

立法會
Legislative Council

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Paper for the House Committee meeting on 19 June 2020

Report of the Bills Committee on Franchised Taxi Services Bill

Purpose

This paper reports on the deliberations of the Bills Committee on the Franchised Taxi Services Bill ("the Bill") and its decision to discontinue its work.

Background

2. According to the Administration, in recent years, ordinary taxi services and the conduct of some taxi drivers have been subject to increasing criticisms in the community. Given that the licences of the existing 18 000-odd taxis are permanent in nature without any conditions directly relating to service quality being imposed when they were issued, there are limitations under the present regime for the Administration to ensure the overall quality of taxi services in a sustained manner. Meanwhile, certain personalized and point-to-point passenger services, which are non-compliant with legal requirements on the provision of passenger services, have emerged through the use of car-hailing mobile applications. In consideration of one of the key recommendations put forth in the Public Transport Strategy Study conducted by the Administration in June 2017, the Administration considers it necessary to introduce a new form of taxi service, i.e. the franchised taxis, to meet the new demand in the community for personalized and point-to-point public transport services of higher quality.

Public Consultation

3. The Administration has all along been communicating with taxi associations, unions as well as other stakeholders through various channels to canvass views from different parties. The Administration has also taken note of the views and opinions of the community. According to the Administration, overall speaking, the public welcome the introduction of franchised taxis as a new alternative and expect the new service to be launched as soon as possible. Some members of the taxi trade are worried about the impact of the franchised taxis on existing taxi trade. Some people are concerned that franchised taxis, introduced through a franchise model, might be monopolized by large-scale companies.

Consultation with Legislative Council ("LegCo") Panel

4. The Panel on Transport ("Panel") was first briefed on the study of the feasibility of introducing franchised taxis on 6 November 2015. Subsequently, the preliminary proposal of franchised taxis was presented to the Panel on 16 June 2016 and the Panel was consulted on the latest proposal on 21 April 2017. Members expressed diverse views at the meeting on 21 April 2017. In gist, some members urged the Government to provide more personalized and point-to-point transport services, promote market competition and introduce franchised taxis with time-limited licences. On the other hand, a few members requested the Government to shelve the franchised taxi scheme and form a working group with the taxi trade and various parties/groups of LegCo to formulate a comprehensive proposal to enhance taxi service. There was also a suggestion that conversion of existing taxi licences should be allowed for operating franchised taxis. On implementation details, there were views that an employer-employee relationship should be maintained for operating franchised taxis and a service quality monitoring mechanism should be introduced and where necessary, be able to revoke a franchise if the franchised taxi drivers repeatedly delivered poor service. The Administration noted the views expressed by the Members and provided a comprehensive response in LC Paper No. CB(4)1184/16-17(01) on 7 June 2017.

The Bill

5. The Bill was published in the Gazette on 26 April 2019 and introduced into LegCo on 8 May 2019. The Bill seeks to establish a

new regulatory regime to confer on the Chief Executive Council ("CE-in-Council") the powers to grant and administer the franchises for franchised taxi service, and to impose franchise terms. Key provisions of the Bill include the granting of franchises and related matters, restrictions on the use of franchised taxis, regulation of franchised taxi services, suspension or revocation of franchises, and related and consequential amendments to other relevant legislation applicable to franchised taxi services. In brief, the Administration proposes to grant three time-limited, non-transferrable and non-renewable franchises by open tender, with each allowing for the operation of 200 vehicles to provide franchised taxi service at any one time. The Administration will be able to clearly prescribe the service levels and set service standards in respect of vehicle types, compartment facilities, online hailing arrangement, safety requirements, training for drivers, customer service and complaint handling, etc. through the franchise terms. The Administration can monitor the service provided by the operators through the franchises. If an operator (and its drivers) fails to meet the service levels or standards prescribed under the franchise, the Administration will be able to impose penalties on the operator or even revoke the franchise. The Administration also proposes that the fare level of franchised taxis should be set at around 50% above the ordinary taxi fare. On the basis of the existing flagfall fare of an urban taxi at \$24, the flagfall fare of a franchised taxi would be around \$36. The definite fare level will be specified in the Schedule to the Bill by way of order made by CE-in-Council after the passage of the Bill.

The Bills Committee

6. At the meeting of the House Committee held on 10 May 2019, members agreed to form a Bills Committee to study the Bill. Hon Tommy CHEUNG Yu-yan was elected as the Chairman at the first meeting of the Bills Committee. The membership list of the Bills Committee is in **Appendix I**.

