LCQ3: Provision of amenities ancillary to housing

Following is a question by the Hon Regina Ip and a reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (May 16):

Question :

In 2005, the Hong Kong Housing Authority (HA) divested certain retail and car parking facilities of its public rental housing (PRH) estates to The Link Real Estate Investment Trust (The Link). The Link was subsequently renamed as Link Real Estate Investment Trust (Link REIT). Following the relaxation in 2014 of the constraints under the Code on Real Estate Investment Trusts regarding the investment scope of this type of trusts, Link REIT repeatedly divested a number of properties in PRH estates. Some members of the public have pointed out that to achieve profit maximisation, Link REIT has substantially raised the rents of shops after the refurbishment of the shopping centres and markets in PRH estates, refused to renew tenancy agreements with small shop operators so as to introduce large chain stores, as well as divested incessantly its assets. They opine that Link REIT and the new owners have only profits in mind and disregard the livelihood of small shop operators and the daily needs of the PRH residents. In this connection, will the Government inform this Council:

(1) given that according to the provisions in the sale and purchase agreement signed back then between HA and The Link, if, within 10 years from the listing of The Link, HA wished to further divest its retail and car parking facilities, HA had to offer a sale proposal to The Link first, meaning that The Link was entitled to a right of first refusal, of the reasons why HA made such an arrangement back then and the specific contents of the relevant provisions; and

(2) as section 4(1) of the Housing Ordinance provides that HA has the duty to secure, for the residents, the provision of amenities ancillary to housing as HA thinks fit, of the new measures to be put in place to ensure that HA will fully discharge its duty under this provision, and that the usage of the commercial facilities in its housing estates complies with the relevant land lease conditions and meet the needs in the daily lives of PRH residents?

Reply:

President,

My consolidated reply to various parts of the Hon Regina Ip's question is as follows.

In 2005, the Hong Kong Housing Authority (HA) divested 180 properties, including retail and carparking facilities, through The Link Real Estate

Investment Trust (The Link) (now known as Link Real Estate Investment Trust (Link)) in order to focus on its core function of providing subsidised public housing and improve its financial position in the short-to-medium term with proceeds from divestment. It was also considered that the efficiency of the relevant commercial facilities would be enhanced under the operation of a private entity in accordance with commercial principles.

One of the documents relating to the listing of The Link was the Deed of Right of First Refusal (the Deed), under which HA is obliged offer The Link a right of first refusal in the event that it wished to sell certain retail and carparking facilities retained within its housing estates or that HA might develop in the future. Since 2005, HA has not further divested its commercial facilities, and thus the right of first refusal has never been exercised. The right of first refusal was effective for a period of ten years commencing from the listing day, which means that it has already expired in November 2015.

Under the right of first refusal, the price at which HA would offer the properties to The Link is the higher of two independent valuations calculated by specific valuation methods. If The Link does not opt to purchase the properties, HA can complete the sale by offering the properties to any third parties on such terms as it determines within two years, otherwise the right of first refusal will apply again to such properties. When the Government briefed the Legislative Council on matters about the divestment of HA's retail and carparking facilities in January 2006, it had provided detailed information on the right of first refusal .

HA's decision then to grant the right of first refusal had gone thorough in depth deliberation, and taken into account a variety of views during the process. One of the main reasons for making this decision was because, in preparation for the divestment, HA considered that the revenue potential of some of its facilities had yet been fully realised. In an effort to maximise its revenue from the public offering, HA did not incorporate these retail and carparking facilities into its divestment plan. HA considered that some of these properties might be suitable for divestment when their revenue potential was fully realised in future. HA also had plans at that time to divest the retail and carparking facilities of its new estates which would be completed in the coming years, with a view to withdrawing from commercial operation and focusing on its core function as a provider of public housing.

At that time, HA believed that granting the right of first refusal might help attract investors and maximise its revenue from the public offering. Furthermore, in order not to compromise HA's long-term pursuit of more innovative asset management/disposal avenues, a time limit was set for the right of first refusal.

