

立法會 *Legislative Council*

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Report of the Panel on Economic Development for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Economic Development (the Panel) from October 2009 to the end of June 2010. It will be tabled at the meeting of the Legislative Council on 14 July 2010 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining Government policies and issues of public concern relating to economic infrastructure and services, including air and sea transport facilities and services, postal and weather information services, energy supply and safety, consumer protection, competition policy and tourism. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 20 members, with Hon Jeffrey LAM Kin-fung and Hon Paul TSE Wai-chun elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Tourism

4. In 2009-2010, the Panel had kept various major tourism infrastructure projects under review, and monitored the work and performance of tourism-related organizations.

Hong Kong Disneyland (HKD)

5. HKD is a long-term investment of Hong Kong in tourism infrastructure in which the Government had a 52% stake. The Panel had all along closely monitored the financial performance of HKD. HKD has received over 19 million visitors since its opening in September 2005. In the fiscal year 2008-2009 (FY09), HKD's attendance grew by 2% over the previous year, with 17% growth in induced tourists. According to the Administration, HKD had brought about \$10.3 billion of value added to the Hong Kong economy in the first three years of operation, which had raised the Gross Domestic Product (GDP) by an average of about 0.2% each year. For FY09, the additional value added amounted to over \$4.4 billion, raising its contribution to the GDP to about 0.3%.

6. In receiving an update on the operation of HKD on 25 January 2010, Panel members expressed concern about the financial performance of Hongkong International Theme Parks Limited (HKITP) in FY09 which recorded a loss of \$70 million before interest, tax, depreciation and amortization, which, according to HKD, was mainly due to depreciation of assets without affecting cash flow. On park attendance, members noted that visitations on complimentary tickets during low seasons were counted in the annual attendance but they accounted for only 1% to 2%. HKD had been requested to present the attendance figures in respect of complimentary tickets separately from regular admissions in future updates. Members also noted that HKD's revenues had dropped by 1% and in-park spending including merchandizing and food and beverage business had suffered setbacks which were probably due to relatively low consumption power of local visitors. The Panel noted that the park management was confident that the financial performance of HKITP would improve in the near future.

7. Panel members urged HKD to strengthen its marketing strategies by directing more promotional efforts to the Mainland market, in particular the Guangdong Province. Panel members noted that HKD had focused marketing strategies on 24 Mainland cities which were categorized into three priority groups according to market study. To attract local visitors and encourage them to visit the park again, HKD had been launching a variety of theme-based and innovative events in different seasonal periods, and working with the Mass Transit Railway Corporation Limited, airline companies, hotels, shopping centres and scenic spots such as the Peak and Ngong Ping 360 ropeway in organizing joint promotions.

Operation of Ngong Ping 360 ropeway

8. The Panel has expressed much concern that Ngong Ping 360 Limited (NP360 Ltd) had failed to report an incident related to the damage of a rescue carrier of the ropeway system on 18 November 2009 to the Electrical and Mechanical Services Department (EMSD) until after two days. Under the established reporting mechanism, NP360 Ltd was required to, within 30 minutes of occurrence, inform EMSD verbally of any incident stipulated in the Aerial Ropeways (Operation and Maintenance) Regulations (the Regulations), as well as

other incidents due to equipment breakdown, including breakdown of rescue carrier, which might affect the safe operation of the ropeway system. The verbal report should be followed by a written report within 24 hours.

9. At the Panel meeting on 22 February 2010, NP360 Ltd explained that its understanding of the Regulations was for the controller of an aerial ropeway to notify any major incidents happened within the site of the ropeway, e.g. incidents involving death or injury to any person, failure of the main drive, etc. Nevertheless, the Director of Electrical and Mechanical Services had, consequent to the incident on 18 November 2009, clearly spelt out the scope and timing of the reporting requirements in a written guideline and there should be no question of ambiguity. NP360 Ltd undertook to pay full regard to and comply with all statutory requirements at all times. The Administration would continue to monitor NP360 Ltd in the operation and maintenance of the cable car system to ensure reliable ropeway service. NP360 Ltd and the Administration also took the opportunity to give an account of the overall performance of the ropeway service since its re-opening in December 2007 under the management of NP360 Ltd. Panel members exchanged views with them on ropeway maintenance, marketing strategies and measures to strengthen the notification system upon suspension of the ropeway services.