7. Having considered that the Bill seeks to introduce a new public transport mode in Hong Kong and taking note of the wide concern expressed by the taxi trade on the Bill, the Bills Committee agreed at the meeting on 18 November 2019 to invite public views on the Bill by means of an invitation put up on the webpage of the Bills Committee. Altogether, 185 individuals/organizations indicated that they would like to make an oral representation on the Bill. On 6 January 2020, 52 out of 60 individuals/organizations invited to attend the meeting have turned up to express their views.

8. The outbreak of coronavirus disease 2019 (COVID-19) pandemic since late January 2020 has seriously affected the progress of work of the Bills Committee. Subsequent meetings to be attended by deputations originally scheduled for 2 March and 11 May 2020 were cancelled due to the need to observe social distancing and to prevent the spread of the virus through public gatherings. As at mid-May when LegCo has gradually resumed its business, the Bills Committee has yet to receive views from the remaining 125 individuals/organizations on the Bill. Discussion on the policy aspects of the Bill would only be resumed after the views of the remaining deputations are heard. Clause-by-clause scrutiny of the Bill has yet to be started.

9. The Chairman in mid-May 2020 has considered it impractical for the Bills Committee to complete the scrutiny of the Bill before the end of the current legislative term. In this respect, he has consulted members' views on the way forward of the Bills Committee¹ and a meeting has been convened on 1 June 2020 for members to express their views on the matter.

10. At the meeting on 1 June 2020, while a member has expressed that the Bills Committee should endeavour to complete the scrutiny of the Bill by expediting its work as far as possible, majority of the members have expressed reservation on the feasibility of completing scrutiny of the whole Bill within such a short period of time. As the Bill seeks to introduce a new public transport service in Hong Kong, members have opined that it would be imperative to allow more time to study the clauses of the Bill in detail, and to receive views from the public having regard to its wide implication on other public transport trades. In addition, in view of the current economic situation in Hong Kong, some members consider that it is not an opportune time to introduce franchised taxis. Having regard to the foregoing, the Bills Committee has decided to discontinue its work and report to the House Committee its decision as soon as possible. The Bills Committee also invites the Administration to prudently consider members' views that have been expressed during past deliberations and make suitable adjustments to the Bill if they decide to re-introduce the Bill into LegCo in the future.

¹ The Chairman has consulted members vide LC Paper No. CB(4)540/19-20 on 12 May 2020 on the option of discontinuing the work of the Bills Committee and reporting to the House Committee its decision to discontinue its work. A total of 12 members have responded, with eight members indicated support for the option, four members opposed the option and four members did not respond to the consultation.

Deliberations of the Bills Committee

11. A summary of the deliberations of the Bills Committee as well as the Administration's responses is provided in the ensuing paragraphs as reference in case the Bill is to be re-introduced into LegCo in the future.

Franchised taxis as a means to enhance the quality of personalized and point-to-point public transport services

12. The Bills Committee notes that the objective of introducing franchised taxis is to meet the new demand in the community for personalized and point-to-point public transport services of higher quality with online hailing features. However, many members cast doubt on the effect of introducing 600 franchised taxis on enhancing the overall quality of the taxis services, which are provided by 18-000-odd ordinary taxis at present. Further, members opine that franchised taxis might have a labelling effect and create an impression amongst passengers that ordinary taxis are sub-standard and inferior.

13. Some members have raised that a number of taxi unions have demonstrated eagerness and willingness to improve their service standards by introducing a number of self-initiated measures, such as putting forward an accreditation scheme and offering to the market taxi fleets with features similar to those proposed under franchised taxis.

14. The Administration has advised that it has taken note of the effort made by the taxi trade in enhancing service quality. However, the existing taxi licensing regime has posed certain limitations on regulating the overall quality of taxi services. The Administration has explained that it proposes to introduce 600 franchised taxis under a trial scheme, and the number accounts for about 3% of the 18 000-odd taxis in Hong Kong. In determining the number of franchised taxis, the Administration has advised that it has carefully struck a balance among various considerations, such as the uncertainties of the passengers' demand for the new services and the taxi trade's concern about the impact on the business development of ordinary taxis.

15. With regard to the labelling effect, the Administration has emphasized that franchised taxis and ordinary taxis will have different market positioning and passenger groups in the public transport system, with the former being an enhanced complement to the latter. On the issue of taxi service quality, the Administration has considered various options put forward by the taxi trade, such as allowing flexible fare setting mechanism or using bus-only lane by accredited taxi fleets as proposed under the accreditation scheme, and provided a comprehensive

response to the Bills Committee at LC Paper No. CB(4)209/19-20(02). The Administration has explained that accredited taxi fleets still belong to the vehicle class of taxi and should be charged according to the taximeter based on the taxi fare level prescribed under the law. The relaxation of use of bus-only lanes by taxis is also not desirable. The Administration has stressed that it will continue to enhance the quality of ordinary taxis and their operating environment through the Committee on Taxi Service Quality.