HA's then decision to divest its properties was made after careful deliberation. HA was of the view that such a decision would be conducive to the discharge of its function as a provider of subsidised housing. Given the limited land and public resources, HA has to prioritise and focus its resources on providing public rental housing (PRH) to eligible families, especially to the low-income families who cannot afford private rental

accommodation. In responding to the motion debates in the Legislative Council in November 2012 and November 2016, the then Secretary for Transport and Housing clearly stated that the Government and HA had no plan to buy back Link or individual divested properties, as this would be incompatible with public interests and the principle of prudent financial management. This position still remains valid.

Section 4(1) of the Housing Ordinance requires HA to secure the provision of housing and "such amenities ancillary thereto as the Authority thinks fit" for the persons concerned. As for HA's divestment of its properties in 2005, when handing down its Judgement in 2005 on a relevant judicial review case, the Court of Final Appeal (CFA) affirmed that the divestment plan by HA was consistent with the objective laid down in section 4(1) above. According to CFA, it was not stipulated in the Housing Ordinance that tenants of PRH had any statutory right to the continued retention and control by HA of the facilities while the tenants were still using the facilities; and so long as the facilities were available to tenants, it meant that HA had secured the provision of such facilities, even if they were provided by a third party over whom HA had no control. In reaching its conclusions, CFA noted that a market-oriented commercial approach would be adopted in operating the divested properties, whereas HA's approach at that time might not be in line with private sector practice. CFA was also aware of the fact that there might be changes in the operation of the relevant facilities, such as the tenant trade mix might be different.

In fact, HA would consult the public when designing each new public housing project, and try to include, as far as practicable, various facilities suggested by the public, such as retail, welfare, community, education, transport, etc. For existing estates, HA regularly receives opinions on various facilities from Estate Management Advisory Committees and other members of the public. HA would try to adjust existing facilities or add new facilities as far as practicable. The above practices and procedures are established, regular and transparent.

In respect of lease enforcement, the Lands Department (LandsD), in the capacity of the landlord, handles the leased land under the conditions in the land leases. As with other private properties, LandsD mainly acts on complaints, referrals or enquiries about suspected breaches of the lease conditions of the divested properties by conducting inspections and taking follow-up actions in accordance with the existing procedures. Depending on the circumstances, LandsD will also consult the relevant policy bureaux/government departments and seek legal advice. If breaches of the lease conditions are confirmed, LandsD will take appropriate lease enforcement actions. HA, as one of the owners of housing estates, maintains communication with other owners on matters relating to the daily management of such estates, with a view to protecting its rights under the deeds of mutual covenant (DMCs) and the restrictive covenants. Any suspected breach of land leases identified by HA will be referred to DMC Managers, Owners' Corporation and the relevant District Lands Offices for follow-up.

Apart from the land lease conditions, owners of divested properties must, in the same manner as other private property owners, abide by the

relevant statutory requirements and the restrictive covenants contained in the assignment deeds of the properties during the operation of such properties, whereas the government departments concerned would carry out supervision in the light of the actual circumstances. As long as the relevant statutory requirements and land lease conditions are complied with, and the aforementioned covenants with HA are not breached, the Government and HA cannot and will not interfere with the owners' day-to-day operations and commercial decisions. However, if it is confirmed that the owner concerned is in breach of any laws, land lease conditions or covenants with HA, the relevant government departments and HA will certainly pursue the matter seriously and take appropriate actions.

LCQ14: Use of Exchange Fund for investment purpose

Following is a question by the Hon James To and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (May 16):

Question:

The Hong Kong Monetary Authority (HKMA) established the Infrastructure Financing Facilitation Office (IFFO) in 2016. One of the functions of IFFO is to facilitate infrastructure investments and their financing in countries and regions along the Belt and Road. It was reported in the press in August last year that the Chief Executive of HKMA had said that plans were being made to establish a mechanism through IFFO under which HKMA would take the lead in identifying infrastructure projects in countries and regions along the Belt and Road, and then it would collaborate with other IFFO partners to conduct investment. On the other hand, HKMA signed an agreement in September last year with International Finance Corporation (IFC), a member of the World Bank Group, committing US$1 billion to the innovative Managed Co-lending Portfolio Programme (MCPP) debt mobilisation platform for emerging markets to support IFC in financing projects across more than 100 countries. In this connection, will the Government inform this Council:

(1) of the number of infrastructure investment and financing projects facilitated by IFFO since its establishment, and set out by project name the regions in which the proposed infrastructure facilities are to be located, the investment and financing amounts, and the names of proponents and investors;

(2) whether HKMA has (i) deployed the Exchange Fund, or (ii) collaborated with IFFO partners upon identification of infrastructure projects through IFFO, to invest in projects in countries and regions along the Belt and Road; if so, set out by project name the regions in which the proposed

infrastructure facilities are to be located, the forms of investment, the amount of investment and its percentage in the investment portfolio, the amount of profit or loss recorded to date, and the names of investment partners (if any);

(3) of the amount of money paid to MCPP by HKMA, the usage of such funds and the amount of profit or loss recorded to date; and

(4) whether HKMA has established any mechanism to monitor the implementation of those infrastructure projects in countries and regions along the Belt and Road in which HKMA has invested; if so, of the details; if not, the reasons for that; of the measures HKMA has in place to ensure that for infrastructure projects in which it intends to invest, the proponents will fulfill their environmental and social obligations in the regions concerned?

Reply:

President,

Our replies to the four parts of the question are as follow:

(1) The HKMA Infrastructure Financing Facilitation Office (IFFO) was established in July 2016 to facilitate infrastructure investments and financing by working with a cluster of key stakeholders. IFFO is not an investor and does not provide deal-matching services. IFFO puts in place a platform for interested partners to collaborate in identifying infrastructure investment and financing opportunities.

(2) to (4) The Hong Kong Monetary Authority (HKMA) actively sources and reviews investment opportunities globally as appropriate, including Belt and Road related investments, while taking into consideration evolving market conditions and available investment opportunities.

Infrastructure is a key asset class of the Long Term Growth Portfolio (LTGP) of the Exchange Fund. The HKMA has put in place the same robust mechanisms and rigorous procedures for pre-investment due diligence and post-investment monitoring for every infrastructure investment, regardless of whether being along the Belt and Road. Prior to making an investment decision, each investment shall be evaluated based on, among other things, its commercial merits, expected investment returns, and its complementarity to the LTGP's overall portfolio construction. Preparatory studies and appropriate measures to diversify risks will also be carefully conducted for all investments.

The pre-investment due diligence on the HKMA's General Partners (GP) and the investment proposal is conducted in a prudent and critical manner. Its scope covers a wide range of topics, including capability and stability of the investment team, and financials and risk factors of the investment proposal, etc. The HKMA will also review the GP's ability to integrate environmental, social and governance (ESG) factors into their investment decision-making process. Priority will be accorded to jurisdictions and projects with proper governance and environment protection framework.

As for ongoing post-investment follow-up work, the HKMA maintains close contact with the GPs and monitors the pace and usage of the capital drawdowns throughout the process of its post-deal monitoring work. Regular reports will be made to the Exchange Fund Advisory Committee and its Investment Sub-Committee.

Noting the potential market sensitivities pertaining to the investment of the Exchange Fund, the HKMA does not reveal specific details thereof.

LCQ10: Aircraft noise mitigating measures

Following is a question by the Hon Michael Tien and a written reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (May 16):

Question:

The Civil Aviation Department currently implements a number of aircraft noise mitigating measures, such as (i) refusing to allow aircraft which do not comply with the prescribed noise standards to land and take off at the Hong Kong International Airport (HKIA), (ii) encouraging airlines to deploy newer and quieter models of aircraft and (iii) adopting a set of "Radius-to-Fix" flight procedure. Such flight procedure allows aircraft which can use satellite-based navigation technology in their flights to adhere closely to the nominal centre line of the flight track when they take off towards the northeast and make south turn to the West Lamma Channel, and thus enables the aircraft to keep a distance away from the areas on the vicinity of the flight paths (e.g. Ma Wan), thereby reducing the impact of aircraft noise on those areas. In this connection, will the Government inform this Council:

(1) of the respective numbers of times, as recorded by the various aircraft noise monitoring terminals in late hours (i.e. between 11pm and 7am of the next day) in each year from 2012 to 2017, for which aircraft noise levels reached (i) 70 to 74 decibels (dB), (ii) 75 to 79 dB and (iii) 80 dB or above;

