

立法會
Legislative Council

LC Paper No. CB(1)120/13-14(06)

Ref : CB1/PL/EDEV

Panel on Economic Development
Meeting on 28 October 2013

**Background brief on Mainland's legislative measures
to tackle malpractices in tourism**

Purpose

This paper provides background information on Mainland's recent legislative measure to tackle malpractices in tourism through the Tourism Law of the People's Republic of China, and members' previous views and concerns on such malpractices.

Background

Tourism trade in Hong Kong

2. Tourism industry is a major pillar of the economy of Hong Kong. In 2011, the tourism industry contributed to 4.5% of Hong Kong's Gross Domestic Product. The sector employs around 233 500 persons, accounting for 6.5% of total employment. In 2012, visitor arrivals registered an increase of 16% over 2011 to 48.6 million. In the first seven months of 2013, visitor arrivals increased by 13.1% over the same period of 2012. The Mainland continued to be the largest source market with 22.6 million arrivals in the first seven months of 2013, representing an increase of 20% and accounting for 74.8% of total visitor arrivals.

3. According to the Tourism Commission, amongst all Mainland arrivals, 56% were same-day visitors, and about two-thirds of Mainland visitors came to Hong Kong under the Individual Visit Scheme.

"Zero/negative-fare" tours

4. Mainland inbound tour groups are 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.

5. "Zero/negative-fare" tours 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 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 to recompense their overheads.

The Tourism Law and its major provisions

6. To better regulate the tourism trade in the Mainland, the Standing Committee of the National People's Congress adopted the "Tourism Law of the People's Republic of China" in April 2013, at the second session of 12th National People's Congress. The new law came into effect on 1 October 2013.

7. The objective of the Tourism Law is to "protect the legitimate rights and interests of the tourists and tourism operators, regulate the order of the tourism market, protect and reasonably utilize tourism resources, and promote the sustained and healthy development of tourism." (Article 1)

8. Under Article 35 of the Tourism Law, Mainland travel agencies are prohibited from "organizing tourism activities and luring tourists with unreasonably low prices, or getting illegitimate gains such as rebates by arranging shopping or providing tourism services that requires additional payment." The article also provides that travel agents are not allowed to "designate specific shopping places, or provide tourism services that require additional payment."

9. It has been reported in some media that the implementation of the Tourism Law has triggered the closing down of many Mainland travel agencies. The local tourism sector is concerned that the trend may hit the tourism trade in Hong Kong, with a knock-on impact on the hotel and retail sectors. As low-cost tours are prohibited under the Tourism Law, the price of inbound tours from the Mainland has soared, which discourage Mainland tourists from visiting Hong Kong. According to some local practitioners, the number of Mainland visitors dropped significantly during the last National Day holidays; local hotels had registered exceptionally high vacancy rates as compared with the same period in previous years. Some media reports have suggested that many local tour guides were underemployed during the period.

10. On the other hand, some practitioners are more optimistic and consider that the negative impact of the Tourism Law on local tourism industry should be temporary. In the long term, the new legislation should help improve the operating environment of travel agencies and allow more healthy development of the industry as a whole, as travel agencies would be competing on the quality of their service rather than on price.

The Administration's measures against "zero/negative-fare" tours and misbehaving tour guides

11. Meanwhile, the Administration has also undertaken measures in response to the problems arising from "zero/negative-fare" tours and misbehaving tour guides. In October 2010, the Administration announced its intention to reform the existing regulatory regime for the tourism industry, and in December the same year, it announced that an independent statutory body, the Travel Industry Authority, would be set up as the overall regulatory body of the tourism sector. The Administration's objective is to ensure that detailed arrangements, which would be implemented in consultation with the tourism sector, would be effective in curbing malpractices of Mainland inbound tours.

Previous discussion on tackling problems arising from "zero/negative-fare" tours

12. At the meeting of the Panel on Economic Development ("the Panel"), held on 22 November 2010, members discussed measures to tackle the malpractices and problems in the tourism industry in connection with "zero/negative-fare" tours and misbehaving tour guides. The Administration informed the Panel that the Travel Industry Council of Hong Kong ("TIC") had implemented measures to deal with the problems

concerning the receiving arrangements for Mainland inbound tour groups visiting Hong Kong. The measures were targeted at tourist guides as well as travel agents. For example, Mainland travel agents were required to refrain from demanding RAs in Hong Kong to accept a tour fare lower than the receiving cost, and that the receiving agent should refrain from offering a tour fare lower than the cost. Panel members were also informed that the Administration would review the operation and regulatory framework of the entire tourism sector.

13. Some members considered it unreasonable for receiving travel agents to be held responsible for the coerced shopping arranged by the tourist guides without its consent. Some other members considered that it was unfair for TIC and the Administration to target tourist guides in strengthening the regulation of the receiving arrangements for Mainland inbound tours. The Administration clarified that the measures implemented by TIC were not restricted to tourist guides, but would also applied to shops, Mainland travel agents organizing the tours, and RAs in Hong Kong.

14. In response to members' queries, the Administration had confirmed that regular dialogue had been maintained with CNTA about the problems, and members noted that CNTA had issued circulars requiring Mainland travel agents to comply with the relevant regulations.

15. At the Panel meeting of 22 November 2010, a member urged the Administration to devise an effective mechanism for handling emergency complaints, and that information of the complaint channels should be made available at boundary points to facilitate Mainland visitors who need to seek help. The Administration advised that information pamphlets containing information on consumer rights and enquiry hotlines were being provided to incoming visitors at customs arrival halls, registered shops and tourist spots. Information about the Inbound Tourist Service Hotline and the Consumers Council Hotline were also available in visitors' itineraries. A 24-hour notification system and the Tourism Commission's contact telephone number had been passed to the Police and relevant front-line staff of tourism-related organizations to enable the Tourism Commission to respond quickly to problems as they arose.

16. The Legislative Council debated a motion on "Expediently formulating long-term planning for the tourism industry" at the Council meeting of 23 October 2013.

Latest development

17. At the Panel meeting on 28 October 2013, the Administration will brief members on the Mainland Tourism Law, and its assessment on the impact of the law on Hong Kong's economy.

References

18. The relevant papers are available at the following links –

Text of the Tourism Law from the China National Tourism Administration website

http://www.gov.cn/flfg/2013-04/25/content_2390566.htm

Fact sheet on Hong Kong's tourism

<http://www.gov.hk/en/about/abouthk/factsheets/docs/tourism.pdf>

Tourism Performance in 2012

http://www.tourism.gov.hk/english/statistics/statistics_perform.html

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

<http://www.legco.gov.hk/yr10-11/english/panels/edev/papers/edev1122cb1-450-8-e.pdf>

Minutes of meeting of the Panel on Economic Development held on Monday, 22 November 2010

<http://www.legco.gov.hk/yr10-11/english/panels/edev/minutes/edev20101122.pdf>

Administration's paper on the latest progress in taking forward the reform of the new regulatory regime for the tourism sector in Hong Kong

<http://www.legco.gov.hk/yr12-13/english/panels/edev/papers/edev0722cb1-1522-3-e.pdf>

Council Business Division 1
Legislative Council Secretariat
25 October 2013