Options other than the introduction of franchised taxis

16. Having taken note of the wide implications of franchised taxis, the Bills Committee has suggested other approaches to introduce franchised taxis, such as allowing ordinary taxis to convert their existing licences for operating franchised taxis to enhance service quality. However, the Administration has advised that such option is not legally and financially feasible because ordinary taxi licences are a kind of private property which are permanent in nature and are not subject to any conditions in terms of service performance except fare. Besides, the Administration has pointed out that whether ordinary taxi licence holders are willing to surrender their permanent licences to the Administration in exchange for a time-limited franchise of the franchised taxis is questionable. Also, the fact that taxi licences are transferable at a cost determined by the market which differs at different points in time will further complicate the matter. In addition, mere exchange of licences may also contravene the principle of open and fair competition in the sense that new entrants who want to operate franchised taxis are required to apply for the operating right through open tender under the current proposal.

17. A few members have recalled a motion passed by the Panel on 21 April 2017 in which members consider that the Administration has not thoroughly consulted the taxi trade and various political groups of LegCo on the proposal, and request the Administration to shelve the franchised taxi scheme and expeditiously form a working group for formulating a comprehensive proposal to upgrade taxi service standard. A few members, on the other hand, have noted that a large number of taxis are not in operation and have been left idle because of the low rental return and difficulty in recruiting drivers. Furthermore, the Bills Committee has noted that the acute drop in the number of tourists in Hong Kong due to the staging of public order events since June 2019 has further aggravated the operating difficulties faced by the taxi trade. In view of the above, these members opine that it is not an opportune time to introduce franchised taxis.

18. In addressing the above concerns, the Administration has emphasized that the introduction of franchised taxis is a long-term policy initiative which aims to enhance personalized and point-to-point public transport services in Hong Kong to meet the new demand for better services. It is the outcome of years of consultation with the taxi trade and different stakeholders after striking a balance amongst various considerations. Despite the present economic condition, the Administration considers it an appropriate time to introduce the Bill with a view to putting in place the framework of a new regulatory regime, but will take due considerations on the timing to invite tenders from the public for the operating rights of franchised taxis, having regard to relevant factors including the economic outlook of Hong Kong.

Views expressed by deputations at the public hearing

19. At the meeting on 6 January 2020, the Bills Committee has received views from 52 individuals/organizations on the Bill. A great majority of deputations do not support the introduction of franchised taxi services in Hong Kong. They have expressed that in view of the present gloomy economic situation, an increase in the supply of 600 franchised taxis will further aggravate the operating difficulties faced by the taxi trade. Furthermore, it will aggravate the problem of shortage of taxi drivers. A few other deputations have expressed that franchised taxi can promote greater competition to benefit both passengers and operators. Other deputations in support of the Bill have expressed that applicants applying for the operating rights of franchised taxis who propose to maintain an employer-employee relationship with drivers will be given higher score in the tender exercise, it will thus help promote greater protection to drivers and enhance the income of front-line drivers. A list of deputations who have attended the meeting to give views is in **Appendix II**.

Illegal carriage of passengers for hire or reward

20. Regarding the issue of illegal carriage of passengers for hire or reward, some Bills Committee members have expressed grave concern about the increasing prevalent use of such illegal service through online hailing platforms, and enquired about the legislative timetable for raising the penalty level for illegal hire cars. Some members have also asked in case these online hailing platforms succeed in bidding one or more franchises for operating franchised taxis, whether there would be any measures to prevent them from making use of the franchises to provide

illegal hire car services at the same time.

21. On this issue, the Administration has advised that enforcement actions have been stepped up in combating illegal carriage of passengers for hire or reward. In tandem, the legislative proposal to increase the penalty level related to the above offences is under preparation and will be submitted to LegCo for consideration. Regarding members' concern on the possibility of using the franchise for providing illegal hire car services, under the proposed franchised model, real-time operating data can be retrieved from the franchisees. Also, franchisees are required to display specific logos on the franchised taxis for easy identification by passengers on whether the vehicles are franchised taxis or not. Shall franchisees fail to meet the requirements under the franchise, the Administration can impose financial penalties and even revoke the franchise.

