

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 RT0 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 RT0, a court may order a person convicted of any offence under the RT0 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.