

立法會
Legislative Council

LC Paper No. CB(2)1141/01-02
(These minutes have been
seen by the Administration)

Ref : CB2/BC/26/00

Bills Committee on Travel Agents (Amendment) Bill 2001

Minutes of the fourth meeting
held on Tuesday, 5 February 2002 at 10:45 am
in Conference Room A of the Legislative Council Building

Members Present : Hon SIN Chung-kai (Chairman)
Hon Cyd HO Sau-lan
Hon Fred LI Wah-ming, JP
Hon CHAN Kam-lam
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon CHOY So-yuk
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP

Members Absent : Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP

Public Officers Attending : Mr Duncan PESCOD
Deputy Commissioner for Tourism

Mr WU Kam-yin
Assistant Commissioner for Tourism

Mr Eric HO
Registrar of Travel Agents

Miss Bella MUI
Assistant Secretary (Tourism) for Economic Services

Mr W B MADDAFORD
Senior Assistant Law Draftsman

Ms Stella CHAN
Government Counsel

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Ms Dora WAI
Senior Assistant Secretary (2) 4

I. Confirmation of minutes of meeting held on 7 January 2002
(LC Paper No. CB(2)1013/01-02)

The minutes of the above meeting were confirmed.

II. Meeting with the Administration
(LC Paper Nos. CB(2)1056/01-02(01) and (02))

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Drafting of new section 4A

3. Mr Ambrose LAU briefed members on his views on the drafting of section 4A. He pointed out that it was necessary for the Administration to clarify whether it was the legislative intent to license the following persons -

- (a) a person who carried on the business as an inbound travel agent with pecuniary transaction(s) involved even if he did not hold himself out as carrying on such business; and
- (b) a person who held himself out as carrying on the business as an inbound travel agent but did not carry on such business.

Mr LAU considered that the present drafting of section 4A should be reviewed to ensure that it fully achieved the legislative intent.

Action

Other issues raised by members

4. The Administration was requested to provide a response to the following issues/requests raised by members at the meeting to facilitate the work of the Bills Committee -

- (a) the point raised by Mr Ambrose LAU in paragraph 3 above;
- (b) whether the drafting of the provisions for the regulation of inbound travel agents should necessarily follow that of outbound travel agents taking into account the differences in their modes of operation;
- (c) information on overseas legislation concerning regulation of inbound travel agents;
- (d) whether the Administration intended to require a local company which offered travel-related services, such as hotel booking or ticket booking, via a portal on the Internet to be licensed under the Bill;
- (e) whether the Administration intended to require the Hong Kong office of a membership-based international company which offered travel-related services to its members to be licensed under the Bill;
- (f) whether the additional four independent directors to be appointed to the Board of the Travel Industry Council of Hong Kong (TIC) would be nominated by the Government instead of by TIC; and
- (g) how the Administration could ensure that adequate protection would be provided to overseas visitors joining local tours for local residents organised by a travel company which only conducted business in organising such tours and would not be required to be licensed under the Bill.

5. The Chairman requested the Administration to set out clearly in its response the policy intent of the above seven items. In addition, the Administration was requested to state in its response whether the present drafting of the Bill was able to fully achieve the policy intent.

6. To enable Assistant Legal Adviser 2 to study the Administration's response and provide the Bills Committee with her legal advice on the response, the Administration was requested to provide its paper to the Bills Committee at least four working days before the next meeting.

Action

III. Date of next meeting

7. The Bills Committee agreed to hold the next meeting on 7 March 2002 at 2:30 pm to consider the Administration's response.
8. There being no other business, the meeting ended at 12:00 noon.

