

**立法會**  
**Legislative Council**

LC Paper No. CB(1)465/12-13(01)

Ref. : CB1/SS/4/12

**Subcommittee on Three Proposed Resolutions under  
Section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230)**

**Background brief prepared by the Legislative Council Secretariat**

**Purpose**

This paper provides information on the provisions of the Profit Control Scheme ("PCS") under the Public Bus Services Ordinance (Cap.230) ("the Ordinance") and summarizes the discussions of the Panel on Transport ("the Panel") on issues relating to the renewal of the franchises of New World First Bus Services Limited ("NWFB"), Long Win Bus Company Limited ("LW") and Citybus Limited (in respect of its franchise for the Airport and North Lantau bus network) ("Citybus").

**Background**

The bus franchises of NWFB, LW and Citybus

2. The current franchises of LW<sup>1</sup> and Citybus<sup>1</sup> commenced on 1 June 2003 and will expire on 1 May 2013. NWFB<sup>1</sup>'s current franchise commenced on 1 August 2003 and will expire on 1 July 2013. The three franchised bus companies have indicated an interest to renew their franchises for another ten years to take effect upon the expiry of their current ones.

3. On 24 April 2012, CE-in-Council approved the granting of new ten-year franchises to NWFB, LW and Citybus. The new franchise of NWFB will commence on 1 July 2013 and those for LW and Citybus will commence on 1 May 2013.

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<sup>1</sup> The bus routes of LW ply between the New Territories (except Tseung Kwan O) and North Lantau (including the Airport). The bus routes of Citybus ply between urban areas/Tseung Kwan O and North Lantau (including the Airport). The main operating area for NWFB is on Hong Kong Island.

### New franchises of NWFB, LW and Citybus excluded from PCS

4. Under section 5 of the Ordinance, the Chief Executive in Council ("CE-in-Council") may grant to a company a franchise conferring the right to operate a public bus service. Section 5(3)(b) of the Ordinance provides that a franchise shall, except where Legislative Council ("LegCo") by resolution excludes the application of all or any of the provisions of PCS, be subject to PCS as defined in section 2 of the Ordinance. The motions, if passed by LegCo, operate to exclude the new franchises from PCS during their franchise periods. PCS is spelt out in the Ordinance. In brief, section 28(1) provides for the permitted return that a franchised bus company can earn in an accounting year. Profit exceeding the permitted return in any year will, according to section 28(3), be added to reserve known as the Development Fund provided under section 27. Section 28(4) provides that when profit falls below the permitted return, the company shall recover the shortfall by drawing money from the Development Fund. Further, section 29 provides for the deductions that must be deducted from the permitted return in each accounting year. Section 31 specifies that the operation of PCS in respect of a grantee shall be reviewed by CE-in-Council every two years.

5. According to the LegCo Brief issued by the Administration (File Ref: THB(T)CR2/5591/99), PCS had been criticized by LegCo and the community before in that it reduced the incentive for the franchised bus companies to enhance cost-effectiveness and to reduce expenditure. PCS also in effect encouraged the franchised bus companies to over-expand and inflate their asset value.

6. In view of the criticisms, the then Executive Council decided in June 1992 that PCS would not be applicable to all new bus franchises granted thereafter. The Secretary for Transport and Housing had given notices to move three motions at LegCo meeting on 23 January 2013 to seek LegCo's approval so that the new 10-year franchises granted by CE-in-Council on 24 April 2012 to the three bus companies will not be subject to sections 27, 28, 29 and 31 of the Ordinance. By doing this, the new franchises given to NWFB, LW and Citybus will be excluded from PCS as specified in the Ordinance if the three proposed resolutions were passed. It was noted from the LegCo brief [File Ref: THB(T) CR2/5591/99] that LegCo had passed 17 resolutions since the 1990s to exclude the application of PCS to the new franchises.

7. The Administration would then take into account a basket of factors under the Fare Adjustment Arrangement ("FAA") for franchised buses when assessing franchised bus fare adjustment applications. The FAA was put in

place after consultation with the Legislative Council. The basket of factors include –

- (i) changes in operating costs and revenue since the last fare adjustment;
- (ii) forecasts of future costs, revenue and return;
- (iii) the need to provide the bus companies with a reasonable rate of return. Reference should be made to the Weighted Average Cost of Capital of the bus industry;
- (iv) public acceptability and affordability. Reference should be made to the change in Median Monthly Household Income and change in Composite Consumer Price Index;
- (v) service performance; and
- (vi) a formula for a supportable fare adjustment rate for reference by the Administration. The fare level will not be adjusted automatically according to the formula outcome.