New cruise terminal at Kai Tak

10. Due to the unpredictable escalation of construction cost in recent years and the market uncertainties, the Administration decided to develop the new cruise terminal at Kai Tak under the Government Design, Build and Lease approach to which Panel members had not raised objection during the briefing at a meeting in the previous session. Panel members urged the Administration to take forward the ancillary facilities speedily in order to tie in with the commissioning of the first berth in mid 2013.

11. The Administration consulted the Panel on the funding proposal for carrying out the cruise terminal building works at a cost of \$5,852.1 million at the meeting on 29 March 2010. Members expressed support for the advanced completion of the cruise terminal building to tie in with the opening of the first berth around mid 2013. They requested the Administration to put in place necessary supporting facilities, such as provision of catering service, sufficient car park facilities and barrier-free access, to meet the needs of cruise passengers as well as elderly and persons with disabilities, and to ensure better interface of the different works at the Kai Tak Development to minimize inconvenience to cruise passengers. Members further urged the Administration to work on cruise itineraries including short-haul multi-destination trips covering neighbouring ports and cities in the region.

Hong Kong Tourism Board (HKTB) Work Plan for 2010-2011

12. The Panel received annual briefings from HKTB on its work plan which also gives an overview of Hong Kong's tourism industry in the current year and the outlook for the coming year. At the meeting on 25 January 2010, the Panel noted that HKTB's total baseline marketing budget for 2010-2011 was \$367.9 million (about \$10.1 million less than that for 2009-2010) whereas the total marketing budget for source markets would be \$190.5 million (an increase of 5.6% over the amount in 2009-2010). In response to the concern about the resources allocated for individual source markets in 2010-2011, HKTB advised that it would resume investment in the long-haul markets as the global economy gradually improved to sustain awareness of the destination brand of Hong Kong, and continue to target marketing efforts at the short-haul markets, such as the Mainland and Taiwan.

13. Panel members pointed out the need to strengthen Hong Kong's appeal to tourists to withstand the competition from the opening of Universal Studio Singapore and the staging of World Expo 2010 Shanghai. While considering the Shanghai Expo a golden opportunity to develop multi-destination itineraries and promote Hong Kong for visitors from long-haul markets, HKTB informed the Panel that it would adopt "Festive Hong Kong 2010" as its annual marketing theme to highlight Hong Kong's wide array of festivals and cultural celebrations. Its mega events or key promotions would tie in with Chinese traditional festivals and cultural celebrations.

Review of the operation of the Travel Industry Council of Hong Kong

14. In response to the concerns raised by the Panel in July 2009 about the effectiveness of the Travel Industry Council of Hong Kong (TIC) in implementing self-regulation for the travel industry, the Administration had conducted a review of TIC's operation and reported the outcome of review to the Panel on 24 May 2010. The Administration intended to maintain the current regulatory regime for the travel agents, as TIC in its present form (i.e. a trade body with regulatory functions) was best placed to foster trade development and regulate the ever changing trade practices. The Administration pointed out that TIC had implemented improvement measures since July 2009, including rationalization of its committee structures and membership, publication of meeting agenda and sanitized minutes to increase transparency and appointment of an independent director with trade union background to reflect frontline employees' interests, as well as enhanced monitoring by TC. TIC would also conduct a value-for-money audit and formulate clearer guidelines on TIC elections.

