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**Panel on Economic Development
Meeting on 22 November 2010**

**Background brief on regulation of the
receiving arrangement of Mainland inbound tour groups**

Purpose

This paper provides background information on the receiving arrangement of Mainland inbound tour groups, and summarizes concerns raised by Members on related issues.

Background

"Zero/negative-fare" tours

2. According to the information provided by the Administration¹, Mainland inbound tour groups 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 the latter will pay a lump sum to RAs for their reception services in Hong Kong according to the contract between DA and RA.

3. The "zero/negative-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 normally choose to offset their reception costs and

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.

make profit through commission. To earn more commission, RAs normally take "zero/negative-fare" tour groups to designated shops for shopping, and tourist guides are often required to persuade visitors to make purchase. According to past practices, some RAs running "zero/negative-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 to strengthen protection for Mainland visitors

4. Following complaints lodged by Mainland visitors in "zero/negative-fare" tours in November 2006 against local tourist guides and travel agents, the Customs and Excise Department worked closely with the Police in stepping up enforcement action to clamp down on the illegal practices of deceiving and misleading consumers. They also established a speedy referral system with Travel Industry Council of Hong Kong (TIC) and the Consumer Council (CC) to enable the relevant bodies to act promptly on the complaints and impose sanctions where necessary.

Regulation by TIC

5. Travel agents and tourist guides that contravene TIC's guidelines and code of conduct are liable to disciplinary actions of TIC. Such actions include revocation of travel agent licences or Tourist Guide Passes 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 fine 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" and tourist guides are required to complete the Scheme before renewing their Tourist Guide Pass every three years.

6. In order to help tourist guides not to rely on a high rate of shopping commissions as their major source of income, TIC issued directives in May 2007 stipulating that travel agents should make payment of remuneration to the tourist guides receiving Mainland's tour groups. Travel agents should also not require tourist guides receiving Mainland's inbound tour groups to advance unreasonably large amount of payment or unreasonably delay the reimbursement of payment reasonably advanced by such tourists guides.

7. In 2007, TIC launched a series of measures, including extension of the time limit for refund to six months for Mainland tour group members under the 100% "Refund Protection Scheme (Registered Shops) for Inbound Tour Shoppers"², tightening the Demerit System for Registered Shops³, disclosing information about shops carrying demerit points, and requiring travel agents to register Mainland tour confirmation with TIC and distribute itineraries to tour group members.

Co-operation with tourism authorities in Mainland

8. In addition to regulatory and related efforts in Hong Kong, it is also important to co-operate with the tourism authorities at the source markets in regulating the travel trade. The Tourism Commission (TC) has been maintaining regular dialogue with its Mainland counterparts in promoting "Quality and Honest Hong Kong Tours"⁴ and the two sides support each other in monitoring the trade. Hong Kong Tourism Board (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.

9. In May 2009, the Mainland implemented the Regulation on Travel Agents, which introduces various measures to combat "zero/negative-fare" tours and provide better consumer protection, such as requiring travel agents to sign contracts with tour participants to set out the itineraries as well as the number and duration of shopping stops. The Regulation also stipulates that if a travel agent outsources its travel business to another travel agent, it must pay the other agent a fee not less than the cost of the reception service.

² The Scheme was implemented by TIC in 2002, under which the registered shops are required to arrange 100% refund to visitors who are dissatisfied with their purchases and return them within 14 days.

³ In 2005, TIC imposed the Demerit System for Registered Shops which stipulates that registered shop carrying 30 demerit points will be liable for de-registration and prohibited from receiving tour groups.

⁴ "Quality and Honest Hong Kong Tours" offers different choices to Mainland visitors. These tours may cost more but they do not include designated shopping, self-paid activities or surcharges.

The Hunan visitor incident

10. On 22 May 2010, a member of a tour group from Hunan to Hong Kong died of heart attack after quarrelling with an illegal tourist guide who refused to let the tour group leave a registered jewellery shop. The incident revealed problems with the travel agent's service quality, the tourist guide's attitude and designated shopping arrangements for tour groups.

Follow-up measures after the incident

11. The Government was gravely concerned about the incident. The Registrar of Travel Agents met with travel agents operating inbound Mainland tour groups in June 2010 to caution them about the need to ensure service quality and honesty in receiving tour groups. TIC conducted an investigation into the case and decided to terminate the membership of the travel agent concerned. In addition, follow-up measures have been taken since June 2010 to enhance regulation of the receiving arrangement of the Mainland inbound tour groups.

Strengthening trade regulation

12. To facilitate tourists' understanding of their rights, TIC required travel agents to state clearly on the itineraries distributed to tour group members that tourist guides must not coerce tour group members to make purchases or stay inside registered shops, and to provide detailed information of the tourist guides. TIC will conduct random checks on the names and tourist guide pass numbers of tourist guides in the Mainland tour confirmations filed by the travel agents to ensure that the information provided is true and correct. It has also stepped up checks on tourist guides to ensure that they hold valid Tourist Guide Passes issued by TIC. Non-compliance records of travel agents and tourist guides will be published on TIC's website for two years for visitors' reference.

