

立法會
Legislative Council

LC Paper No. CB(4)1024/16-17(03)

Ref. : CB4/SS/10/16

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

Background brief

Purpose

This paper provides information on the provisions of the Profit Control Scheme ("PCS") under the Public Bus Services Ordinance (Cap. 230) ("the Ordinance") and summarizes the major discussions of the Panel on Transport ("the Panel") on issues relating to the renewal of the franchise of The Kowloon Motor Bus Company (1933) Limited ("KMB").

Background

The bus franchise of The Kowloon Motor Bus Company (1933) Limited

2. The current franchise of KMB commenced on 1 August 2007 and will expire on 1 July 2017. According to the Administration, KMB had indicated an interest to apply for a new 10-year franchise upon the expiry of the existing one. In this regard, the Administration canvassed views from the public on the requirements of the new franchise for the bus network of KMB between 26 January and 18 April 2016, and from members of the Panel at its meetings on 15 January and 21 June 2016. The Administration then commenced discussion with KMB in the third quarter of 2016 on the new 10-year franchise.

3. Under section 5 of the Ordinance, the Chief Executive-in-Council ("CE-in-Council") may grant to a registered company a franchise conferring the right to operate a public bus service. Under section 6 of the Ordinance, a franchise may be granted for a period not exceeding 10

years.¹ Section 12 of the Ordinance prescribes that a grantee of a bus franchise is required to maintain a proper and efficient public bus service to the satisfaction of the Commissioner for Transport at all times during the franchise period.

4. According to the established practice, an incumbent operator which is able to prove its ability to provide a proper and efficient service and is willing to further invest in franchised bus operation may be considered for the granting of a new franchise for a period of 10 years. As franchised bus operation is capital and investment intensive, a longer franchise period (say, 10 years) would facilitate a grantee's long-term planning and service development.

5. On 28 March 2017, CE-in-Council granted a new franchise for the bus network of KMB under section 5 of the Ordinance. The new franchise will commence on 1 July 2017 for a period of 10 years.²

Profit Control Scheme

6. Under section 5(3)(b) of the Ordinance, a franchise shall be subject to PCS except where the Legislative Council ("LegCo") by resolution excludes the application of all or any of the provisions in Part V of the Ordinance to the franchise. Pursuant to section 28 of the Ordinance, a company to which a franchise to operate a public bus service is granted can earn a permitted return in an accounting year.³ Profit exceeding the permitted return in any accounting year will be added to the Development Fund ("the Fund") provided under section 27. When profit falls below the permitted return, the grantee shall recover the deficiency by drawing money from the Fund. Section 29 further provides for the deductions that must be made from the permitted return

¹ If the Administration has yet to decide on the long-term arrangements for a franchise, CE-in-Council may extend an existing franchise for a further period not exceeding two years as a buffer. Meanwhile, a grantee may request and the Chief Executive in Council may extend an existing franchise for a further period not exceeding five years.

² By G.N. 1773 of 2017 published in the Gazette on 7 April 2017, the new franchise is granted for the period from and including 0400 hours on 1 July 2017 until 0400 hours on 1 July 2027.

³ Under section 26 of the Ordinance, "permitted return" means the return allowed to a grantee in an accounting year and which is computed in accordance with section 28(1).

in each accounting year. Under section 31, CE-in-Council shall review the operation of PCS in respect of the grantee every two years.

7. According to paragraph 3 of the LegCo Brief (File Ref: THB(T)CR3/5591/94) issued by the Transport and Housing Bureau in April 2017, PCS was strongly criticized by the then LegCo before 1997 and the community in that it would guarantee the franchised bus companies a profit level irrespective of their performance, thereby reducing the incentive of the franchised bus companies to enhance cost effectiveness and reduce expenditure. In 1992, the then Executive Council decided that PCS would not be applicable to all new bus franchises granted thereafter. Since then the Government would, after granting each new franchise, move a resolution in LegCo to exclude the application of PCS to the franchise. In the above connection, a total of 22 such resolutions had been passed in respect of franchises granted since then (including all six franchises currently in force).⁴

Proposed resolution under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230)

8. The Secretary for Transport and Housing has given notice to move a motion at the Council meeting of 17 May 2017 to seek LegCo's approval to exclude the application of PCS set out in sections 27, 28, 29 and 31 of the Ordinance to the new 10-year franchise granted to KMB on 28 March 2017.