(2) among the take-off flights in each year from 2012 to 2017, of the respective numbers and percentages of those which adopted the Radius-to-Fix flight procedure; the measures taken by the authorities since 2012 to encourage airlines to adopt such flight procedure;

(3) whether it is feasible for all take-off flights to adopt the Radius-to-Fix flight procedure; if not, of the ceiling percentage, and whether the authorities have estimated the respective numbers of times for which aircraft noise levels reaches (i) 70 to 74 dB, (ii) 75 to 79 dB and (iii) 80 dB or

above will be recorded by the various aircraft noise monitoring terminals in late hours when the percentage of flights adopting such flight procedure has reached the ceiling;

(4) of the progress and specific achievements (e.g. the number and percentage of flights for which quieter types of aircraft were deployed by airlines) made by the authorities in each year from 2012 to 2017, in respect of (i) refusing to allow aircraft which do not comply with the prescribed noise standards to land and take off at HKIA, and (ii) encouraging airlines to deploy newer and quieter models of aircraft; and

(5) of the aircraft noise mitigating measures, apart from the aforesaid three measures, which are currently implemented by the authorities and their effectiveness?

Reply:

President,

The Civil Aviation Department (CAD) is conscious of the impact that aircraft operations have on the local communities and has implemented a number of aircraft noise mitigating measures based on the guidelines of the International Civil Aviation Organization (ICAO) to alleviate the noise impact on areas in the vicinity of flight paths.

Our reply to the various parts of the Hon Michael Tien's question is as follows:

(1) The CAD has 16 noise monitoring terminals (NMT). The aircraft noise events recorded between 11pm and 7am the following day by these terminals from 2012 to 2017 are set out at Annex 1.

(2) and (3) The CAD has implemented the Radius-to-Fix (RF) turn flight procedures since 2012 to allow aircraft equipped with satellite-based navigation technology to adhere closely to the nominal centre line of the flight track when departing to the northeast of the Hong Kong International Airport (HKIA) and making south turn to the West Lamma Channel. This keeps the aircraft at a distance away from areas located in the vicinity of the flight paths (particularly Ma Wan), and reduces the impact of aircraft noise on these areas.

The CAD has not set any "ceiling" for the utilisation of the RF turn flight procedures. Whether an aircraft can adopt the flight procedures is mainly dependent on the equipage of the required navigational equipment on board, the relevant training for the flight crew members, and the respective operational approval issued by the aviation authority of the place of registry of the aircraft concerned.

Amongst all aircraft departing towards the northeast direction from the HKIA, the proportion of aircraft adopting the RF turn flight procedures between 11pm and 7am the following day from 2012 to 2017 are set out at Annex 2. The figures show that the utilisation rate was steadily increasing since the implementation of these flight procedures in 2012.

The CAD has also been closely following up on the overall adoption of these procedures. Between 2012 and 2018, the CAD has conducted four surveys to gather relevant information from airlines on the utilisation of the RF turn flight procedures. The latest information shows most of the new aircraft types are already equipped with the required navigational equipment. As a result of the fleet modernisation by the airlines, more suitably equipped aircraft will enter into service. The CAD will continue to encourage airlines to adopt these flight procedures and closely monitor the effectiveness.

(4) Aimed to reduce aircraft noise at source, only aircraft that comply with the noise standards stipulated in Chapter 3 of Part II, Volume I of Annex 16 to the Convention on International Civil Aviation (Chapter 3 noise standards) and the relevant standards of noise prescribed in the Civil Aviation (Aircraft Noise) Ordinance (Cap. 312) are permitted to operate in the HKIA since 2002. Such restriction is in line with practices in other major international airports. According to the CAD's record, there were no non-compliant aircraft operated in the HKIA between 2012 and 2017. There was also no record of refusal of application for the use of aircraft which did not comply with the relevant noise standards at HKIA.

