

CASE SUMMARY

Complaint against the Transport Department for providing misleading information to the Transport Advisory Committee

This Office received a complaint against the Transport Department (TD) for having provided misleading information to the Transport Advisory Committee (TAC) when seeking advice on the taxi tolls for the Western Harbour Crossing (WHC) in that -

- (a) only 10% of the taxis on return trip across the harbour were empty; and
- (b) after opening of the WHC, the existing Cross Harbour Tunnel (CHT) would be congestion-free.

2. In the paper presented to the TAC members on 29 October 1996, it was stated that only 10% of taxis crossing the harbour were empty. However, according to the complainant, the vacancy rate for taxis on return trip to the other side of the harbour was much higher than 10%. As such, he considered that TAC, in endorsing the proposed taxi tolls for WHC, had been misled by TD.

3. Regarding complaint point (a), this Office notes that paragraph 5 of the TAC Discussion Paper 28/96 on Taxi Tolls for WHC dated 24 October 1996 did contain a statement that "only 10% of taxis crossing the harbour are empty" and this had not been supported by any statistics. On the other hand, according to the results of five surveys conducted by TD between April 1994 and September 1996, it was noted that the percentage of empty taxis ranged from 9% to 12.2% for CHT, and 18% to 18.8% for the Eastern Harbour Crossing (EHC). The aforesaid statement in the TAC paper therefore only reflected the situation of CHT, but had not taken into account the situation of EHC.

4. Upon this Office's enquiry as to why TD adopted the vacancy rate for CHT as the overall vacancy rate, the Department explained that it was because majority of the taxis used CHT (rather than EHC) to cross the harbour. Because of the proximity of WHC to CHT, WHC would more likely attract traffic from CHT instead of EHC, and hence the pattern of vacant taxi usage at WHC would more likely approximate that at CHT rather than EHC. This Office finds the explanation inadequate since -

- (a) the 10% figure quoted in the TAC paper had not been supported with any statistics, nor was there any clarification provided to the TAC members as indicated in the minutes of the meeting;
- (b) CHT was not the only tunnel for crossing the harbour and the relatively higher vacancy rate of EHC should not be excluded for statistical purpose; and
- (c) the assumption that the pattern of vacant taxi usage at WHC would more likely approximate that at CHT was a mere predication yet to be established after the opening of WHC.

5. While this Office is unable to ascertain if TAC had actually been misled by the statistics of 10% vacancy rate provided by TD, or if its decision on the matter (i.e. a \$40 taxi toll) would be altered if the full set of statistics had been submitted instead, the information provided to TAC by TD on empty taxis was actually less than complete and in fact under-stated. Hence, this complaint point is substantiated.

6. Regarding complaint point (b), TD denied having made the statement as alleged by the complainant. According to the TAC Paper, the Department forecasted that WHC would have spare capacity for some time after its opening in 1997, whereas both CHT and EHC would continue to be operating at full capacity during rush hours. In the absence of any evidence to substantiate this allegation, this complaint point is unsubstantiated.

7. Having considered the above findings, The Ombudsman concludes that this complaint is partially substantiated.

8. The Ombudsman recommends that TD should, at the earliest appropriate time, inform TAC the previous and up-to-date detailed statistics on the vacancy rate of taxis crossing the harbour on the three tunnels.

9. The Ombudsman notes that TD had accepted the recommendation. However, TD did not agree that complaint point (a) should be substantiated since this Office was unable to ascertain if TAC had actually been misled by the 10% vacancy rate, or if its decision on the matter would be altered if the full set of statistics had been submitted by the TD. The Department also stressed that the vacancy rate was not crucial for TAC's decision on whether to support a \$40 taxi toll. Whatever was the vacancy rate, all taxis had the choice of the cheaper alternative routes, and for these reasons detailed statistics were not included in the TAC paper.

10. This Office considers that the focus of this complaint is whether misleading information on the vacancy rate of taxi crossing the harbour having been given by TD to TAC, rather than TAC 's deliberation or decision on the taxi toll for WHC. As TD admitted that the full set of information had not been submitted to TAC, The Ombudsman cannot accept TD' s arguments. Hence, he is therefore of the view that the findings and conclusion of this complaint should remain unchanged.

Office of The Ombudsman
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