

**立法會**  
**Legislative Council**

LC Paper No. CB(4)555/15-16

Ref: CB4/SS/1/15

**Paper for the House Committee meeting on 5 February 2016**

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

**Purpose**

This paper reports on the deliberations of the Subcommittee on Two Proposed Resolutions under Section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230).

**Background**

2. The Secretary for Transport and Housing has given notice to move two motions under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) at the Legislative Council (LegCo) meeting of 9 December 2015. The motions seek LegCo's approval to disapply the Profit Control Scheme ("PCS") by excluding the application of sections 27, 28, 29 and 31 of Cap. 230 to the new 10-year franchises granted to Citybus Limited ("CTB") for operating the Hong Kong Island and cross-harbour bus network and New Lantao Bus Company (1973) Limited ("NLB") (collectively known as the "New Franchises")<sup>1</sup> on 22 September 2015.

3. Section 5(3)(b) of the Ordinance provides that a franchise shall, except where LegCo by resolution excludes the application of all or any of the provisions of the PCS, be subject to the PCS as defined in section 2 of the Ordinance. The motions, if passed by LegCo, operate to exclude the application of the PCS to the New Franchises during their franchise periods.

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<sup>1</sup> The new franchise granted to CTB for operating its Hong Kong Island and cross-harbour bus network will commence at 0400 hours on 1 June 2016 and the new franchise granted to NLB at 0400 hours on 1 March 2017.

## Profit Control Scheme

4. According to paragraph 2 of the LegCo Brief issued by Transport and Housing Bureau in November 2015 (File Ref: THB(T)CR 6/5541/00), under the PCS, a franchised bus company can earn a permitted return in an accounting year, whereas bus fares are to be set at a level which allows cost recovery plus a certain level of profit not exceeding the permitted return. Profit exceeding the permitted return in any accounting year will be retained in a development fund. When profit falls below the permitted return in any accounting year, the franchised bus company may recover the shortfall by drawing money from the development fund.

5. The LegCo Brief further states that prior to the return of Hong Kong to China in 1997, the then LegCo and the community strongly criticized that the PCS would guarantee the franchised bus companies a profit level irrespective of their performance, thereby reducing the operators' incentive to enhance cost effectiveness and reduce expenditure. This in effect encouraged the franchised bus companies to over-expand and inflate their asset values. In view of this, the then Executive Council ("ExCo") decided that the PCS would not be applicable to new bus franchises granted after 1992. Since then, the Government would, after granting of each new franchise, move a resolution in LegCo to exclude the application of the PCS to the franchise. A total of 20 such resolutions had been passed in respect of franchises granted since then (including all six franchises currently in force). Meanwhile, the Government would take into account a basket of factors in assessing franchised bus fare adjustment applications instead. At present, the basket of factors include:

- (a) changes in operating costs and revenue since the last fare adjustment;
- (b) forecasts of future costs, revenue and return;
- (c) the need to provide the bus operator with a reasonable rate of return;
- (d) public acceptability and affordability;
- (e) quality and quantity of service provided; and
- (f) outcome of a fare adjustment formula ("the Formula"), which is :

$$(0.5 \times \text{Change in Nominal Wage Index for the Transportation Section}) + (0.5 \times \text{Change in Composite Consumer Price Index}) - (0.5 \times \text{Productivity Gain})$$

## **The Subcommittee**

6. At the meeting of the House Committee on 27 November 2015, Members agreed to form a subcommittee to study the two proposed resolutions (attached as **Appendix I**). At the request of the House Committee, the Secretary for Transport and Housing wrote to the Clerk to LegCo on 30 November 2015 to withdraw his notices to move the resolutions at the Council meeting of 9 December 2015. Under the chairmanship of Hon CHAN Han-pan, the Subcommittee has held one meeting with the Administration. The membership list of the Subcommittee is in **Appendix II**.

## **Deliberations of the Subcommittee**

7. The Subcommittee supports the two proposed resolutions and will not propose any amendment.

8. Noting that the Administration would move a resolution in LegCo to exclude the application of the PCS to each new franchise granted under Cap. 230, questions have been raised by Hon Alan LEONG Kah-kit and Hon WU Chi-wai about the reasons why the main provisions in the Public Bus Services Ordinance (Cap. 230) relevant to the PCS had not been amended since the aforesaid ExCo's decision in 1992. If so, the Administration could have dispensed with the need to move such resolutions at the LegCo.

