

THB(T)CR 2/5591/99  
LS/R/4/12-13  
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By Fax (2802 2679)

8 January 2013

Ms Macella LEE  
Assistant Commissioner for Transport  
Headquarters  
Transport Department  
40/F, Immigration Tower  
7 Gloucester Road  
Wanchai  
Hong Kong

Dear Ms LEE,

**Proposed Resolutions to  
Exclude the Application of the Profit Control Scheme to  
the New Bus Franchises**

I am scrutinizing the above proposals with a view to advising Members on its legal and drafting aspects.

It would appear from paragraphs 1, 4 and 6 of the LegCo Brief dated January 2013 (File Ref: THB(T)CR 2/5591/99) that the Administration intends to exclude the New Bus Franchises from the application of the Profit Control Scheme (the PCS) as a whole. Under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) (the Ordinance), LegCo may by resolution exclude the application of *all* or *any* of the provisions of the PCS, which is defined in section 2 to mean the PCS provided for by Part V of the Ordinance.

As the proposed resolutions merely specify that the New Franchises are not subject to sections 27 to 29 and 31, would the Administration please clarify-

- (a) By making the New Franchises not subject to sections 27 to 29 and 31 of Part V, are the New Franchises excluded from the application of the whole PCS or some provisions of the PCS?
- (b) If the New Franchises are excluded totally from the application of the PCS, please explain –
  - (i) whether sections 26A, 30 and 32 of Part V, to which the New Franchises are still subject to, are part of the PCS; and
  - (ii) how the sections mentioned in (i) above relate to the PCS?
- (c) If the New Franchises are not excluded totally from all the provisions of the PCS –
  - (i) are the New Franchises still subject to the PCS by operation of section 5(3)(b), though with exceptions (i.e. sections 27 to 29 and 31 of Part V being inapplicable to the New Franchises); and
  - (ii) what are the reasons for making the New Franchises subject to sections 26A, 30 and 32 of Part V.

As the House Committee will consider the above proposed resolutions at its meeting on 11 January 2013, I look forward to receiving your clarification in both Chinese and English languages by **9 January 2013**.

Yours sincerely,

(Evelyn LEE)  
Assistant Legal Adviser