In addition, with effect from 2014, the CAD no longer allows aircraft which are marginally compliant with the Chapter 3 noise standards to land and take off in Hong Kong. To further strengthen this measure, the CAD is also planning to impose more stringent requirements with additional operating restrictions on aircraft which do not comply with the noise standards in Chapter 4 of Part II, Volume I of Annex 16 to the Convention on International Civil Aviation (Chapter 4 noise standards (see Note 1 below)), or equivalent, to operate at the HKIA from 10pm to 7am on the following day starting from the summer of 2019. Airlines have been consulted on the plan, and they showed understanding and support. This measure, when implemented, will further alleviate the aircraft noise impact on the local communities.

Apart from the above measures, as newer-model aircraft are benefited from the advancement of aviation technology, aircraft engines are quieter than before and the improved design of airframe has also helped reduce noise significantly. The CAD has been encouraging airlines to use newer-model and quieter aircraft. Many airlines are progressively modernising their fleet. Based on our statistics, the percentage on the use of newer passenger and cargo aircraft (see Note 2 below) operating at HKIA during night period has increased from 66 per cent in 2012 to 85 per cent in 2017. As the number of newer-model and quieter aircraft in their respective fleet continues to increase, the aircraft noise impact will be further alleviated in the long run.

(5) The other noise mitigating measures introduced by the CAD in addition to the above three are:

(i) between midnight and 7am, subject to acceptable operational and safety considerations, arriving aircraft are required to land from the southwest. This measure aims at reducing the number of aircraft overflying populated areas such as Sha Tin, Tsuen Wan, Sham Tseng and Tsing Lung Tau;

(ii) between 11pm and 7am, subject to acceptable operational and safety consideration, aircraft departing to the northeast of the HKIA are required to use the southbound route via the West Lamma Channel. This measure aims at reducing the number of aircraft overflying populated areas such as the Kowloon Peninsula and Hong Kong Island;

(iii) all aircraft approaching the HKIA from the northeast between 11pm and 7am are required to adopt the Continuous Descent Approach (CDA), subject to operational considerations. As aircraft on CDA fly higher and normally on a lower power/low drag configuration, noise experienced in areas such as Sai Kung and Ma On Shan will be lowered; and

(iv) aircraft departing to the northeast of the HKIA are required to adopt the ICAO noise abatement take-off procedures so as to reduce the noise impact on areas located in the vicinity of the HKIA. Aircraft adopting these procedures are required to reduce their power upon reaching an altitude of 800 feet or above to abate aircraft noise.

The CAD's regular reviews of the noise mitigation measures showed that the above measures are effective in alleviating the aircraft noise impact on the local communities. Taking the noise data of the CAD recorded at Ma Wan NMT as an example, the number of noise events of high decibel level (80 decibels or above) during the night period in 2017 have significantly reduced by 80 per cent compared with 2012, and those of 70 decibels or above during the night period have also reduced by 33 per cent during the same period.

Note 1: Part II, Volume I of Annex 16 to the Convention on International Civil Aviation sets out the aircraft noise standards formulated by the ICAO at different times. The aircraft noise standards of Chapter 4, which are applicable to aircraft for which the application for a Type Certificate was submitted between 2006 and 2017, were more stringent than those of Chapter 3. Generally speaking, the noise levels of Chapter 4-compliant or equivalent aircraft were lower than those of Chapter 3-compliant aircraft.

Note 2: Newer passenger and cargo aircraft cover aircraft types such as Airbus A320, A330, A340, A350 and A380 and Boeing B777, B747-8 and B787, etc.

LCQ13: A listed company allegedly releasing misleading information

Following is a question by the Hon Chan Chi-chuen and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (May 16):

Question:

In March 2017, ZTE Corporation (ZTE), a listed company in Hong Kong, entered into a plea agreement with the authorities in the United States (US) in respect of ZTE's violation of the US export control laws. Under the agreement, not only was ZTE required to pay a substantial amount of penalty, but the US authorities would also impose a denial order for seven years that would restrict and prohibit, among other things, ZTE from applying for or using any licenses, or buying or selling any item exported from US that was subject to US export control regulations. However, the aforesaid denial order was suspended subject to ZTE's compliance with the requirements under the agreement, and would be waived after a seven-year suspension period. On April 15 (US time) this year, the US authorities announced the activation of the denial order with immediate effect until March 13, 2025 as ZTE had failed to fully comply with the agreement. The Chairman of ZTE later admitted that the sanction had a great impact on the company and would plunge the company into a state of shock immediately. On the other hand, ZTE stated in the Notes to Financial Statements in its Annual Report 2017 that, for a comprehensive execution of the agreement, the company would take a series of measures to ensure its compliance with the obligations under the agreement, and thus ZTE believed that it was unlikely that the company would violate the agreement. Some investors opined that ZTE's statement in that annual report had misled them, and hoped that the Securities and Futures Commission (SFC) would immediately conduct a proactive investigation into the matter. In this connection, will the Government inform this Council if it knows:

