

民主黨立法會議員秘書處的信頭
Letterhead of SECRETARIAT OF LEGISLATIVE COUNCILLORS OF THE
DEMOCRATIC PARTY

《地下鐵路條例草案》委員會
民主黨修訂《地下鐵路條例草案》意見書 鄭家富 何俊仁

引言

1. 民主黨將對《地下鐵路條例草案》提出四個修正案，鄭家富議員會提出以附表形式將監管地鐵價格機制納入草案中，及以附表形式將地鐵服務表現基準納入草案中；何俊仁議員則會要求行政長官會同行政會議在作出指示時，須考慮地鐵與其他公共交通工具公平競爭的原則，並要求政府將地鐵新鐵路線上蓋物業發展權作公開招標／競投。

價格上限管制(Price-cap Regulation)

2. 採納英國監管公用事業價格及香港本地電話收費 93 至 98 年間曾採用的價格上限管制，即以 $CPI - X$ （消費物價指數增幅）- X （鼓勵性變數）方程式來規限上市後地鐵票價的增幅。
3. 由於地鐵公司向以商業原則經營，故我們相信私有化初期對增加地鐵效率果效並不會太過明顯，加上目前本港仍處通縮水平，民主黨擔憂若要求地鐵公司上市初期便需要提升一定程度的生產力，可能會導致公司裁員，因此，我們建議在地鐵上市首五年，將 $CPI - X$ 方程式中的 X 值訂為 0，令其車費增幅規限在少於或等同於 CPI 。
4. 規管方式是令地鐵來年的票價增幅，以及過去四年票價調整的平均值，規管在少於或相等於過去五年綜合消費物價指數的每年平均升幅。換言之，方程式中的 CPI 會定義為實施加價前五年的平均綜合消費物價指數升幅。例如：地鐵公司在 2001 年實施加價時，公司在 2001、2000、1999、1998 和 1997 年實施票價增幅的平均值，必須少於或相等於過去五年通脹的平均升幅。
5. 條例會訂明，若方程式中的 CPI 出現負數時，地鐵公司將不能提出加價。
6. 若果地鐵每年的加幅合符方程式規定，有關加價將會自動生效。
7. 條例亦會訂明規管方程式中的 X 值至少每五年檢討一次，而政府在調整 X 值時必須以地鐵公司生產力作考慮因素。當政府要修訂 X 值時，立法會可於有關命令提交立法會後 28 天內作出反對或修訂。

服務表現基準

8. 由於在營運協議附表 III 所載的服務表現基準訂於較以往表現低 1% 的水平，因此我們建議將有關附表納入於草案中，並將**所有服務表現水平增加 1%**。
9. **另將月台幕門可靠性加入基準中，水平訂於 98%**，有關水平以乘客行程準時性和列車服務準時性水平作釐訂基礎。
10. 當政府／地鐵公司要對各表現基準作出修改時，立法會可於有關命令提交立法會後 28 天內提出反對或修訂，否則有關新基準水平將會自動生效。
11. 若地鐵公司違反有關表現水平，地鐵將要面對條例第 14 條的可施加財政罰則。雖然在第 15 條載有「暫時中止及撤銷專營權」等懲罰，但在地鐵並無替代者的情況下，該等懲罰實無真正阻嚇作用，故我們認為有需要將第 14 條款所訂定的最高罰款額提高，以加強阻嚇作用，**我們建議將所有罰則的最高罰款額全部增加一級**。（參考：3 級 \$10,000、4 級 \$25,000、5 級 \$50,000、6 級 \$100,000）

公平競爭

12. 爲了確保地鐵不會作出反競爭行爲，刻意阻礙其他交通模式與之競爭，令市民除地鐵外出現沒有其他選擇的情況，我們建議在第 13 條行政長官會同行政會議可作出指示時，要求他們必須同時考慮地鐵與其他公共交通工具公平競爭的問題。

公開招標新鐵路上蓋物業發展權

13. 上市後的地鐵公司屬私營公共運輸機構，若政府再將新鐵路上蓋物業發展在未經公開招標的程序下批予地鐵公司，變相政府補貼地鐵公司，實在有欠公平。因此，**我們建議在草案中新增一部分 11A，列明政府給予地鐵公司的專營權中並不包括新鐵路上蓋物業發展權**，而有關發展權必須作公開競投／招標，地鐵公司必須與成功競投者充分合作，並給予合理支援。

修正案

14. 各修正案之初稿見於附件。

二零零零年一月二十七日

MASS TRANSIT RAILWAY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable Andrew Cheng Kar Foo

Clause

Amendments Proposed

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(a) By renumbering it as section 9(1);

(b) By adding -

“(2) Without affecting the generality of the Corporation’s obligation to maintain a proper and efficient service under subsection (1), the Corporation shall comply with the performance levels specified in the third column of Schedule 7 as applicable to the performance criteria specified in the second column of that Schedule.

