

LC: Speech by SETW in moving the second reading of the Rail Merger Bill

\*\*\*\*\*

Following is a translation of the speech by the Secretary for the Environment, Transport and Works, Dr Sarah Liao, in moving the second reading of the Rail Merger Bill in the Legislative Council today (July 5):

Madam President,

I move the Second Reading of the Rail Merger Bill (the Bill).

The Government announced the package for merging the Mass Transit Railway (MTR) and Kowloon-Canton Railway (KCR) systems in April 2006. Since then, we have had five meetings with the Legislative Council Panel on Transport and Panel on Financial Affairs to discuss the details of the merger package, and we have briefed the Transport Advisory Committee and the Traffic and Transport Committee of a number of District Councils. I am pleased to note that public response is in general favourable. We are now proceeding with the legislative amendment exercise to provide the legislative framework to implement the rail merger.

The rail merger will bring overall benefits to the community as a whole. The MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC) can supplement each other through their respective strength to bring us a world class rail operator, which will enhance the competitiveness of Hong Kong both in the Mainland market and in the international arena. Besides, the travelling public will get immediate benefit out of the rail merger through fare reduction from the first day of the merger and better interchange arrangements. An objective and transparent fare adjustment mechanism will also be introduced to replace fare autonomy. We believe that the merger package is a fair and balanced package which balances the interests of all stakeholders.

Under the merger package, KCRC would enter into a service concession agreement with MTRCL to grant MTRCL the right to use its properties to operate the existing KCR railway lines and the new KCR railway lines currently under construction when they are completed, as well as its other transport-related businesses. MTRCL will be the legal entity of the railway corporation after the merger (MergeCo) and its listing status will be maintained.

The Bill proposes to amend the Kowloon-Canton Railway Corporation Ordinance (KCRCO) and the Mass Transit Railway Ordinance (MTRO) to provide the necessary legislative framework for the merger. It expressly empowers KCRC to grant a service concession to MTRCL and expands the scope of MTRCL's franchise for taking up the operation of the KCR system. The franchise period will be re-set to 50 years from the merger date. The amended MTRO will be the governing legislation for MergeCo.

To better reflect the expanded scope of MTRCL's business after the merger, the Chinese name of MTRCL will be changed to 「香港鐵路有限公司」. The English name of MTRCL will be retained.

The Bill contains provisions to modify the existing provisions in the MTRO on revocation, suspension and expiry of franchise to cater for the expanded scope of MTRCL's franchise. If MergeCo is in default in the operation of KCR or MTR, it would be a ground for triggering revocation of the entire franchise of MergeCo. On the other hand, failure of MergeCo to fulfill its obligations under its Service Concession Agreement with KCRC in respect of its payment obligation and the restrictions against disposal of concession assets and creation of security over its rights in the Service Concession Agreement, would be a ground for triggering revocation of the part of MergeCo's franchise as it relates to the KCR.

We envisage that there will be progressive integration of the MTR and KCR systems in future and as a result, there would be properties used for the operation of both rail systems. Therefore, the Bill also proposes that the Government should have the right to access where necessary these common properties upon franchise revocation, suspension or expiry. Similarly, MergeCo should also have similar rights to assess the common properties under specified circumstances where necessary to maintain its operation of the MTR.

To enable MergeCo to operate the KCR system, relevant rights and liabilities under some KCRC's contracts would need to be transferred to MergeCo. The Bill provides for a mechanism to vest these rights and liabilities in MergeCo.

Under the existing regulatory regime governing MTRCL's operation, there is, outside the MTRO, an Operating Agreement (OA) between MTRCL and the Government stipulating the performance standards and matters concerning MTR fares such as the procedures for implementing fare adjustments under fare autonomy. The same

regulatory framework will be adopted for regulation of MergeCo. The existing OA will be expanded into an integrated OA which will stipulate the performance standards and the details of the fare adjustment mechanism applicable to MergeCo.

Under the merger package, all serving staff of the two corporations would be employed by MergeCo on their prevailing terms and conditions upon rail merger. There are specific provisions in the Bill for transferring the employment contracts of all serving KCRC staff at the time of the rail merger to MergeCo with continuity of their prevailing retirement benefits. As regards the other staff-related matters to be addressed outside the Bill, such as job security for frontline staff as it relates to the merger integration process and the studies by the corporations on the employment terms and conditions etc., there are continued discussions between the corporations and the staff side. The corporations will consult their staff before they make any final decision.

After the merger, KCRC would cease to have any railway operating function, whilst it would retain certain administrative, accounting and treasury functions. The Bill provides that during the concession period, KCRC would cease to exercise its power under the KCRCO to operate railway and bus services or construct any new railways and that KCRC will not be required to appoint a Chief Executive.

Madam President, I believe that early implementation of the rail merger will benefit the community as a whole. The introduction of the Bill to this Council today is an important milestone towards implementation of the rail merger. I hope Members will support the Bill. Thank you.