15. Some members considered it important for TIC to enhance public recognition of its role as an agent which could foster trade development while protecting consumer interests. However, some other members queried how TIC could impartially strike this balance since it was basically a trade association and a company registered under the Companies Ordinance (Cap. 32). These members were of the view that specifying TIC's role more clearly in the Travel Agents

Ordinance (Cap. 218) would only legalize and reinforce the existing unreasonable arrangement, and that Government had not been empowered under the legislation to monitor TIC's operation. The Administration advised that the industry self-regulatory regime for the travel industry was a long-established and widely accepted framework, and any attempt to revoke it would require very careful consideration. Moreover, industry self-regulation would not hinder parallel efforts of enhancing consumer protection. In this respect, the Administration had discussed with TIC possible ways to further enhance the complaint mechanism to ensure that consumer complaints would be dealt with in a more impartial and transparent manner. The Administration would continue to work closely with TIC in improving the regulatory regime in the light of the changing circumstances of the trade.

Package tours bound for places where the Outbound Travel Alert was in force

16. The Government issued an Amber outbound travel alert (OTA) for Thailand (Bangkok) on 20 October 2009, which was raised to Red and then to Black on 10 March and 10 April 2010 respectively in response to the further development there. The Panel discussed on 26 April 2010 TIC's mechanism for handling package tours affected by unforeseen circumstances such as when an outbound travel alert had been issued. The Panel noted that TIC had once cancelled those tours to Bangkok departing between 11 and 23 March 2010, but subsequently announced the resumption of such tours departing from 24 March when the Red OTA was still in force. Some members expressed much concern that such inconsistent decisions had caused confusion among tour participants. According to TIC, the decision to resume the tours from 24 March 2010 was made having regard to the tour participants' wish, the latest updates from the tourism authority of Thailand and the industry's business partners in Thailand. Refund of payment would be arranged for those tour participants who chose not to depart as scheduled. As for tour participants who opted to depart, some members suggested that these participants should be required to acknowledge in writing their understanding of the risks and liabilities involved and that chartered flights might not be arranged for evacuation.

17. Panel members noted that representatives from the Tourism Commission had attended TIC's meetings with the travel agents in making these arrangements, and the Administration specifically requested the travel agents concerned to pay particular attention to the safety of travellers and staff. The Security Bureau also monitored the situation in Bangkok closely, particularly during the resumption of package tours to the area, and issued daily updates through press releases.

Reduction in commission for travel agents by airlines

18. The Panel discussed with the Administration, TIC and the Society of IATA Passenger Agents Ltd (SIPA) the reduction in commission for travel agents by airlines at the meeting on 29 March 2010. Members noted that in approving the commission rate, the Civil Aviation Department (CAD)'s main consideration

under the bilateral Air Services Agreements that the Government had entered into with its aviation partners was to prevent airlines of either contracting party from adopting such practices as dumping, and discriminatory or predatory pricing, which would distort normal market operations and affect air services. In the process, CAD had taken into account the operating costs of airlines, passengers' interests and the views of the travel industry.

19. Some members considered that remuneration concerning the sale of air tickets was essentially a commercial deal that should be settled between the airlines and the travel agents. Some other members, however, shared the view of SIPA and TIC that the implementation of zero commission by certain airlines a breach of the Passenger Sales Agency Agreement entered between travel agents and airlines and that CAD, in approving it, had ignored the interests of travel agents and consumers. These members were also concerned that CAD had not consulted the travel agents before giving the approval. According to the Administration, the impact of the zero commission on consumers depended on the modes of distributing and selling air tickets by airlines, channels for consumers to buy air tickets as well as the choices of airlines and flight routes available to consumers. The Panel passed a motion, urging CAD to review its decision of granting approval to implement the zero commission, and review its approving procedures.

Competition Bill

20. The Administration briefed members on the key elements to be provided for in the proposed Competition Bill at the Panel meeting on 28 June 2010. The Panel noted that the Bill would not apply to the Government and statutory bodies except for those statutory bodies or their activities specified by way of a regulation to be made by the Chief Executive-in-Council. Some members considered the Administration should set out specific criteria to determine which statutory bodies should be subject to the application of the Bill. They also suggested that the Competition Commission, instead of Chief Executive-in-Council, should be entrusted to make these decisions to enhance credibility. A mechanism should also be put in place to review the list of exempted government/statutory bodies from time to time. The Administration explained that it would examine whether the economic activities, if any, conducted by the 500 statutory bodies would impact on the economic efficiency in a particular market. The list of exempted government and statutory bodies would be reviewed in the light of implementation.