13. As regards registered shops, TIC required them to record the arrival and departure time of each tour group, verify and record information of the tourist guides and display posters on the refund protection scheme and TIC's service hotline inside the shops. TIC has stepped up inspections at these shops and will tighten the Demerit System for Registered Shops. TIC has established a task force to review comprehensively the operation of inbound Mainland tour groups, such as the business model of receiving Mainland groups, service and pay

arrangements between tourist guides and travel agents.

Co-operation with the Mainland authorities

14. After the incident, TC had met with CNTA and related tourism authorities. The Shenzhen Municipal Bureau of Culture, Sports and Tourism (SZMB) also met with Shenzhen's travel agents and intermediary travel agents to reiterate the requirements of honest and quality tourism and regulation of market practices, and conducted special inspections on travel agents and strengthened enforcement against malpractices. It was agreed that SEMB will exchange more information on Hong Kong-bound tour groups to facilitate monitoring and step up undercover inspections, including co-operating with Hong Kong to increase the frequency and broaden the coverage of undercover operations.

15. To strengthen information exchange with the Mainland tourism authorities, TIC will share with them particulars of Hong Kong travel agents that have frequent non-compliance records on receiving Mainland tour groups. When investigating complaints about forced shopping, TIC will require the travel agents concerned to furnish information on the fees for the tours and the total tour fares paid by tour group members to facilitate the Mainland and Hong Kong tourism authorities to jointly combat malpractices.

Previous discussions

16. At the meetings held by the former Panel on Economic Services⁵ on 27 November 2006 and 23 April 2007 which were attended by the Administration as well as representatives from TIC, HKTB, CC, and organizations of the retail and travel trades, some members expressed concern that the problems related to "zero/negative-fare" tours and shopping scams had reflected the ineffectiveness of the self-regulatory regime of the travel industry. The Panel urged the Administration to undertake a comprehensive review and consider setting up an independent statutory body to regulate the industry. While noting that the commission system was a long existed common practice of the travel industry, members urged TIC to review the system and salary structure for tourist guides so as to help reducing their dependency on sales commissions as income.

⁵ The Panel on Economic Services was renamed as the Panel on Economic Development from the 2007-2008 session.

17. Regarding shops which deceived visitors from Mainland tour groups, the Panel considered that such malpractices should not be tolerated. It was also important to enhance publicity and consumer education for Mainland visitors to promote their awareness of smart consumption and complaint channels. At the meeting on 23 April 2007, 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.

18. When the Administration briefed the Panel on the follow-up measures adopted after the Hunan incident at the meeting on 28 June 2010, some members considered that the incident reflected again the problems of industry self-regulation regime and "zero/negative-fare" tours, since as many as 24 complaints had been lodged against the travel agent in question which had already violated TIC's codes and directives eight times. Although the travel agent in question might be sanctioned by termination of its TIC membership which was a pre-requisite for renewal of a travel agent's licence, they were concerned whether mechanism was in place to prevent its directors or shareholders from opening a new travel agent and operating again. These members also questioned whether TIC had monitored travel agents whose directors or shareholders were associated with "registered shops". Concern was also raised about the malpractice of hiring illegal tourist guides by some travel agents. They considered that instead of adopting punitive measures and imposing heavier sanctions following each widely reported incident, TIC should put in place preventive measures to deter non-compliance. Some of them urged the Government to duly review whether it should take up a more proactive role in regulating the travel agents.

19. Panel members expressed concern that since a big portion of the \$2,000 tour fare paid by each Hunan visitor for a four-day package tour to Hong Kong had already been pocketed by the DA in Hunan and the outsourced travel agent in Shenzhen, the receiving travel agent in Hong Kong could only meet the tour expenses by other sources such as shopping commissions. They were disappointed that while the Government professed to rectify market malpractices stemming from "zero/negative-fare" tours in 2006, the malpractices had not been clamped down at root. They considered that the Demerit System should be

tightened to achieve greater deterrence.

20. Members have raised questions at Council meetings in the past expressing concerns about individuals 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. 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.

Recent developments

21. In July 2010, a clip of the female tourist guide berating a group of mainland visitors as cheapskates went viral on the internet and television screens across the Mainland. On 4 September 2010, TIC decided to immediately revoke the Tourist Guide Pass of the female guide. Upon her appeal, TIC subsequently changed its decision to suspend the Tourist Guide Pass of the guide in question for six months, after which any violation of the relevant rules would lead to revocation of her Pass.

22. On 11 October 2010, TIC's Task Force on the Review of the Operation and Regulation of Mainland Inbound Group Tours submitted its report to the Secretary for Commerce and Economic Development, which contained 10 recommendations on measures to tackle "zero/negative-fare" tours and to enhance the regulation of tour guides for Mainland inbound group tours.

23. In his 2010-2011 Policy Address delivered at the Council meeting on 13 October 2010, the Chief Executive remarked that the few incidents concerning unscrupulous practices relating to Mainland tour groups had tarnished the reputation of tourism industry. The Government was determined to step up regulation and promote the healthy and sustainable development of the tourism industry. The Administration will brief the Panel on the Government's proposal to enhance regulation of the receiving arrangement of the Mainland inbound tour groups at the meeting on 22 November 2010.

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