9. The Administration has advised that moving the resolution was an effective legislative avenue to achieve the purpose of disapplication and such a disapplication exercise would need to be conducted only infrequently (normally, a franchise for a bus network is granted once every 10 years). Nonetheless, they would consider amending the relevant provisions of Cap. 230 as and when an opportune opportunity arises, such as when amendments are also required to other provisions of the Ordinance.

10. Members have urged the Administration to encourage the franchised bus operators to improve their service performance, in particular through improvement of bus-bus interchange facilities and fare concession arrangements, provision of real time bus arrival information to passengers via mobile applications or display panels at the bus stops/termini, as well as the deployment of environmentally-friendly buses and low-floor buses as far as possible.

11. Members have noted that the Administration would examine the role and positioning of franchised bus services under the Public Transport Strategy Study ("PTSS"). Issues to be covered would include bus-bus interchange

arrangements for strengthening the role of franchised bus services. Members further noted that CTB and NLB have already been committed to the provision of real time bus arrival information under their New Franchises. The Administration would closely monitor implementation progress. The Administration has indicated that to improve roadside air quality, CTB and NLB would be required under the New Franchises to, as far as reasonably practicable, acquire the most environmentally friendly buses in terms of exhaust emissions that are technologically proven and commercially available, with the ultimate objective of switching to zero emission buses. In addition, the Environment Protection Department has provided subsidy to franchised bus companies for purchasing electric buses for trial in Hong Kong.

12. Hon TANG Ka-piu has asked if franchised bus fares would be reduced so as to benefit the passengers in view of the recent considerable drop in oil prices, though this might not be relevant to the moving of the two proposed resolutions.

13. The Administration has advised that there is a Passenger Reward Arrangement under the Fare Adjustment Arrangement for Franchised Buses ("FAA"). Under the arrangement, any return achieved by a franchised bus operator exceeding the rate of return on average net fixed asset of 9.7% would be shared on a 50:50 basis between the operator and passengers. The passengers' share maintained as "passenger reward balance" would facilitate the offer of bus fare concessions. Passengers could then benefit in the case of reduction in the overall operating costs of bus operators due to factors such as drop in fuel cost.

14. The Administration has further advised that, under the current FAA, they will monitor the outcome of the Formula on a quarterly basis. If the formula outcome reaches -2% (equivalent to about a \$0.1 difference in bus fare), the Administration will proactively initiate a fare review to decide whether bus fare should be adjusted downwards. The outcome of the Formula and all other relevant factors in the FAA outlined in para. 5 above would then be taken into account. The Formula reflects, among other things, the changes in the Composite Consumer Price Index which takes fuel price into account.

15. Hon WU Chi-wai has in this connection enquired about how the triggering point of 9.7% under the Passenger Reward Arrangement was decided and requested the Administration to review the threshold in view of the prevailing economic environment. The Administration has noted Hon WU's view and explained that the level was set in the past with reference to statistics and data of bus operation. The Administration would review the threshold under the PTSS.

16. In respect of Hon TANG Ka-piu's query on why low-floor buses were not deployed to run on a new bus route of NLB (Route No. 37H) plying between Tung Chung North (Caribbean Coast) and North Lantau Hospital on Lantau, the Administration has advised that as a matter of standing practice, bus operators would do their utmost to operate with low-floor buses whenever road condition permitted. The Transport Department would approach NLB accordingly.

**Advice sought**

17. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4  
Legislative Council Secretariat  
3 February 2016

Resolution of the Legislative Council

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**Public Bus Services Ordinance**

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**Resolution**

(Under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230))

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**Resolved** that the franchise granted on 22 September 2015 under section 5 of the Public Bus Services Ordinance (Cap. 230) to Citybus Limited (城巴有限公司) and published in the Gazette as G.N. 7692 of 2015 is not subject to sections 27, 28, 29 and 31 of that Ordinance for the entire period of the franchise.

## **Public Bus Services Ordinance**

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### **Resolution**

(Under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230))

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**Resolved** that the franchise granted on 22 September 2015 under section 5 of the Public Bus Services Ordinance (Cap. 230) to New Lantao Bus Company (1973) Limited (新大嶼山巴士(1973)有限公司) and published in the Gazette as G.N. 7693 of 2015 is not subject to sections 27, 28, 29 and 31 of that Ordinance for the entire period of the franchise.

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

**Membership list**

**Chairman** Hon CHAN Han-pan, JP

**Members** Hon LEE Cheuk-yan  
Hon Alan LEONG Kah-kit, SC  
Hon WU Chi-wai, MH  
Hon TANG Ka-piu, JP

(Total : 5 members)

**Clerk** Ms Sophie LAU

**Legal Adviser** Miss Evelyn LEE