21. As the Competition Bill would maintain the existing control over mergers and acquisitions available under the Telecommunications Ordinance (Cap. 106), some members expressed concern that the Administration had not taken the opportunity to extend the merger rule to some other sectors initially. The Administration considered that overall economic efficiency should be taken into account when assessing merger impact, having regard to the small size of the local market and that some merger activities might bring about economic benefits to consumers. The Administration would modernize and adjust the merger control to cater for possible extension to a cross-sector regulation, after conducting a

review of the effect of the Bill a few years after implementation.

22. While some members urged for early introduction of the Competition Bill, they were concerned that the legislations should strike a balance between the interests of consumer protection and business operations, in particular those of small and medium-sized enterprises (SMEs). There were concerns that SMEs might unwittingly fall foul of the new law, and large companies might abuse the legislation and initiate litigation as a strategic tool to harass SMEs. The Administration advised that the Competition Commission would be required to draw up regulatory guidelines on the interpretation and implementation of the competitive rules, and the Competition Tribunal would be empowered to strike out frivolous actions. To allay SMEs' concerns, the Administration would consider appointing representative of SMEs to the Commission.

Consumer protection

Consumer protection legislation

23. The Panel had all along been concerned about the need to strengthen the consumer protection regime in Hong Kong. It received a briefing by the Administration on 24 May 2010 on the broad directions of the review of the consumer protection legislation against unfair trade practices. The Government intended to expand the coverage of the Trade Descriptions Ordinance (Cap. 362) (TDO) to include indications in respect of services in consumer transactions. Apart from combating false indications on services, the improvement proposals would also tackle other unfair trade practices, i.e. misleading omissions, aggressive or high-pressure practices, "bait-and-switch" and "accepting payment without the intention or ability to supply the contracted goods or services". Panel members generally agreed with the broad policy directions but some members were concerned about enforcement, the application of cooling-off arrangements and difficulties in providing sufficient evidence to prove that the traders had accepted payment "without the intention to supply the contracted goods or services".

24. Some members expressed dissatisfaction about the exclusion of financial services products and property from the proposed TDO amendments, as transactions in these two sectors involved substantial amount of money and required greater consumer protection. The Administration stressed that it had no intention to "exempt" the two sectors which were covered under regulatory frameworks outside TDO. The Administration indicated that it would launch a public consultation on the proposals in the third quarter of 2010.

Toys and Children's Products Safety Ordinance

25. In November 2009, the Administration briefed the Panel on the proposed amendments to the Toys and Children's Products Safety Ordinance (Cap. 424), which sought to adopt the latest version of the safety standards and improve the mechanism for updating the standards for toys by putting all standards in a

Schedule to the Ordinance so that future changes could be effected by way of subsidiary legislation. The Administration would step up publicity and consumer education on the implementation of the legislative amendments. Members supported the Amendment Ordinance which subsequently came into operation on 1 April 2010.

Energy supply

26. The Panel continued to monitor closely the tariff increases of the two power companies and the town gas company.

Adjustment of electricity tariffs

27. Regarding the Administration's annual tariff reviews with the two power companies, the Panel was disappointed to note that the CLP Power Hong Kong Limited (CLP) would raise its tariff by 2.6% from 1 January 2010. Some members did not consider it justifiable for CLP to raise its tariff since the two power companies were operating in similar business environment. These members expressed much concern that the increase would lead to inflation impacting adversely on the general public. They questioned the need for CLP to earn the maximum return entitled under the new Scheme of Control Agreement and to reap extra profits by making more capital investment. In response to members' concerns, CLP explained that it had maintained its tariff at the same level for a decade and the increase in 2010 was necessary to enable the company to fund emissions control projects, support Hong Kong's infrastructure developments and meet the rapidly rising commodity prices.

