it was easy for people in minor accidents to obtain sick leave certificates from doctors, and that actions should be taken to combat illegal activities, such as fraudulent claims, champerty and exaggeration of injuries, in order to address the problems.
- (c) Regarding the issue on NCD, the insurance sector pointed out that seven major insurers engaging in taxi and PLB insurance business adopted the "Market Understanding on Reinstating No Claim Discount for Taxi and Public Light Bus" in 2010, which clearly set out the circumstances under which NCD would be reinstated for taxis and PLBs.

3. Views of Members

- (a) Members noted the following reasons for the transport sector to encounter difficulties in obtaining insurance coverage: (i) the insufficient number of insurers engaging in the business in the market

might have caused the premium to escalate despite the reduced number of traffic accidents; and (ii) exaggeration of injuries to make fraudulent claims and the prevalence of champerty might have caused the insurers having to pay huge compensation and increase the premium.

- (b) Some Members considered that while the transport trades were required statutorily to take out third party risks insurance, it seemed that no government bureaux/departments could help them address the problem related to the difficulties in obtaining insurance coverage. This was unfair to the transport sector.
- (c) Some Members considered that certain issues (for example, refusal to accept the reconciliation agreement and lack of clear guidelines in respect of the coverage under certain circumstances, such as those when typhoon signal No. 8 was hoisted) could not be addressed by the Hong Kong Federation of Insurers alone. Moreover, as these issues were related to various government bureaux/departments, they suggested that the Government should intervene and address the issues at bureau level, and consider giving the relevant authorities (such as OCI and the Transport Department) more power.
- (d) Some Members were concerned that the existing system in Hong Kong encouraged people to make claims, and this might cause the insurers to suffer losses. The insurance sector was unable to draw up clear guidelines because the legislation was ambiguous.
- (e) Some Members considered that the difficulties encountered by the transport sector in obtaining insurance coverage were caused by structural problems. The way to resolve this problem was to punish "the principal offenders". The Hong Kong Police Force should be responsible for this. Moreover, some Members considered that the Government should review whether individual departments had been ineffective in taking enforcement actions, and whether there was a need to amend the relevant legislation.
- (f) Several Members agreed to establish a subcommittee to study the responsibilities of various government departments in addressing the issue, and to monitor in this respect. Some Members considered that in addition to targeting at fraudulent claims and champerty, the subcommittee should also look into the matter concerning the insufficient number of insurers. Members also considered that certain relevant issues (including cross-border transportation)

involved policy considerations, and the officials of the bureaux concerned should attend the meetings in future. Moreover, as fraudulence in claims was one of the major causes leading to the problem faced by the transport sector, representatives of the Hong Kong Police Force, Department of Justice and Hospital Authority should attend such meetings.

- (g) Some Members suggested that the Government should consider providing related insurance products to the owners of taxis and PLBs.

**Panel on Financial Affairs and
Panel on Transport**

Subcommittee on Insurance Matters of the Transport Sector

**Terms of reference, work plan and time frame
(Draft)**

Terms of reference

To study the issues relating to the difficulties encountered by the transport sector in obtaining insurance coverage, and where appropriate, to make recommendations on measures to tackle the problem.

Work plan

The Subcommittee will focus its work on the following major issues –

- (a) identification and examination of the factors contributing to the difficulties encountered by the transport sector in obtaining insurance coverage;
- (b) exploration of possible measures to tackle the problems identified; and
- (c) monitoring the actions to be taken by relevant Government bureaux/departments in tackling the problems identified and assisting the transport trades in obtaining the necessary insurance coverage.

Time frame

The Subcommittee will, in accordance with House Rule 26(c), complete its work within 12 months of its commencement and report to the Panel on Financial Affairs and/or the Panel on Transport.