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Panel on Economic Development
Meeting on 23 February 2009

Background brief on
Collection of air passenger departure tax and fuel surcharge by travel agents

Purpose

This paper provides some background information regarding the collection of air passenger departure tax (APDT) and fuel surcharge by travel agents.

Air passenger departure tax and fuel surcharge

2. Under the APDT Ordinance (Cap. 140), an air passenger liable to pay APDT shall make payment to the airline concerned which shall collect it and pay it to the Government. From 1 September 1998 onwards, the Administration implemented a new arrangement to collect APDT upon the sale of air tickets. The Government pays an administrative fee to airlines for this purpose.

3. Airlines recover their operating costs through, inter alia, the tariffs they charge for the carriage of passengers and cargo (i.e. ticket fares and cargo rates). To meet the increase in fuel costs due to escalating oil prices, airlines may levy a fuel surcharge for passenger carriage. The applications for levying fuel surcharges are considered and approved by the Civil Aviation Department.

4. Travel agents, in selling air tickets, are required to collect APDT and fuel surcharges on behalf of airlines. The Travel Industry Council of Hong Kong issued a directive on 16 September 2005 to allow its member travel agents to charge customers a service fee for collecting APDT, fuel surcharge and other charges on behalf of airlines. The suggested rate was no less than HK\$30. Member travel agents have the discretion to decide whether to charge such a fee and if so, the amount to be charged.

LegCo questions

5. Members have raised questions on the subject at previous two Council meetings. At the Council meeting held on 19 October 2005, Hon Fred LI asked about the administrative fee charged by travel agents upon the sale of air tickets, which is attached in **the Appendix** for members' reference.

Council Business Division 1
Legislative Council Secretariat
17 February 2009

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LCQ20:Administrative fee charged by TIC

Following is the question by the Hon LEE Wah-ming and a written reply by the Secretary for Economic Development and Labour, Mr Stephen Ip, in the Legislative Council today (October 19):

It has been reported that the Travel Industry Council of Hong Kong (TIC) has recommended that, starting from 1st October this year, travel agencies may charge an administrative fee of at least \$30 for each airline ticket sold to outbound travellers, on grounds that the collection of fees on behalf of other parties, such as fuel surcharge on behalf of airline operators, has increased the travel agencies' workload and financial risk. In this connection, will the Government inform this Council:

- (a) given that travel agencies have been collecting various fees on behalf of other parties, of the justifications for the TIC's recommendation to levy the administrative fee, and whether the Government has been consulted prior to the making of the recommendation;
- (b) whether it knows how the TIC arrives at the proposed rate that a minimum administrative fee of \$30 should be levied on each airline ticket sold, and if the TIC has taken into account the fact that travel agencies of different sizes may incur different administrative costs;
- (c) in the light of the TIC's recommendation, whether it will invite the Competition Policy Advisory Group to investigate if such anti-competitive practices as collusive pricing exist in the travel industry; and
- (d) whether it has assessed if the TIC has given regard to the interests of both the industry stakeholders and travellers; if it has, of the assessment results, and whether it will reorganise the TIC by including lay members so as to achieve a balanced representation of the interests of the travel industry and travellers?

Reply:

Madam President,

(a) & (b) Travel agents, in selling air tickets, are required to collect various surcharges on behalf of the airlines, such as insurance surcharge, fuel surcharge and airport tax etc, and are also required to state clearly on the air tickets the breakdown of the surcharges. The additional administrative work has increased the operating cost of the travel agents. Some travel agents have in the past been charging a service fee to cover the additional cost. The service fee is listed separately on the invoice.

The Travel Industry Council of Hong Kong (TIC) agrees that its member travel agents may need to charge customers a service fee for this service. TIC has also suggested the fee level to be charged for reference by the travel trade. Member travel agents have the discretion to decide whether to charge such a fee and the level of fee to be charged. When drawing up the suggested fee, the TIC considered the scope of service provided by the travel agents, e.g. the changes in the number of surcharge items and the degree of complexity in calculating the surcharges, and the impact of the additional administrative work on travel agents of different scale, in particular the small-to-medium sized travel agents.

The suggested rate is no less than HK\$30 but it should be noted that the suggested rate is not mandatory and travel agents could decide whether or not to charge the service fee and the amount to be charged by taking into account their own operating cost. Travellers are free to compare the level of service fee charged by individual travel agents and other factors in choosing an appropriate travel agency service. The TIC Board of Directors can deal with matters concerning the relevant charging arrangements and service fee as this is part of TIC's day-to-day regulatory work.

(c) Travel agents are currently facing keen competition. They compete not only on pricing, but also the variety of services offered, including designing personalised tour itineraries, booking of hotels and sightseeing activities, etc. The TIC and the Tourism Commission monitor market behaviour closely to ensure a fair business environment in the market. The Competition Policy Advisory Group (COMPAG) issued the "Guidelines to maintain a competitive

environment and define and tackle anti-competitive practices” (the Guidelines) to the TIC in September 2003. The COMPAG Secretariat had subsequently met with the TIC to explain the Guidelines and encourage adherence to the Guidelines by the TIC and its members.

Upon noting TIC's suggestion concerning the service fee, COMPAG has looked into this matter through the Tourism Commission. The Tourism Commission noted that the TIC's recommendation is only for its members' reference. The proposed fee level is not mandatory but only a suggestion to the trade. According to the TIC, since its announcement of the proposed service fee, a considerable number of travel agents have in actual practice set their own fee levels based on their individual considerations; or have not imposed any service fee. The TIC has also explained to its members recently that the travel agents are free to decide whether to charge the service fee according to their own situations. Therefore, we believe that TIC's proposed service fee has not affected market competition.

(d) At present, travel agents are regulated under a two-tier system whereby the licensing of travel agents is administered by the Travel Agents Registry of the HKSAR Government and the regulation of the day-to-day operation of travel agents is conducted by the TIC. The TIC is required to formulate and enforce various directives and codes of conduct to ensure healthy development of the trade on the one hand, and protect the interests of the general public on the other, thus achieving a balance between the two.

There are measures in place under the present system to ensure that the TIC considers the interests of the travel industry as well as the travelling public. Firstly, the TIC's Memorandum and Article of Association (M&A) has specified that eight non-trade members should be appointed to the TIC's Board of Directors as Independent Directors. These Independent Directors are to be appointed by the Financial Secretary. At the same time, the majority of the TIC's 14 functional committees comprise non-trade members from, for example, the legal, accounting and insurance sectors. Non-trade members account for half of the membership in some of these committees. Secondly, it is clearly stipulated in the TIC M&A that amendments to certain clauses in the M&A have to be approved by the Financial Secretary. Furthermore, the TIC has been promulgated as a “public body” for the purposes of the Prevention of Bribery Ordinance under the Independent Commission Against Corruption

(ICAC). With the assistance of the ICAC, the TIC has also issued the “General Code of Conduct for TIC Board of Directors”, which includes guidelines on declaration of interests that help its directors to discharge their duties in an impartial and honest manner.

Ends/Wednesday, October 19, 2005

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