

**For information
on 22 November 2010**

Legislative Council Panel on Economic Development

**Enhancing Regulation of the Receiving Arrangement of the Mainland
Inbound Tour Groups and Review of the Operation of the Travel
Industry Council of Hong Kong**

Purpose

On 11 October 2010, the Administration received the report on the review of zero/negative reception fee and regulation of tourist guides for Mainland inbound tour groups from the “Task Force on the Review of the Operation and Regulation of Mainland Inbound Group Tours” (Task Force) of the Travel Industry Council of Hong Kong (TIC). This paper briefs Members on the proposed measures to strengthen the regulation of the receiving arrangements for Mainland inbound tours.

2. This paper also informs Members on the progress of the review of the operation of the TIC.

The Work of the Task Force

3. Earlier, there was a spate of problems concerning the receiving arrangements for Mainland inbound tour groups visiting Hong Kong. In response to an incident in May this year in which a Hunan visitor fainted in a registered shop of the TIC and subsequently died, the TIC has since June implemented a number of immediate measures to deal with the problems (please see paragraph 6 for details).

4. The TIC established the Task Force in June 2010 to formulate medium to long-term measures to improve the regulation of the receiving of Mainland inbound tours. In July, upon the request of the Secretary for Commerce and Economic Development, the Task Force focused its review on zero/negative reception fee and regulation of tourist guides, and developed measures to target these problems. It examined different parties involved in the chain of operation of Mainland inbound tours, and consulted stakeholders from various sectors in the trade, including travel agents, tourist guide unions, registered shops, tourism-related advisory committees and bodies, the Legislative Council member from the tourism constituency and Mainland tourism organisations.

5. The Task Force indicated to the Government that when conducting the review and formulating the proposed measures, it adopted the key guiding principle of sustaining the healthy development of the tourism industry, and aimed at proposing practical measures and increasing deterrent effect on those who fail to comply by raising penalty. Moreover, the Task Force hoped to strike a balance between allowing room for the travel industry to operate flexibly and protecting the tourists' consumer rights lawfully, reasonably and fairly.

Proposed Measures of the Task Force

6. The TIC has immediately implemented a series of measures since June this year, including –

- increased the frequency and coverage of inspections at tourist attractions;
- revised the relevant directives, stipulating in clearer terms that tourist guides are forbidden to force or mislead visitors to make purchases or to stay in registered shops;
- required registered shops to record the arrival and departure time of each tour group; verify and register the information of all tourist guides who bring tour groups to the shops;
- enhanced the publicity of the TIC's Inbound Tourist Service Hotline; and
- extended the service hours of the Hotline to midnight since August so that visitors could seek help from the TIC when necessary.

The above measures had undoubtedly achieved some effect, but it is necessary to examine how to further combat malpractices in the trade in a more effective manner. The Task Force therefore decided to start the review in four directions, namely, strengthening the TIC's existing regulatory system; enhancing the deterrent effect and transparency of the penalty; clarifying the relationships, responsibilities and rights between travel agents organising the tours in the Mainland, receiving travel agents in Hong Kong and tourist guides; and raising travellers' awareness on consumer rights and their right to information. The Task Force completed the review in late September and proposed ten measures. The TIC endorsed the Task Force

report at its Board's emergency meeting on 8 October, and submitted the report for the Secretary for Commerce and Economic Development's consideration on 11 October. The Executive Summary of the Task Force report is at Annex. The full report is available at the Secretariat of the Legislative Council, and may be downloaded at the TIC's website at http://www.tichk.org/public/website/en/news/2010_10_11_b/html.

