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Panel on Economic Development
Meeting on 28 June 2010

Background brief on regulation of inbound travel trades

Purpose

This paper provides background information on operation and regulation of inbound travel trades, and summarizes concerns raised by Members on related issues.

Background

"Zero fare" tours

2. In November 2006, Mainland inbound tour groups lodged complaints against local tourist guides and travel agents about their services, in particular, market malpractices, such as forced shopping at designated shops, arising from "zero fare" tours.

3. According to the information provided by the Administration¹, Mainland inbound tours have to be organized by the Mainland designated agents (DAs) registered with the China National Tourism Administration (CNTA). The tours will be received by local licensed travel agents, i.e. reception agents (RAs), which will provide such reception services including meals, accommodation and sightseeing in Hong Kong. Under normal circumstances, Mainland visitors pay tour fares to DAs and then the latter will pay a lump sum to RAs for their reception services in Hong Kong according to the contract between DA and RA.

4. The "zero fare" tours, as commonly quoted in the market, refer to the provision of reception services for inbound tours by RAs in Hong Kong without receiving any payment from DAs. In those circumstances, RAs

¹ Administration's paper "Tackling Market Malpractices related to Mainland "Zero Fare" Tours to Hong Kong (CB(1)344/06-07(07)) issued in November 2006.

normally choose to offset their reception costs and make profit through commission. To earn more commission, RAs normally take "zero fare" tour groups to designated shops for shopping, and tourist guides are often required to persuade visitors to make purchase. According to market information, some RAs running "zero fare" tours ask their tourist guides to pay for the cost arising from reception services. Those tourist guides who choose to accept such an arrangement will normally have to press visitors to make more purchases so that they can earn more commission as compensation.

Measures taken to strengthen protection for Mainland visitors

5. While the Customs and Excise Department (C&ED) has been closely cooperating with the Police in stepping up enforcement action to clamp down on the illegal practices of deceiving and misleading consumers, they have established a speedy referral system with the Travel Industry Council of Hong Kong (TIC) and the Consumer Council (CC) to enable the relevant parties to follow up promptly on the complaints and impose sanctions accordingly. Relevant government departments, TIC, CC and the Hong Kong Tourism Board (HKTB) have also taken various measures to combat malpractices arising from "zero fare" tours.

Co-operation with CNTA

6. To rectify the market malpractice stemming from "zero fare" tours, the Administration supported CNTA's initiative in the end of 2006 to introduce "model contract" and proposed to incorporate into it such tour details as the fare, transport arrangement, accommodation, designated shopping sessions and sites, and self-paid activities for reference by visitors. RAs and tourist guides in Hong Kong are required to provide visitors with a detailed itinerary before the tour begins.

Regulation by TIC

7. In response to appeals from tourist guides and to help them not to rely on a high rate of shopping commissions as their major source of income, TIC issued directives on 11 May 2007 stipulating that travel agents should neither require tourist guides receiving Mainland's inbound tour groups to advance unreasonably large amount of payment nor unreasonably delay the reimbursement of payment reasonably advanced by such tourists guides, and that travel agents should make payment of remuneration to the tourist guides receiving Mainland's tour groups.

8. With effect from 1 August 2007, TIC requires all RAs to register with it the "tour confirmation agreement" of each Mainland inbound tour they receive prior to its arrival in Hong Kong. This helps avoid any misunderstanding on the reception arrangements between Mainland visitors

and the RAs.

9. Travel agents and tourist guides that contravene TIC's guidelines and code of conduct are liable to disciplinary actions, which may lead to the revocation of travel agent licences or Tourist Guide Passes respectively in case of serious non-compliance. In November 2006, TIC decided to impose heavier sanction in respect of fines for non-compliance committed by a travel agent, by raising the level of \$10,000 - \$100,000 to \$50,000 - \$200,000. In July 2007, TIC rolled out the "Continuing Professional Development Scheme for Tourist Guides" (the CPD Scheme) to enhance the tourist guides' recognition of professional ethics, in particular the importance of "Honest and Quality Tourism". Tourist guides are required to renew their Tourist Guide Pass every three years and must complete the CPD Scheme before renewing their passes.

10. In June 2007, TIC tightened the criteria of the "Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers" (the Scheme). Under the Scheme, group visitors who are taken to registered shops by their agents are entitled to a full refund if they are not satisfied with their purchases and make a refund request within six months (for Mainland visitors) or 14 days (for overseas visitors) after purchase. According to TIC's guidelines, travel agents are required to remind tour participants in the itineraries distributed to them to obtain receipts that contain detailed information on the purchased items.