Council Business Division 2
Legislative Council Secretariat
20 February 2002

**Proceedings of the fourth meeting of the
Bills Committee on Travel Agents (Amendment) Bill 2001
on Tuesday, 5 February 2002 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000-0113	Chairman	Confirmation of minutes of meeting held on 7 January 2002	
0114-0234	Admin	Briefing on Admin's paper (LC Paper No. CB(2)1056/01-02(01))	
0235-0249	Mr Fred LI	Enquiry as to whether the definition of "inbound travel agent" followed that of "outbound travel agent"	
0250-0252	Admin	Response to the above	
0253-0432	Chairman	Grey area in the application of the Bill (e.g. whether voluntary organisations which provided tour-related services for overseas visitors participating in their exchange programmes or other activities held on a regular basis should be covered under the Bill)	
0433-0605	Admin	Response to the above	
0606-0725	Ms Cyd HO	Enquiry on the examples of activities/organisations which were not the intended targets of the Bill as set out in Admin's paper	
0726-0903	Admin	Response to the above	
0908-1229	Mr Howard YOUNG	(a) Differences in the modes of operation of inbound and outbound travel agents; and (b) Enquiry as to whether a corporate event organiser which made travel-related arrangements for different groups of overseas visitors for different clients on a regular basis would be covered under the Bill	
1230-1335	Admin	Response to (b) above	
1336-1406	Chairman	Letter from Mr Ambrose LAU to Chairman dated 1 February 2002 setting out his views on the drafting of new section 4A (LC Paper No. CB(2)1056/01-02(02))	
1407-1449	Admin	Response to Mr Ambrose LAU's views	
1450-1744	Mr Ambrose LAU	(a) Seeking clarification of the legislative intent of new section 4A; and (b) Need for a precise definition of "inbound travel agent"	

Time	Speaker	Subject(s)	Action required
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Action

1745-1802	Admin	(a) Legislative intent of section 4A; and (b) Definition of “inbound travel agent”	
1803-1828	Chairman	Ditto	
1829-2109	Admin	Ditto	
2110-2111	Chairman	Ditto	
2112-2316	Mr CHAN Kam-lam	Proposal to delete the condition of “holds himself out as carrying on the business of” in section 4A	
2317-2436	Admin	Response to the above	
2437-2513	Mr CHAN Kam-lam	Ways to address a situation where a person who carried on an inbound travel business under a type of organisation which was not covered under the Bill, e.g. clansman association	
2514-2614	Admin	Response to the above	
2615-2907	Mr Ambrose LAU	Need to clearly identify the types of business which should be required to be licensed under the Bill	
2908-3038	Admin	Response to the above	
3039-3139	Mr Ambrose LAU	Expressing his view that the present drafting of section 4A might not be able to achieve the legislative intent	
3140-3147	Chairman	Inviting ALA2 to give legal advice on Mr Ambrose LAU’s view	
3147-3436	ALA2	Preliminary legal advice was that if a person who held himself out as carrying on the business as an inbound travel agent, he showed an intent of carrying on business. Once he accepted to offer any service to a person (i.e. receiving money), he had acted in a way as to show and as evidenced that he "carried on business". If he did this regularly, he was required to be licensed.	
3437-3548	Admin	Collection of evidence to prove that a person was carrying on the business as an inbound travel agent	
3549-3606	Chairman	Mr CHAN Kam-lam’s proposal to delete the condition of “holds himself out as carrying on the business of” in section 4A	
3607-3622	Mr CHAN Kam-lam	Alternative proposal to delete the condition of “carries on business as an inbound travel agent” in section 4A	
3623-3628	Chairman	Ditto	
3629-3637	Mr CHAN Kam-lam	Ditto	
3638-3743	Chairman	Past court cases against the operation of outbound travel agents without a licence	
3744-3828	Admin	Ditto	
3829-3834	Chairman	Ditto	