7. The following paragraphs briefly introduce the ten measures proposed by the Task Force, categorised according to the four directions listed out in paragraph 6 -

Strengthening Regulation

Assign One Tourist Guide to Receive a Group throughout its Stay

8. With reference to the common practice for outbound tours and non-Mainland inbound tours, the Task Force proposed to require the receiving agent to assign one tourist guide with valid pass to provide receiving services to a Mainland inbound tour throughout its whole journey in Hong Kong. This is to ensure service quality and curb the malpractice of tourist guides who specialise in persuading tourists to make purchases hopping among tour groups (i.e. they would just show up at the shopping section and dominate the shopping process). In view of some tourist guide unions' views that the proposal might lead to excessively long working hours for tourist guides, the Task Force accepted that, as a transitional arrangement, the receiving agent might assign another tourist guide with valid pass to take charge of the receiving part if the assigned tourist guide had to overly work long hours on the first day.

9. Although a few tourist guide unions expressed worries on the implementation details of this measure after the Task Force report is released, generally speaking, the tourist guide sector holds a positive view on introducing this measure to improve service quality. Some unions even urged the Government and the TIC to implement the measure promptly.

Stepping up Inspection

10. The Task Force proposed that the TIC should step up routine spot checks and conduct large-scale surprise inspections. The TIC should also explore the expansion of undercover inspections with a view to enhancing professional standard and coverage. During the recent National Day Golden Week, the TIC arranged uniformed inspectors to conduct Tourist Guide Pass checks simultaneously at different tourist spots for three

consecutive days, and monitored sales and shopping arrangements in registered shops of the TIC to protect the tourists' rights. No serious violation was found during the inspections, and only minor contraventions (e.g. expiry of Tourist Guide Pass) were recorded.

Raising the Professional Requirements for Tourist Guide Pass

11. To enhance the quality of tourist guides, the Task Force proposed that, when tourist guides apply for renewal of their passes (for every three years), they must fulfill the requirements of Continuing Professional Development Scheme for Tourist Guides as the basic criteria for pass renewal. In addition, the TIC will provide more training on professional ethics in the development programmes for tourist guides. It will also take into account the demerit point records of the tourist guides in processing their pass renewal applications.

Raising Penalty

Demerit Point System for Receiving Travel Agents

12. The Task Force proposed introducing a demerit point system for violations related to coerced shopping which take place when agents receive Mainland inbound tours. To enhance deterrent effect, if a receiving travel agent contravenes specified regulations, the TIC will impose demerit points on it on top of the existing penalty. If an agent accumulates 30 points within two years, the TIC will suspend or terminate its membership. The TIC will also extend the period for publicising the agents' violation records related to Mainland inbound tours on its website to one year.

Demerit Point System for Tourist Guides

13. The Task Force proposed introducing a demerit point system for tourist guides. If a tourist guide contravenes the relevant regulations, the TIC will impose demerit points on him or her on top of the existing penalty. If a tourist guide accumulates 30 points within two years, the TIC will suspend or revoke his or her qualification as a tourist guide. The TIC will also extend the period for publicising the list of tourist guides who are penalised due to violations related to Mainland inbound tours on its website to one year.

Tightening up the Existing Demerit Point System for Registered Shops

14. To strengthen the regulation on registered shops and raise their service standard, the Task Force proposed tightening up the existing demerit point system for registered shops. The TIC will also encourage registered shops to join the Quality Tourism Services Scheme implemented by the Hong Kong Tourism Board (HKTB) to enhance their service quality.

Clarifying Relationships

Contract between Mainland Travel Agent Organising the Tour and Receiving Travel Agent in Hong Kong

15. The Task Force proposed requiring the receiving travel agents and Mainland travel agents that organise the tours to sign contract. This is to ensure that the organisation of Mainland inbound tours complies with the Mainland laws and regulations, and to clarify the relationships, responsibilities and rights between both parties. Key points in the proposed contract include that the Mainland travel agent undertakes to comply with the requirements in the Mainland's "Regulation on Travel Agents", and refrain from soliciting business with, or demanding the receiving agent to accept, a tour fare lower than the receiving cost; and that the receiving agent undertakes to refrain from offering a tour fare lower than the cost. We are working out the major points in the contract with the Mainland, and will consult the trade in the process.