11. Apart from conducting more frequent surveillance of registered shops, TIC also increased the demerit points for those shops on repeated non-compliance. Once a registered shop has accumulated 30 demerits, its registration will be revoked and member agents will be forbidden to arrange for visitors to patronize the registered shop concerned. Registered shops that commit repeated violations and received frequent complaints will be "named" and "shamed" at TIC website, with hyperlinks to CC and HKTB websites to alert Mainland visitors.

Consumer education and publicity

12. HKTB, CC, and relevant Mainland organizations such as the China Consumers' Association, CNTA and Shenzhen Tourism Bureau have co-operated in enhancing the publicity and education on consumer protection in the Mainland. In 2007, CC launched the "Shop Smart in Hong Kong" website to provide Mainland visitors with advice on shopping in Hong Kong. The website has been hyperlinked to those of tourism authorities in Guangdong and Shenzhen etc.

Promoting "honest and quality tourism"

13. Hong Kong has adopted a multi-pronged approach in promoting "honest and quality tourism" among Mainland visitors. For example, HKTB has also set up designated counters for "Quality & Honest Hong Kong Tours" in Guangzhou and Shenzhen etc. to promote quality Hong Kong tours which will not impose self-paid activities, designated shopping or surcharges on tour participants. The Mainland's "Regulation on Travel Agencies" and the "Detailed Rules for the Implementation of the Regulation on Travel Agencies" Mainland took effect in May 2009. Under this framework which serves to better protect visitors' rights, Hong Kong will co-operate more closely with Guangdong in promoting quality tourism products and regulating the travel market, with a view to rooting out market malpractices stemming from the "zero fare" tours, and maintaining market order, thereby fostering the healthy development of tourism in both places in the long-term.

Past discussions

Panel on Economic Development

14. The former Panel on Economic Services² met with the Administration, representatives from TIC, HKTB, CC, and organizations of the retail and travel trades at the meetings on 27 November 2006 and 23 April 2007 to discuss measures to restore Mainland visitors' confidence in travelling in Hong Kong. Some members expressed concern that the problems related to "zero fare" tours and shopping scams had reflected the ineffectiveness of the regulatory regime of the travel industry which mainly relied on the self-regulation by TIC, and urged the Administration to undertake a comprehensive review of the regime and consider setting up an independent statutory body to regulate the industry. As a representative body of the tourism industry and being familiar with the industry practices, the Administration considered that TIC was better placed to regulate the travel industry in Hong Kong. Moreover, non-trade independent directors in TIC Board were professional people representing the interests of the general public.

15. While noting that the commission system was a long existed common practice of the travel industry, members urged TIC to explore means to enhance the transparency of the system and review the salary structure for tourist guides so as to help reducing their dependency on sales commissions as income. The Panel was deeply concerned about shops receiving Mainland tour groups which deceived visitors and considered that such malpractices should not be tolerated. It agreed with the importance to enhance publicity and consumer education for Mainland visitors to promote awareness of smart consumption and complaint

² The Panel on Economic Services was renamed as the Panel on Economic Development from the 2007-2008 session.

channels. The Panel passed a motion urging the Administration, HKTB, CC and the travel trade to formulate measures expeditiously and take concerted actions against such acts so as to safeguard the interests of tourists and consumers; as well as to step up co-operation with the Mainland in combating unscrupulous business practices arising from "zero fare" tours in order to facilitate the healthy development of the travel trade in Hong Kong in the long run.

Council meetings

16. Members have raised questions at Council meetings in the past expressing concerns about people without tourist guide passes serving as tour guides for inbound tours, standard of local travel agents in receiving tour groups from the Mainland, renewal of tourist guide pass and illegal provision of tourist guide services in Hong Kong.

17. The Council passed a motion with amendments on "Combating unscrupulous shops" at the meeting on 9 May 2007, which urged the Administration to adopt active measures to rigorously combat unscrupulous shops ripping off customers and to strengthen the regulation of the tourism industry, in order to restore the confidence of tourists coming to Hong Kong for shopping. The wordings of the motion as amended are in the **Appendix**.

Latest development

18. On 22 May 2010, a Mainland tourist died of heart attack after quarrelling with an illegal tourist guide who refused to let the tour group leave a jewellery shop. The Administration and TIC have subsequently implemented certain measures to further protect consumer rights for Mainland visitors. The Panel has requested the Administration and TIC to brief members on the regulation of inbound travel trades at the meeting on 28 June 2010.