28. While The Hongkong Electric Company Limited (HEC) would freeze its tariff in 2010, members expressed concern that there would be an increase in HEC's overall fuel cost in 2010 due to the increase in the use of natural gas from about 15% to about 30% of the company's total electricity generation. According to HEC, if the use of natural gas was maintained at 30% for the next few years and with stable fuel prices, there would not be severe impact on the fuel clause charge. However, if the ratio of natural gas generation had to be increased to 50%, additional gas-fired units would be required.

29. On Government's role in monitoring tariff adjustment, the Administration indicated that it had strived to negotiate with the two power companies in the best interests of Hong Kong. For example, through the Government's effort, the capital expenditures of CLP and HEC had both been reduced by about 30%, and the recovery of deficit balance of the Fuel Clause Account of both companies had been deferred. It had also negotiated successfully with CLP for a smaller tariff increase for 2010.

Adjustment of gas tariff

30. At the Panel meeting on 30 March 2010, the Hong Kong and China Gas

Company Limited (Towngas) briefed members on its plan to raise tariff by 0.6 cents per megajoule with effect from 1 April 2010. As it would be a second increase implemented by Towngas within three years, members expressed grave concern about the inflationary pressure given rise by the tariff/fare increases being implemented by the public utilities and transport services on the small and medium-sized enterprises and the general public. As Towngas was making a profit of around \$2.5 billion from town gas sales and it had no financial pressure, the Panel urged Towngas to defer the tariff increase and passed a motion requesting Towngas to freeze its tariff for 2010. According to Towngas, while the rise in operating costs was not within the Company's control, it would keep a close watch of the international price movement of raw materials and make suitable procurement accordingly. It would also continue to achieve cost savings for customers, like the fuel cost savings benefited from the introduction of natural gas as feedstock for production of town gas. Towngas undertook not to contemplate another tariff increase within two years after the current adjustment.

31. Regarding members' concern about the need to subject Towngas to price and profit regulation by the Government, the Administration advised that Towngas had entered voluntarily into an Information and Consultation Agreement (ICA) with the Government since 1997, under which the Government would look into the justifications provided by Towngas for tariff adjustments. As for the review of the current framework of economic monitoring of the Company, the Administration agreed to consult the Panel when the current ICA was due for extension.

Airport and aviation services

Safety oversight audit of the Hong Kong civil aviation system

32. In its final report of a safety oversight audit of the civil aviation system of Hong Kong issued in November 2009, the International Civil Aviation Organization (ICAO) had commented favourably on the aviation safety oversight system in Hong Kong which had achieved an overall score of 94.47% in the effective implementation of a safety oversight system, representing the fifth highest amongst the aviation authorities of 190 ICAO Contracting States audited thus far, including the United States, the Mainland and the United Kingdom. At the meeting on 22 February 2010, Panel members urged CAD to continue its efforts to attain an even higher score in the next round of audit.

33. On ICAO's recommendations for follow-up actions, the Panel noted that they covered legislation, staffing, training and safety inspection aspects. In response to members' urge for timely introduction of legislative amendments, the Administration advised that as the ICAO's recommendations involved a number of subsidiary legislation, it would accord priorities to different issues and consult the stakeholders in stages from end 2010, and introduce legislative amendments, if required, from end 2013 to 2015.

Port development and marine services

Pilotage (Dues) (Amendment) Order 2009

34. At the Panel meeting on 16 November 2009, the Administration briefed members on the Pilotage (Dues) (Amendment) Order 2009 which sought to reduce the additional pilotage due from \$1,900 to \$1,820 for a period of 18 months if a pilot was required to board or disembark from a ship off Ngan Chau or at the West of Lamma Island. Members agreed with the proposed fee reduction but considered the level of the reduction was too small to benefit the service users. The Administration explained that the fee levels were reviewed and agreed between the Hong Kong Liner Shipping Association representing the service users, and the Hong Kong Pilots Association representing the service providers. The role of the Government was to oversee the process to ensure that the dues recommended were reasonable for the maintenance of quality pilotage services to safeguard maritime safety and marine environmental protection. The Panel also expressed concern about the training of sufficient licensed pilots to ensure staff succession. The new rate has taken effect on 1 February 2010 and the old rate would restore on 1 August 2011.

