

BILLS COMMITTEE ON MASS TRANSIT RAILWAY BILL

MAJOR DIFFERENCES BETWEEN THE NEW OPERATING AGREEMENT AND THE EXISTING MEMORANDUM OF AGREEMENT

PURPOSE

At the meeting of the Bills Committee on Mass Transit Railway Bill (MTR Bill) on 23 November 1999, Members requested the Administration to provide further information on the major differences between the new Operating Agreement and the existing Memorandum of Agreement.

BACKGROUND

2. The Memorandum of Agreement is an agreement between the Government and Mass Transit Railway Corporation (MTRC). It sets out the requirements for the design, construction and operation of the MTR network. After privatization, MTRC will cease to be a statutory corporation. The privatised entity, MTR Corporation Limited (MTRCL), will be granted a franchise to operate the MTR system. A new franchise document, the Operating Agreement, will be signed between the Government and MTRCL.

3. While all the key provisions relating to safety and passenger services in the existing Memorandum of Agreement will be transferred in entirety to the new Operating Agreement, we have added a number of new provisions to deal with matters relating to the new railway franchise and to enhance the Government's powers in monitoring the operation of the railway for the purposes of ensuring its safety and a proper and efficient service.

MAJOR NEW PROVISIONS¹

Franchise Matters

4. Under the MTR Bill, MTRCL will be granted a 50 years franchise to operate the MTR network. The Operating Agreement will contain appropriate provisions to deal with various franchise matters, including the extension mechanism (Heading 2), land required for the construction and operation of the railway (Heading 6), new railway projects (Heading 7), and compensation payable to the MTRCL on revocation or expiry of franchise (Heading 9) and the requirement for MTRCL to assist in securing continuity of the railway operation (Heading 12) upon revocation or expiry of the franchise.

Performance Requirements

5. The Operating Agreement will stipulate the performance levels required of MTRCL (Heading 4.9). These performance levels are objective and transparent standards on the basis of which the Government will monitor the passenger services of MTRCL. Substantial or persistent breaches of these performance levels will be causes for imposition of penalties or revocation of franchise. There will also be other indicators, like customer service pledges (Heading 4.11) and passenger satisfaction surveys (Heading 4.12), which measure the quality of services and serve to point to areas of improvement in the delivery of services.

Maintenance Procedures

6. Provisions (Heading 5.5) will be added to provide that MTRCL shall set up maintenance procedures for its facilities, systems and trains to minimise safety risks. The Corporation is also required to ensure that maintenance work will be carried out by competent personnel.

Contingency Plans

7. There will be a provision (Heading 5.8) that requires MTRCL to develop and maintain contingency plans to cater for the event of a breakdown, accident or emergency in the railway premises.

¹ The numbered references are to the draft Principal Headings of the Operating Agreement attached to the paper Transport Bureau submitted to the Bills Committee for its meeting on 23 November 1999.

Furnish of Records

8. The Operating Agreement will contain provisions requiring MTRCL to maintain records on various aspects of the operation of the railway and to furnish such records upon request to the Secretary for Transport and Commissioner for Transport for inspection purposes.

Request for Review

9. The Government will have the power to request MTRCL to review its operational arrangements and suggest areas of improvement to MTRCL where appropriate (Heading 4.15). MTRCL will be required to comply with the Government's requests for such reviews, to give due consideration to the Government's suggestions, and to advise the Government of its reasons for any inability to adopt them.

Fare Regulation

10. To strengthen the existing voluntary consultation arrangement, we will add to the Operating Agreement an explicit contractual obligation for MTRCL to consult the LegCo Panel on Transport and the Transport Advisory Committee before raising fares (Heading 8). In addition, when determining new fare levels, MTRCL is required to consider the level of public acceptance based on passenger surveys.

ADVICE SOUGHT

11. Members are requested to note the contents of this paper.

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**Transport Bureau
December 1999**