

1st February, 2002

Hon. SIN Chung-kai
Chairman of Bills Committee on
Travel Agents (Amendment) Bill 201
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Travel Agents (Amendment) Bill 2001

I refer to the point raised by me at the last Bills Committee meeting held on 17th January, 2002.

Clause 5 of the Bill provides as follows:-

5. Section added

The following is added-

“4A. Inbound travel agents

(1) Subject to subsection (2), a person carried on business as an inbound travel agent if, in Hong Kong, he holds himself out as carrying on the business of, and carried on the business of, obtaining for another person-

(a) carriage, by any means of conveyance, on a journey the outbound portion of which is to commence outside Hong Kong and which either-

(i) terminates in Hong Kong; or

(ii) involves that other person passing through immigration controls before departing from Hong Kong;

I asked the Administration whether it was the intention of the proposed section 4A that a person would not be considered to be carrying on the business as an inbound travel agent in Hong Kong if he should be doing only one of the following, i.e.:-

- (1) “holds himself out as carrying on the business of ... etc” or
- (2) “carries on the business of ... etc”

The Administration replied that my understanding was correct. I therefore suggested that the Administration should consider using “or” instead of “and” in the proposed section 4A. However, the Administration took the view that the reason they used “and” instead of “or” was to make the drafting consistent with the definition of outbound travel agent in the existing legislation.

The Administration further promised to reconsider the matter. I still remain of the view that legal drafting should be precise and unequivocal. I should be glad if you would ask the legal adviser to look into this matter and ensure that the legislative objective is achieved and the proposed section 4A will not cause any difficulty for interpretation by the Courts.

Your kind attention to this matter is greatly appreciated.

c.c. members of the Bills Committee

Ms. Doris CHAN, Clerk to the Bills Committee

Mr. Duncan PESCOD, Deputy Commissioner for Tourism

Miss Bella MUI, Assistant Secretary (Tourism) for Economic Services