Recent discussions of the Panel on Transport on the new bus franchise for The Kowloon Motor Bus Company (1933) Limited

9. The Panel was consulted on the new franchise for the bus network of KMB at the meetings on 15 January 2016, 21 June 2016 and 20 January 2017. Members were informed that, as a matter of the procedural formalities in accordance with the past practice, after granting of the new franchise, the Administration would move a resolution at LegCo for disapplication of the provisions concerning PCS to the new franchise of KMB. The Panel did not specifically discuss PCS at the

⁴ There are currently five grantees operating six bus franchises in Hong Kong. The five grantees are KMB, Citybus Limited, New World First Bus Services Limited, Long Win Bus Company Limited and New Lantao Bus Company (1973) Limited. Of the grantees, Citybus Limited is operating two franchises.

said meetings.

10. Members were more concerned about the fare concessions to be offered by KMB under the new franchise. Many members urged KMB to provide more fare concessions to passengers, in particular expanding the long-haul route fare concession scheme for full-time students to cover all students on every single trip on all routes operated by KMB; introducing monthly passes; extending the bus-bus interchange concessions to northern Lantau extension routes (i.e. "E" routes); narrowing the fare differential for short-haul trips of cross-harbour routes and non-cross harbour routes; and providing fare concessions to escorts of persons with disabilities.

11. As regards the service quality of KMB, members considered that KMB should enhance its service in various aspects, such as opening up access to data on bus service information to allow outside parties to develop user-friendly mobile applications; exploring introduction of more hospital routes; enhancing ancillary facilities at bus stops for visually impaired persons; and equipping all shelters with seats, etc.

12. In addition, members also discussed about inviting new tenders for operating some existing KMB's bus routes that served remote areas, as well as new bus routes. They noted the Administration's responses that the franchise was granted to KMB in the form of packages consisting of both profitable routes and unprofitable but socially desirable routes. As for new routes introduced within an existing bus network, the incumbent franchised bus company serving that bus network would normally be invited to operate the new routes.

Latest development

13. At the meeting held on 5 May 2017, the House Committee agreed to form a Subcommittee to study the proposed resolution under section 5(3)(b) of the Ordinance. At the request of the House Committee, the Administration has withdrawn the notice to move the motion mentioned in paragraph 8 above.

Relevant papers

14. A list of relevant papers is in the **Appendix**.

Council Business Division 4
Legislative Council Secretariat
15 May 2017

Appendix

Subcommittee on Proposed Resolution under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230)

List of relevant papers

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
15.1.2016	Transport Panel ("TP")	Administration's paper	CB(4)457/15-16(03) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20160115cb4-457-3-e.pdf
		Background brief	CB(4)457/15-16(04) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20160115cb4-457-4-e.pdf
		Administration's follow-up paper	CB(4)697/15-16(01) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20160115cb4-697-1-e.pdf
		Minutes of the meeting	CB(4)1298/15-16 http://www.legco.gov.hk/yr15-16/english/panels/tp/minutes/tp20160115.pdf
21.6.2016	TP	Administration's paper	CB(4)1124/15-16(05) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20160621cb4-1124-5-e.pdf
		Updated background brief	CB(4)1124/15-16(06) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20160621cb4-1124-6-e.pdf

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
		Minutes of the meeting	CB(4)1315/15-16 http://www.legco.gov.hk/yr15-16/english/panels/tp/minutes/tp20160621.pdf
20.1.2017	TP	Administration's paper	CB(4)413/16-17(04) http://www.legco.gov.hk/yr16-17/english/panels/tp/papers/tp20170120cb4-413-4-e.pdf
		Updated background brief	CB(4)413/16-17(05) http://www.legco.gov.hk/yr16-17/english/panels/tp/papers/tp20170120cb4-413-5-e.pdf
--	--	<p>Legislative Council Briefs:</p> <ul style="list-style-type: none"> - New Franchise for the Bus Network of the Kowloon Motor Bus Company (1933) Limited - Proposed resolution to exclude the application of the Profit Control Scheme to the New Franchise for the Bus Network of the Kowloon Motor Bus Company (1933) Limited 	<p>File Ref.: THB(T)CR 3/5591/94</p> <p>http://library.legco.gov.hk:1080/articles/1195270.290100/1.PDF</p> <p>http://www.legco.gov.hk/yr16-17/english/subleg/brief/sc110_brf.pdf</p>
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