References

Press release on "LCQ13 - Illegal Tourist guides" dated 9 November 2005
<http://www.info.gov.hk/gia/general/200511/09/P200511090085.htm>

Press release on "LCQ18 - Standard of local travel agents in receiving tour groups from Mainland" dated 22 November 2006
<http://www.info.gov.hk/gia/general/200611/22/P200611210215.htm>

Administration's paper on "Tackling Market Malpractices related to Mainland "Zero Fare" Tours to Hong Kong" (LC Paper No. CB(1)344/06-07(07))
<http://www.legco.gov.hk/yr06-07/english/panels/es/papers/es1127cb1-344-7-e.pdf>

Minutes of the Panel meeting on 27 November 2006
<http://www.legco.gov.hk/yr06-07/english/panels/es/minutes/es061127.pdf>

Administration's paper on "Strengthening Consumer Protection for Mainland Visitors in Hong Kong" (LC Paper No. CB(1)1413/06-07(04))
<http://www.legco.gov.hk/yr06-07/english/panels/es/papers/es0423cb1-1413-4-e.pdf>

Minutes of the Panel meeting on 23 April 2007
<http://www.legco.gov.hk/yr06-07/english/panels/es/minutes/es070423.pdf>

Motion on "Combating unscrupulous shops" moved by Hon LAU Kong-wah at the LegCo meeting on 9 May 2007 and Progress report
http://www.legco.gov.hk/yr06-07/english/legco_rpt/legco_motion0510-e.pdf
<http://www.legco.gov.hk/yr06-07/english/counmtg/motion/cm0509-m1-prpt-e.pdf>

Press release on "LCQ8 - Renewal of tourist guide pass" dated 8 July 2009
<http://www.info.gov.hk/gia/general/200907/08/P200907080141.htm>

Press release on "LCQ18 - Illegal provision of tourist guide services in Hong Kong" dated 28 October 2009
<http://www.info.gov.hk/gia/general/200910/28/P200910280189.htm>

Council Business Division 1
Legislative Council Secretariat
25 June 2010

(Translation)

**Motion on
“Combating unscrupulous shops”
moved by Hon LAU Kong-wah
at the Legislative Council meeting
of Wednesday, 9 May 2007**

Motion as amended by Hon Howard YOUNG and Hon SIN Chung-kai

“That, in view of the recent cases of Mainland tourists being cheated while shopping in Hong Kong which have aroused wide concern, this Council urges the Government to adopt active measures to rigorously combat unscrupulous shops ripping off customers and to strengthen the regulation of the tourism industry, in order to restore the confidence of tourists coming to Hong Kong for shopping, including:

On the cooperation with the relevant Mainland authorities:

- (a) fully implementing the eight regulatory measures promulgated earlier by the China National Tourism Administration, including conducting regular inspections and imposing severe penalties on non-compliant travel agents, so as to thoroughly combat the problems arising from zero-fare and negative-fare tours;
- (b) prohibiting outbound travel agents in the Mainland from imposing additional charges on tour members for leaving the tour group before completion of the itinerary;
- (c) vigorously publicizing to tourists the risks involved in ‘arranged shopping’ tours and the protection available to them;
- (d) expeditiously allowing Hong Kong’s reputable travel agents to operate Hong Kong and Macao tours in Guangdong Province, with a view to upgrading in the long run the quality of tourism services in the Mainland;

On the local front:

- (e) studying whether there is a need for the consolidation of the provisions relating to protecting consumer rights and interests in the existing legislation into a Protection of Consumer Rights and Interests Ordinance;
- (f) comprehensively reviewing the existing legislation on protecting consumer rights and interests, and tightening up regulation to cover the marketing practices of alluding to particular brands or misleading the customers;

- (g) enhancing the regular inspections and ‘undercover’ operations carried out by the Police and the Customs and Excise Department to crack down on shops engaging in fraudulent practices and selling fake products;
- (h) requesting the Travel Industry Council of Hong Kong (TIC) to set up a complaint website, so that Mainland tourists may lodge complaints through the website after their departure from Hong Kong, and installing television facilities at border crossing points to publicize tourism information, as well as cooperating with telecommunications companies to provide inbound and outbound tourists with information such as the complaint hotline via mobile telephone short message service;
- (i) expeditiously discussing with the TIC the introduction of a demerit point system to regulate travel agents and tour guides;
- (j) if the complaints are substantiated, fully disclosing the parties involved in complaint cases, including the names of shops, the local and Mainland travel agents, as well as the tour guides concerned; and
- (k) discussing with the industry the introduction of a tour guide fee system.”