Specified Agreement between Receiving Travel Agent and Tourist Guide

16. The Task Force proposed requiring the receiving travel agents, prior to assigning tourist guides to receive Mainland inbound tours, to sign agreements specified by the TIC with the tourist guides. The agreement should stipulate the remuneration payable by the receiving agents to the tourist guides, as well as the responsibilities of both sides.

Raising Consumer Awareness

Enhancing the Promotion of Consumer Rights to Mainland Tourists

17. To enhance promotion of consumer rights to Mainland inbound group travellers and protect their right to information, the Task Force proposed requiring tourist guides to read out specific contents on the itinerary to the tourists once the group arrived at Hong Kong. The "Guide for Visitors" prepared by the TIC will be published in the Mainland, and

uploaded to the websites of the TIC, the HKTB and the Consumer Council for visitors' reference.

Disclosing Shareholding Relations between Shops and Receiving Travel Agents

18. To enhance transparency, the Task Force proposed requesting the shareholders and directors of travel agents to declare to the TIC if they or their direct relatives partially or wholly owned any registered shop(s), or are directors of any registered shop(s). The TIC will disseminate such information on its website.

Latest Position

19. We consider that the recommendations made by the Task Force could target at the unique characteristics of the Mainland inbound tours market and the related problems, and would help to combat against the malpractices in the trade. We support these recommendations and expect the TIC to work out the implementation details and execute them as soon as possible. We also notice that stakeholders in the trade and the public generally believe that these proposals are helpful, and hope that the measures will be carried out promptly. We understand that the TIC will convene the Board's emergency meeting on 19 November to discuss the necessary amendments to the directives in order to implement the measures recommended by the Task Force.

Review of the Operation of the TIC

20. We briefed Members on the outcome of review of the operation of the TIC in the Panel on Economic Development's meeting in May this year. We also listened to Members' views on the effectiveness of the current regulatory regime of the tourism industry, the role of the Government in monitoring the TIC and the travel agents, as well as the way forward on the regulatory framework of the tourism industry. In that meeting, the Government has committed to amend the Travel Agents Ordinance (Cap. 218) to set out clearly the role of the TIC as a public association in the regulatory framework.

21. In connection with the recent problems related to Mainland inbound tours, the Government noticed that there are public views expecting the Government and the TIC to consider overhauling the composition of the TIC's Board of Directors, improving the internal operation of the TIC, establishing a licensing system to regulate tourist guides, and even setting up

a statutory body, in order to enhance the credibility and legitimacy of the monitoring regime of the tourism industry. As mentioned by the Chief Executive in the Policy Address, the Commerce and Economic Development Bureau will conduct a review on the operation and regulatory framework of the entire tourism sector, including the role, powers, responsibilities and operation of the TIC, as well as its working relationship with the Travel Agents Registry.

22. Considering the wide coverage of and the numerous issues to be studied under the review, we are now devising a specific work plan and hope to set out the specific areas and focuses of the review by the end of this year. During the review, we will take into account the views expressed by various stakeholders and the community, with a view to working out the best arrangements to facilitate the healthy development of the tourism industry.

23. This review will cover wide aspects and complex issues, and its outcome will have substantial impact on the formulation of tourism policies as well as the operation and development of the tourism industry. The Government needs time to conduct the review, and we see the need to implement the measures recommended by the Task Force as soon as possible, so that the aim of strengthening the regulation of Mainland inbound tours in short and medium term could be achieved.