Action

Time	Speaker	Subject(s)	Action required
3835-4116	Mr Howard YOUNG	Need to take into account the differences in the modes of operation of inbound and outbound travel agents when deciding on the definition of “inbound travel agent”	
4117-4256	Admin	Response to the above	
4257-4413	Mr Howard YOUNG	Difficulty in introducing evidence to prove that a person was carrying on the business as an inbound travel agent if he did not hold himself out as carrying on such business	
4414-4439	Admin	Acts which would be considered as holding oneself out as carrying on the business as an inbound travel agent	
4440-4447	Mr Howard YOUNG	Ditto	
4448-4500	Admin	Ditto	
4501-4742	Mr Ambrose LAU	Reiterating the need for - (a) Clarification of the legislative intent of section 4A; and (b) A precise definition of “inbound travel agent”	
4743-5001	Chairman	(a) Admin to provide a response to Mr Ambrose LAU’s views on the drafting of section 4A; and (b) Enquiry as to whether a company which offered travel-related services via a portal on the Internet would be required to be licensed under the Bill	✓
5002-5009	Admin	Response to (b) above	
5010-5034	Mr Howard YOUNG	Seeking clarification as to whether a company which offered a single type of travel-related service, e.g. hotel booking, was presently not required to be licensed under the Travel Agents Ordinance (Cap 218)	
5035-5056	Admin	Response to the above	
5057-5135	Mr Howard YOUNG	Seeking clarification of Admin’s response	
5136-5222	Admin	(a) Response to the above; and (b) Response to Chairman’s question as to whether a company which offered travel-related services via a portal on the Internet had to be licensed under the Bill	
5223-5324	Mr Howard YOUNG	Seeking further clarification of Admin’s response in (a) above	
5325-5345	Admin	Response to the above	
5346-5410	Chairman	Admin to provide a response on whether it would require a local company which offered travel-related services via a portal on the Internet to be licensed under the Bill	✓
5411-5515	Mr CHAN Kam-lam	Views on the above	

Time	Speaker	Subject(s)	Action required
5516-5554	Admin	Need for a local company which offered travel-related services via a portal on the Internet to be licensed under the Bill	
5555-5710	Chairman	Ditto	
5711-5745	Mr Ambrose LAU	Pointing out that the Bill might not apply to a company which offered travel-related services via a portal on the Internet as long as the company did not receive payment direct from service recipients	
5746-5907	Chairman	(a) Admin to provide a response on whether the Hong Kong office of a membership-based international company which offered travel-related services to its members would also be covered under the Bill; and (b) Admin to provide a response on whether the drafting of the provisions for the regulation of inbound travel agents should necessarily follow that of outbound travel agents	✓ ✓
5908-010022	Mr CHAN Kam-lam	(a) Overseas legislation concerning regulation of inbound travel agents; and (b) Applicability of the Bill to travel companies organising local tours for local residents	
010023-010045	Chairman	Admin to provide information on (a) above	✓
010046-010325	Admin	(a) Self-regulatory mechanism for inbound travel agents to be worked out by TIC having regard to the differences in the modes of operation of inbound and outbound travel agents; and (b) Primary objective of the Bill	
010326-010515	Mr CHAN Kam-lam	(a) Need to have precise provisions in the Bill to facilitate self-regulation of inbound travel agents; and (b) Lack of protection for overseas visitors joining local tours organised by a travel company which only conducted business in organising local tours for local residents and would not be required to be licensed under the Bill	
010516-010615	Admin	Response to (b) above	
010616-010755	Chairman	Written response to be provided by Admin to issues raised by members	

Time	Speaker	Subject(s)	Action required
010756-010849	Mr CHAN Kam-lam	Admin to provide a response on how it would address the issue in (b) above	✓
010850-011002	Mr Fred LI	Admin to provide a response on whether the additional four independent directors to be appointed to the TIC Board would be nominated by the Government instead of by TIC	✓
011003-011035	Mr Howard YOUNG	Expressing the view that a travel company which only conducted business in organising local tours for local residents should not be covered under the Bill	
011036-011149	Chairman	Written response to be provided by Admin to issues raised by members	
011150-011344	Admin	Ditto	
011345-011554	Chairman, members and Admin	Date of next meeting	

Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
 20 February 2002