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Bills Committee on Peak Tramway (Amendment) Bill 2013

Background brief
prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Peak Tramway (Amendment) Bill 2013 ("the Bill"), and gives a brief account of the views and concerns expressed by the Panel on Transport ("the Panel") on the Administration's legislative proposal.

Background

2. The peak tramway is run and operated by the Peak Tramways Company Limited ("PTC"). When the operating right of PTC was examined by the Executive Council in 1980s, PTC was granted an operating right from 1 January 1984 for 10 years plus an extension of 10 years subject to payment of a premium of \$2.79 million and commitment from PTC to modernize the peak tramway system. At the same time, the fares of the peak tramway were de-regulated.

3. In November 2003, the Chief Executive in Council approved the granting of a 10-year extension to PTC to run and operate the peak tramway from 1 January 2004 to 31 December 2013 in accordance with section 2A of the Peak Tramway Ordinance (Cap 265) ("the Ordinance") on account of PTC's good performance on service and safety, and its commitment to implement a number of measures to enhance passenger convenience as well as following its payment of a lump-sum premium of \$36.8 million for the period.

Operating right beyond 2013

4. At the Panel meeting on 19 July 2013, members were consulted on the Administration's proposal to amend the Ordinance to enable continuation of the operation of the peak tramway service after 31 December 2013, for an interim period till 31 December 2015. The Administration explained that it was the previous understanding of the Government and PTC that sections 2A(5) and 2A(6) of the Ordinance provided the necessary basis for the continued operation of the peak tramway beyond 2013, subject to application by PTC, payment of a premium by PTC and approval by the Executive Council. However, during the discussion on the extension of the operating right beyond 2013 between the Government and PTC, and upon further examination of the legislation by and advice from the Department of Justice, it has come to the Government's attention that sections 2A(5) and 2A(6) were one-off provisions and would not allow further extensions beyond 2013. The Administration needs to amend the Ordinance to enable the Chief Executive in Council to grant the operating right for the peak tramway again.

5. The Administration advised that it would take a two-stage approach for the legislative amendment exercise. The first would be to amend the Ordinance so that a two-year operating right could be granted to PTC as an interim measure. The second stage would be for the Administration to study and decide during the proposed two-year interim period the long-term arrangements including assessing the merits and feasibility of PTC's proposed upgrading plan for the peak tramway system and services¹, how the operating right should be granted, extended and, where necessary, ended for the long term having regard to the upgrading plan (if it is considered meritorious and feasible in the end). The Administration will prepare a bill to implement the long-term arrangements and introduce the bill concerned to Legislative Council before the end of the interim period, i.e. before 31 December 2015.

¹ The Government is given to understand that the plan comprises road, civil engineering, drainage and other works and requires heavy investment. Its key features include –

- (a) replacement of tramcars with new ones that can increase carrying capacity by over 60%;
- (b) substantial improvement of the two termini to expand the holding capacity and improve the waiting environment;
- (c) installation of an upgraded haulage system to operate the enlarged tramcars whilst maintaining safety and reliability; and
- (d) replacement of all track rails and structural improvement of track foundation and tramway bridges.

Deliberations by Members

6. At the Panel meeting on 19 July 2013, members were generally in support of the Administration's proposal to grant an operating right to PTC for two years as an interim measure so that long term arrangements including legislative amendments required for the operation beyond December 2015 could be worked out. Recognizing the importance of the peak tramway as a tourist and recreational facility in Hong Kong, members considered that the service could not be disrupted as a result of the legal problem. In the long run, Some members considered that the Administration should consider tender out the peak tramway service to enhance service quality.

7. The Panel had examined whether the interim period of two year was sufficient for the Administration to carry out a comprehensive review on the related matters. They urged the Administration to formulate detailed work plan and report to the Panel on the progress of its work. Members also called on the Administration to formulate contingency plan in case the Administration could not complete the review in time.

8. The Administration advised that considering the tasks which needed to be completed, and having regard to PTC's request for an early decision of the Administration on the long-term arrangements to enable PTC to decide on its upgrading plan, a two-year period would be reasonable.

Latest developments

9. The Bill was tabled at the Council meeting on 9 October 2013. The House Committee decided on 11 October 2013 to set up a Bills Committee to scrutinize the Bill.

Relevant papers

10. A list of the relevant papers is set out in the **Appendix**.

**List of relevant papers on
the Peak Tramway (Amendment) Bill 2013**

Date	Meeting	Minutes/Paper	LC Paper No.
24.10.03	Panel on Transport	Administration's paper on application from the Peak Tramways Company Ltd for extension of its right to run and operate the peak tramway Minutes of meeting	CB(1)100/03-04(03) http://www.legco.gov.hk/yr03-04/english/panels/tp/papers/tp1024cb1-100-3e.pdf CB(1)404/03-04 http://www.legco.gov.hk/yr03-04/english/panels/tp/minutes/tp031024.pdf
5.11.03	--	Press release on Peak Tramways Co gets 10-year extension to run peak tram	http://www.info.gov.hk/gia/general/200311/05/1105211.htm
19.7.13	Panel on Transport	Administration's paper on the operating right of the peak tramway Background brief on the peak tramway prepared by the Legislative Council Secretariat	CB(1)1512/12-13(01) http://www.legco.gov.hk/yr12-13/english/panels/tp/papers/tp0719cb1-1512-1-e.pdf CB(1)1512/12-13(04) http://www.legco.gov.hk/yr12-13/english/panels/tp/papers/tp0719cb1-1512-4-e.pdf