24. Members are invited to note the content of this paper.

Tourism Commission
Commerce and Economic Development Bureau
November 2010

**“Task Force on the Review of the Operation and Regulation of
Mainland Inbound Group Tours”
Executive Summary**

1. In response to a number of coerced shopping incidents involving members of Mainland inbound tours in Hong Kong, the Travel Industry Council of Hong Kong (TIC) set up the “Task Force on the Review of the Operation and Regulation of Mainland Inbound Group Tours” (Task Force) in June 2010 to formulate medium to long-term measures to improve the regulation of the receiving of Mainland inbound tours in Hong Kong. In mid-July, the coerced shopping incident by the tourist guide LI Hau-chun aroused widespread public concern. The Secretary for Commerce and Economic Development tasked the Task Force to focus its review on zero/negative reception fee and regulation of tourist guides, and to propose improvement measures within two months for the Government’s consideration.

2. The Task Force held five meetings, and examined various sectors involved in the operation chain of Mainland inbound tours. During the process, it also consulted various stakeholders in the industry.

3. When conducting the review and formulating the proposed measures, the Task Force adopted the key guiding principle of sustaining the healthy development of the tourism industry. The Task Force emphasised that the proposed measures should focus on addressing the problems of zero/negative reception fee and tourist guides’ conduct, to ensure that the tourists’ consumer rights are protected lawfully, reasonably and fairly, while allowing room for the travel industry to operate flexibly.

4. The Task Force noted that the problem of zero/negative reception fee occurs predominantly in “shopping tours”. The organisation of a “shopping tour” may involve a number of Mainland intermediate travel agents. Sub-contracting and combining tours are common in the process. As a result, some receiving travel agents in Hong Kong may not receive fees adequate to cover the reception costs of the group tours. Such travel agents and some tourist guides may therefore need to find alternative ways to cover the cost, which leads to the problem of coerced shopping.

Proposed Measures by the Task Force

5. The travel industry implemented a series of measures to combat against trade malpractices in the past few years. When formulating further improvement measures, the Task Force focused on four directions: (a) strengthening the existing regulatory system of the TIC; (b) enhancing deterrent effect and transparency of the penalty; (c) clarifying the relationships, responsibilities and rights between travel agents organising the tours in Mainland, receiving travel agents in Hong Kong and tourist guides; and (d) raising travellers' awareness on consumer rights. The major measures are as follows –

Regulation of Travel Agents

- Requiring Mainland travel agents that organised tours and receiving travel agents in Hong Kong to sign contracts to clarify the rights and responsibilities of each party, and ensure that the organisation of inbound tours are in compliance with Mainland law and regulations.
- Introducing a demerit point system for travel agents that receive Mainland inbound tours.
- Requiring receiving travel agents to assign one tourist guide to accompany a Mainland inbound tour throughout its stay in Hong Kong to ensure service quality.

Regulation of Tourist Guides

- Requiring travel agents and tourist guides to sign designated agreements, stipulating mutual responsibilities. Requiring travel agents to pay tourist guides for the services provided, so that tourist guides can have a clear source of income.
- Introducing a demerit point system for tourist guides. The system will focus on combating violations relating to coerced shopping.
- Raising the requirements for the application and renewal of tourist guide pass. Strengthening emphasis on conduct and integrity in tourist guides' training programmes.

Regulation of Registered Shops

- Tightening the existing demerit point system for registered shops, and encouraging registered shops to join the Quality Tourism Services Scheme.
- Requesting the shareholders and directors of travel agents to make a declaration to the TIC, if they or their direct relatives partially or wholly owned any registered shop(s), or are directors of any registered shop(s). The relevant information will be disseminated on the TIC website.

Promoting Consumer Rights of Mainland inbound group travellers

- Preparing and promoting a “Guide for Visitors”. Requiring tourist guides to read out specific contents on the itinerary to Mainland inbound group travellers upon their arrival in Hong Kong.

Stepping up inspection

- Stepping up regular inspection and exploring the expansion of undercover inspection. Proposing the establishment of a dedicated unit in the TIC to enforce the TIC’s regulations.

6. The TIC and the Government have been liaising and co-operating closely with the Mainland tourism authorities. The Government have notified the Mainland tourism authorities of those measures proposed by the Task Force that are of relevance to them. These proposals are positively received.