(3) The Chief Executive in Council may by order amend Schedule 7.”.

New

By adding -

“SCHEDULE 7

PERFORMANCE REQUIREMENTS

First Column	Second Column Performance Criteria	Third Column Performance Level
1.	Train Service Delivery	99.5%
2.	Passenger Journeys on Time	
	Airport Express Line	99%
	Other parts of the railway	99.5%
3.	Train Punctuality	
	Airport Express Line	99%
	Other parts of the railway	99%
4.	Add value machine reliability	96%
5.	Ticket Issuing Machine	94%
	Reliability	
6.	Platform screen reliability	98%”.

- 14(3) (a) In paragraph (a) -
- (i) in subparagraph (i), by deleting “level 3” and substituting “level 4”;
 - (ii) in subparagraph (ii), by deleting “level 4” and substituting “level 5”;
 - (iii) in subparagraph (iii), by deleting “level 5” and substituting “level 6”.
- (b) In paragraph (b), by deleting “\$10,000” and substituting “\$25,000”.

New By adding-

“PART IIIA

DETERMINATION OF FARES

14A(1) The Corporation may, subject to subsection (2), determine the fares payable by persons travelling on the railway.

(2) Any revision of fares proposed by the Corporation must conform to the formula set out in Schedule 8.

(3) The Chief Executive in Council may by order amend Schedule 8.”.

New By adding -

“SCHEDULE 8

REVISION OF FARE

1(a) The formula to be applied for the purpose of section 14A(2) is -

$$\left(\frac{\Delta P_t}{P_{t-1}} + \frac{\Delta P_{t-1}}{P_{t-2}} + \frac{\Delta P_{t-2}}{P_{t-3}} + \frac{\Delta P_{t-3}}{P_{t-4}} + \frac{\Delta P_{t-4}}{P_{t-5}} \right) \times \frac{1}{5} \leq CPI_5 - X$$

whereas $CPI_5 < 0$, $\Delta P_t = 0$

whereas the value of X is 0 in the first five years of the

operation of the Corporation;

- (b) The value of X shall be reviewed jointly by the Commissioner and the Corporation and it shall be reviewed once every five years;
- (c) In any review of the value of X, the Commissioner and the Corporation shall consider all relevant factors including but not limited to technological advancements and productivity improvements.

2. For the purpose of the formula at section 1 -

- (a) “**CPI**”₅” is the year to year change of the price level in the last five years preceding the first revision of the complete year in which the proposed revision takes place, as calculated according to the formula -

$$CPI_5 = \left(\frac{\Delta CPI_{t-1}}{CPI_{t-2}} + \frac{\Delta CPI_{t-2}}{CPI_{t-3}} + \frac{\Delta CPI_{t-3}}{CPI_{t-4}} + \frac{\Delta CPI_{t-4}}{CPI_{t-5}} + \frac{\Delta CPI_{t-5}}{CPI_{t-6}} \right) \times \frac{1}{5}$$

where -

- (i) “**CPI**”_{t-n}” is the yearly average of the published monthly Consumer Price Index value for each of the 12 months of the complete year **n** years preceding the complete year in which the proposed revision takes place was proposed;
- (ii) “**Δ CPI**”_{t-n}” is the difference between **CPI**_{t-(n+1)} for the period immediately preceding the period referred to in subparagraph (i) and **CPI**_{t-n} specified in subparagraph (i);
- (b) “**P**”_{t-n}” is the average price in respect of railway service during the 12 months of the complete year **n** years preceding the first revision of the complete year in which the proposed revision takes place;
- (c) “**Δ P**”_t” is the difference between **P**_{t-1} and the average price for service after the implementation of the proposed revision;
- (d) “**Δ P**”_{t-n}” is the difference between **P**_{t-(n+1)} and **P**_{t-n};

3. In this Schedule -

“complete year” means any period of 12 calendar months beginning on 1 September of one year and ending on 31 August of the following calendar year;

“Consumer Price Index” means the index of that name compiled by the Commissioner for Census and Statistics.

4. In the event that CPI is negative, the fares of the Corporation shall not be increased.”.

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By adding “an order made under section 9(3) and section 14A(5),” before “a regulation”.

MASS TRANSIT RAILWAY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable Albert Ho Chun Yan

Clause

Amendments Proposed

New

By adding-

”PART IIA

DEVELOPMENT PROJECTS ABOVE NEW STATIONS

- 8A(1) The franchise does not include the right to develop residential or commercial projects above new stations and along new line extensions.
- (2) The right to develop residential or commercial projects above new stations and along new line extensions is opened to public tender or bidding.
- (3) The Corporation shall cooperate with and provide reasonable assistance to the successful candidate in the development of residential or commercial projects above new stations or along new line extensions.

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By adding -

“(1A) Without prejudice to the generality of the scope of public interest under subsection (1), the Chief Executive in Council shall consider whether the Corporation has adopted practices restricting market accessibility or preventing parallel competition from other modes of public transport.”.