Views on specific provisions of the Bill in promoting greater competition

22. The Bills Committee notes that the Competition Commission ("Commission") has submitted its views on the Bill in respect of fare setting, the number of franchised taxis and length of the trial period and the issue of "tipping". In gist, the Commission considers that the Administration should make use of a competitive process to encourage the bidders to compete on the fares instead of setting a higher fare for franchised taxis mandatorily. Also, the Commission is of the view that the maximum number of franchised taxis should not be specified in the Bill, instead, it should be reviewed within two years of the trial period and suitably increased to reflect the market demand depending on the circumstances. It has also raised concern about "tipping" in the passenger matching process.

23. The Administration has provided its written response to the issues raised by the Commission in LC Paper No. CB(4)296/19-20(02). The Administration has emphasized that while it understands the views of the Commission from the competition angle, the introduction of franchised taxis will not make the taxi market any less competitive. On the contrary, it may drive the ordinary taxi trade to further improve their service quality. Apart from the consideration from the competition angle, the Administration has also considered and struck a balance among various factors, including views canvassed from the taxi trade, passenger demand, service standards and requirements, operational efficiency and financial viability of franchised taxi operators.

Advice sought

24. Members are invited to note the deliberations of the Bills Committee and its decision to discontinue its work.

Council Business Division 4
Legislative Council Secretariat
18 June 2020

Bills Committee on Franchised Taxi Services Bill

Membership list for 2019-2020 session*

Chairman	Hon Tommy CHEUNG Yu-yan, GBS, JP
Deputy Chairman	Hon CHAN Han-pan, BBS, JP
Members	Hon Mrs Regina IP LAU Suk-ye, GBS, JP Hon Paul TSE Wai-chun, JP Hon Frankie YICK Chi-ming, SBS, JP Hon YIU Si-wing, BBS Hon Charles Peter MOK, JP Ir Dr Hon LO Wai-kwok, SBS, MH, JP Hon CHU Hoi-dick Dr Hon Junius HO Kwan-yiu, JP Hon LAM Cheuk-ting Hon SHIU Ka-fai, JP Hon LUK Chung-hung, JP Hon LAU Kwok-fan, MH Hon Jeremy TAM Man-ho Hon Tony TSE Wai-chuen, BBS
	(Total : 16 members)
Clerk	Ms Sophie LAU
Legal adviser	Mr Alvin CHUI

* Changes in membership are set out in Annex to Appendix I

Bills Committee on Franchised Taxi Services Bill**Changes in membership
(Year 2019-2020)**

Member	Relevant date
Hon LEUNG Yiu-chung	Up to 3 January 2020

Bills Committee on Franchised Taxi Services Bill

List of deputations/individuals who have given oral presentation to the Bills Committee

Deputations

1. Chan Yiu Chung Taxi Co.,
2. Civic Party
3. Come on James ! Let's care our society association
4. Diamond Cab (HK) Ltd.
5. HK & KLN Taxi Drivers Club
6. Hong Kong and Kowloon Radio Car Owners Association Ltd
7. Hong Kong Taxi Drivers Association
8. Hong Kong Tele-call Taxi Association
9. Ka Wai Motors Limited
10. Kit Cheong Motors Ltd
11. Master Express Investment Ltd
12. New Territories Taxi Operations Union
13. NT Taxi Drivers Group
14. Office of Leslie Chan, District Councillor, Yau Tsim Mong District
15. Sai Kung Taxi Group
16. Sai Kung Taxi Operators Association Ltd
17. Shun Fung Motors Investment Management Co. Ltd
18. Sun Star Taxi Investment Co.
19. Sun Star Taxi Management Co.
20. Sun Star Taxi Operations Association
21. Tai Wo Motors Ltd
22. Taxi Driver Concern Group
23. The Kowloon Taxi Owners Assn Ltd
24. Wah Wai Motors Limited
25. Wang Fung Motors Management Co. Ltd

Individuals

1. AU Tat-yick
2. CHAN Chit-wang
3. CHAN Hon-sing
4. CHAN Kai-kwong
5. CHENG Kai-shing
6. CHEUNG Cheung-chu
7. CHOW Ching-hoi
8. CHOW Kai-wing
9. FUNG Pak-wing
10. HO Wing-shing
11. LAI Man-keung
12. LAM Sau-kin
13. LEUNG Fai-kiu
14. LI Chun-sing
15. LI Tat-chuen
16. SHEK Kam-chiu
17. WONG Ping-fat
18. WONG Shuet-fong
19. WONG Tat-ming
20. WONG Wai Lung
21. YEUNG Kam-ming
22. YIP Cheong-wah
23. YUE Hok-shing
24. 張志鈞
25. 黃保強
26. 黃國強
27. 蔡達春