(1) whether SFC has received, since April this year, any complaint about ZTE having allegedly misled its investors; if so, of the number of such complaints;

(2) whether SFC will take the initiative to investigate whether ZTE has made false or misleading statements; if not, of the reasons for that; and

(3) whether, in the light of this case, SFC will examine the introduction of a mechanism for class actions so that minor shareholders who have been misled and thus suffered losses may claim compensations from the companies and persons concerned through such mechanism; if so, of the details; if not, the reasons for that?

Reply:

President,

Our reply to the three parts of the question is as follows:

(1) and (2) The Securities and Futures Commission (SFC) follows its established procedures in handling complaints involving matters under its statutory powers and responsibilities and in carefully assessing the allegations made therein. The SFC will take appropriate actions if irregularities, including those in respect of non-disclosure of inside information by listed companies, are detected. The SFC will not comment on any specific case.

(3) The Law Reform Commission (LRC) published a report in 2012, recommending

an incremental approach to implementing a class action regime in Hong Kong. The class action regime proposed by the LRC is to start with consumer cases, covering tortious and contractual claims made by consumers in relation to goods, services and immovable property. The Department of Justice has established a cross-sector working group to study and consider the proposals of the LRC's report on class action. The working group will take into consideration views from different sectors and strike a balance for the overall benefits of our society. It will make recommendations to the Government upon completion of the study. Our understanding is that according to the LRC's recommendation regarding the introduction of a class action regime, disputes among company shareholders or issues of shareholders' rights would not be covered at the initial stage.

At present, the Government has no plan to introduce a class action regime for disputes among company shareholders or issues of shareholders' rights. However, under the existing rules, the Court already has unfettered discretion to handle proceedings involving the same interest of numerous persons through "representative proceedings" should the plaintiffs satisfy the threefold test of establishing "a common interest, a common grievance and a remedy which is beneficial to all the plaintiffs".

LCQ2: Illegal carriage of passengers for reward

Following is a question by the Hon Frankie Yick and a reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (May 16):

Question:

On the 19th of last month, a serious traffic accident occurred in Kowloon City killing one person and injuring four others, and all of the four vehicles involved in the accident were damaged. It has been reported that a private car, which was involved in the accident, was being used for illegal carriage of passengers for reward (commonly known as "white licence cars' service") at the time of the accident and had a passenger on board. Some members of the insurance industry have pointed out that the third party risks insurance for vehicles being used as white licence cars may be rendered invalid as a result of such use. While the e-hailing platform concerned claimed that a third party risks insurance policy had been taken out for the white licence car concerned, the details of the relevant policy have never been made public. Regarding white licence cars' service, will the Government inform this Council:

(1) whether it has assessed the insurance protection currently provided for the drivers and passengers of white licence cars, the drivers and passengers

of other vehicles, the passers-by, etc, involved in traffic accidents involving white licence cars; and

(2) whether it will step up, from the public education, legislation and law enforcement fronts, its efforts in clamping down on white licence cars' service, such as reminding members of the public that they may not be protected by a third party risks insurance if they travel on white licence cars, amending the legislation to raise the penalties on drivers of white licence cars, as well as setting up a reporting hotline; if so, of the details; if not, what other measures are in place to eradicate white licence cars' service?

Reply:

President,

The Government has all along been concerned about the situation on illegal carriage of passengers for reward by private cars. Section 52(3) of the Road Traffic Ordinance (Cap. 374) (RTO) stipulates that no person shall drive or use a private car, or suffer or permit a private car to be driven or used, for the carriage of passengers for hire or reward unless a hire car permit is in force in respect of the vehicle. Otherwise, it is an offence. Under section 14 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D), an application for a hire car permit shall be made, together with supporting documents, to the Commissioner for Transport (the Commissioner) by the registered owner of the private car concerned to the satisfaction of the Commissioner that the application has met the specified requirements. One such requirement is that there is in force in relation to the private car a third party risks insurance policy which complies with the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272).