### **Discussions of the Panel on franchises of NWFB, LW and Citybus**

8. The Panel was consulted on the new franchise requirements at its meetings on 11 July, 7 November, 5 December 2011 and 9 March 2012 and received views from deputations at one of the meetings. Panel members expressed various views on the new franchise requirements, and urged the Administration to include new clauses to stipulate specific requirements in four areas: (a) full implementation of section fare arrangement; (b) introduction of more bus-bus interchange concession schemes ("BBIs") on suitable bus routes; (c) provision of monthly passes; and (d) provision of facilities and barrier-free features for the elderly passengers and persons with disabilities. The Panel expressed a strong view that the Administration should seize the opportunity of negotiating the new ten-year franchises with each of the three franchised bus companies to press for fare concessions and service enhancements.

9. Upon CE-in-Council approved the granting of new ten-year franchises to the three bus companies on 24 April 2012, the Panel was briefed by the Administration at its meeting on 25 May 2012 on the new or amended terms in

the new franchises, and a series of commitments on specific measures made under the new franchises to better respond to the requests of the public. These included the introduction of more fare concessions, enhancement of bus service, and implementation of environmental improvement measures. The Panel noted that when the new franchises commenced, the three bus companies would offer a total of 60 new fare concession schemes. They included 27 new BBIs (comprising 11 inter-company ones) and new section fares on 27 routes. Some members considered that the new BBIs allowed interchanges with only small fare discounts, and criticized the Administration for failing to negotiate for new terms in the new franchises to satisfactorily respond to the long-standing requests of the public. The Panel did not specifically discuss PCS under section 5(3)(b) of the Ordinance at the said meeting.

### **Latest development**

10. The Administration has given notice to move three motions at LegCo meeting on 23 January 2013 to seek LegCo's approval so that the new 10-year franchises granted by CE-in-Council on 24 April 2012 to NWFB, LW and Citybus will not be subject to sections 27, 28, 29 and 31 of the Ordinance. At the meeting held on 11 January 2013, the House Committee agreed to form a Subcommittee to study the three proposed resolutions made under Section 5(3)(b) of the Ordinance. At the request of the House Committee, the Administration has withdrawn the notice to move the above motions.

### **Relevant papers**

11. A list of relevant papers is in **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
24 January 2013

## Appendix

### Franchises of New World First Bus Services Limited, Long Win Bus Company Limited and Citybus Limited (Franchise for Airport and North Lantau bus network)

#### List of relevant papers

Date of meeting of Panel on Transport	Minutes/Paper	LC Paper No.
11 July 2011	Administration's paper	CB(1)2647/10-11(04) <a href="http://www.legco.gov.hk/yr10-11/english/panels/tp/papers/tp0711cb1-2647-4-e.pdf">http://www.legco.gov.hk/yr10-11/english/panels/tp/papers/tp0711cb1-2647-4-e.pdf</a>
	Minutes of the meeting	CB(1)220/11-12 <a href="http://www.legco.gov.hk/yr10-11/english/panels/tp/minutes/tp20110711.pdf">http://www.legco.gov.hk/yr10-11/english/panels/tp/minutes/tp20110711.pdf</a>
7 November 2011	Administration's paper	CB(1)227/11-12(03) <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp1107cb1-227-3-e.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp1107cb1-227-3-e.pdf</a>
	Minutes of the meeting	CB(1)1363/11-12 <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20111107.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20111107.pdf</a>
5 December 2011	Administration's paper	CB(1)464/11-12(04) <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp1205cb1-464-4-e.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp1205cb1-464-4-e.pdf</a>
	Minutes of the meeting	CB(1)1482/11-12 <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20111205.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20111205.pdf</a>

Date of meeting of Panel on Transport	Minutes/Paper	LC Paper No.
9 March 2012	Administration's paper	CB(1)1157/11-12(05) <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0309cb1-1157-5-e.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0309cb1-1157-5-e.pdf</a>
	Administration's follow-up paper	CB(1)1481/11-12(01) <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0309cb1-1481-1-e.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0309cb1-1481-1-e.pdf</a>
	Minutes of the meeting	CB(1)2490/11-12 <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20120309.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20120309.pdf</a>
24 May 2012	Administration's paper	CB(1)1923/11-12(07) <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0524cb1-1923-7-e.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0524cb1-1923-7-e.pdf</a>
	Administration's follow-up paper	CB(1)2635/11-12(01) <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0524cb1-2635-1-e.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/papers/tp0524cb1-2635-1-e.pdf</a>
	Minutes of the meeting	CB(1)2511/11-12 <a href="http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20120524.pdf">http://www.legco.gov.hk/yr11-12/english/panels/tp/minutes/tp20120524.pdf</a>
-	Legislative Council brief	File Ref: THB(T)CR2/5591/99 <a href="http://www.legco.gov.hk/yr12-13/english/subleg/brief/sc04_brf.pdf">http://www.legco.gov.hk/yr12-13/english/subleg/brief/sc04_brf.pdf</a>