Proposed fee regulation to be made under the Bunker Oil Pollution (Liability and Compensation) Ordinance

35. The Panel was briefed on the proposed Bunker Oil Pollution (Liability and Compensation) (Application Fee for Insurance Certificate) Regulation to be made under section 33 of the Bunker Oil Pollution (Liability and Compensation) Ordinance (Cap. 605) at the meeting on 16 November 2009. Addressing members' concern that the proposed application fee of \$535 was relatively high when compared with that collected by other marine administrations, the Administration advised that the fee was set according to the "user-pays" principle. Members requested the Administration to streamline the administrative procedures relating to the issuance of insurance certificates, with a view to reducing the fee level in future. The Panel in general supported the fee regulation which has come into operation on 22 January 2010.

Sea-going Training Incentive Scheme

36. The Administration sought the Panel's support for a proposal to increase the approved commitment by \$19.2 million for the extension of operation of the Sea-going Training Incentive Scheme (the Scheme) by four years from 2010-2011 to 2013-2014 to address the acute shortage of maritime professionals with a sea-going background, which, if left unattended, would erode Hong Kong's edge as an international maritime centre and a regional hub port. Members in general expressed support for the Scheme and urged the Administration to monitor the effectiveness of the Scheme and step up publicity about the promising prospect of the sea-going career with a view to attracting more youngsters to join the industry. They also considered that the maritime industry should provide financial assistance and training opportunities for the Scheme participants to nurture home-grown

sea-going professionals. Funding for the extension of the Scheme was approved by the Finance Committee at its meeting on 28 May 2010.

Others

37. The Panel was also briefed on tourism co-operation and logistics development pertaining to the Framework Agreement on Hong Kong/Guangdong Co-operation, and proposals arising from review of the Air Transport (Licensing of Air Services) Regulations.

38. During the period from October 2009 to June 2010, the Panel held a total of 11 meetings. The Panel has scheduled to discuss the introduction of petrol of lower octane numbers by oil companies at the meeting on 19 July 2010.

Council Business Division 1
Legislative Council Secretariat
8 July 2010

Legislative Council

Panel on Economic Development

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to economic infrastructure and services, including air and sea transport facilities and services, postal and weather information services, energy supply and safety, consumer protection, competition policy and tourism.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Economic Development**

Membership list for 2009 – 2010 session

Chairman	Hon Jeffrey LAM Kin-fung, SBS, JP
Deputy Chairman	Hon Paul TSE Wai-chun
Members	Hon Albert HO Chun-yan Dr Hon David LI Kwok-po, GBM, GBS, JP Hon Fred LI Wah-ming, SBS, JP Hon CHAN Kam-lam, SBS, JP Hon Miriam LAU Kin-ye, GBS, JP Hon Emily LAU Wai-hing, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Vincent FANG Kang, SBS, JP Hon Andrew LEUNG Kwan-yuen, GBS, JP Hon WONG Ting-kwong, BBS, JP Hon Ronny TONG Ka-wah, SC Hon CHIM Pui-chung Hon Starry LEE Wai-king, JP Hon Paul CHAN Mo-po, MH, JP Dr Hon LEUNG Ka-lau Hon IP Wai-ming, MH Hon Mrs Regina IP LAU Suk-ye, GBS, JP Dr Hon Samson TAM Wai-ho, JP Hon Tanya CHAN (up to 28 January 2010) (rejoined on 18 May 2010) Hon Albert CHAN Wai-yip (up to 28 January 2010) (rejoined on 19 May 2010)
	(Total: 22 members)
Clerk	Ms Debbie YAU
Legal Adviser	Mr Timothy TSO
Date	1 July 2010