My reply to the various parts of the Hon Frankie Yick's question is as follows:

(1) As advised by the Financial Services and the Treasury Bureau (FSTB), when taking out a third party risks insurance policy for a private car, the policyholder is generally required to provide information on the uses of the vehicle, which will form the basis of underwriting. If the policyholder fails to truthfully disclose that the vehicle will be used for hire or reward, the policy may be invalidated. Based on the established practice of the insurance industry in handling traffic accident cases, the insurance company will first compensate the third party whose injury or death has been caused by the traffic accident, and then recover the loss from the vehicle owner. If the vehicle owner or driver has died in the accident, the insurance company is still entitled to recover the loss from the estate of the deceased. The coverage of statutory third party risks insurance does not include the personal injury or death of the vehicle owner or driver.

As for the traffic accident referred to in the Hon Frankie Yick's question, the Insurance Authority (IA) understands from the relevant insurance company that the insurance policy taken out by online car hailing company Uber aims to insure passengers and third parties against injury or

death caused by ride-sharing trips. In order not to affect the investigation and subsequent legal proceedings, the FSTB and IA will not comment on the accident.

(2) The Government has been combating illegal carriage of passengers for reward through publicity and education campaigns as well as law enforcement efforts.

In respect of publicity and education campaigns, the Transport Department (TD) has been making use of various channels, including broadcasting announcements of public interest on radio, displaying samples of Hire Car Permits (HCPs) on the TD's website, and putting up posters in public places. These efforts serve to promote to the public that when they use hire car service, they should ensure the private car concerned is issued with a valid HCP; and educate the public on how to identify licensed hire cars. In the related publicity and education campaigns, the TD has also reminded the public that the third party risks insurance for an illegal hire car may be invalidated. The TD will further strengthen public education work, including increasing the number of channels for broadcasting announcements of public interest and the frequency of such broadcast on radio, increasing the number of government venues for displaying posters, etc. The TD will keep up with its efforts to promote the online enquiry system for HCP on the GovHK website through the TD's mobile applications, and continue to communicate with the transport trades so as to remind drivers of the need to abide by the law. In addition, the Police will continue to arrange stand-up briefings with the media after taking enforcement actions on illegal carriage of passengers for reward. In the briefings, the Police will publicise the risks involved in using illegal hire car service and remind citizens that the third party risks insurance for the hire car concerned may be invalidated.

On the other hand, the Government has been taking stern enforcement actions against illegal carriage of passengers for reward and will not condone such activities. Section 52 and Schedule 4 of the RTO stipulate that an offender who uses a private car or light goods vehicle (LGV) for the illegal carriage of passengers for reward, or who solicits or attempts to solicit any person to travel in such vehicles, is liable to a fine of $5,000 and three months' imprisonment on the first conviction. The licence of the subject vehicle may also be suspended for three months. On the second or subsequent conviction, the offender is liable to a fine of $10,000 and six months' imprisonment. For a subsequent offence in respect of the same motor vehicle, the licence of that vehicle may be suspended for six months. Under section 69 of the RTO, a court may order a person convicted of any offence under the RTO in connection with the driving of a motor vehicle to be disqualified to drive for such period as the court thinks fit. The aforesaid provisions are also applicable to companies or persons who provide booking services for illegal hire car service through smartphone applications or online platforms. The TD is currently reviewing the need to raise the penalties for the relevant offences so as to enhance the deterrent effects.

The Police will also continue to step up efforts to combat the offences. Between 2015 and 2017, the Police has undertaken enforcement actions on 126 cases concerning illegal carriage of passengers for reward by

private cars or LGVs. The Police will continue to combat the offences through targeted operations, including collecting intelligence, investigating and following up on referral cases as well as complaint cases. Members of the public may report to the Police if they find any cases of illegal carriage of passengers for reward. The contact information of the relevant police stations and traffic report rooms can be found on the web pages of the Hong Kong Police Force.