

**立法會**  
**Legislative Council**

LC Paper No. CB(4)1311/16-17  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/5/16

**Bills Committee on Travel Industry Bill**

**Minutes of the second meeting held on  
Tuesday, 9 May 2017, at 2:30 pm  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon YIU Si-wing, BBS (Chairman)  
Hon LUK Chung-hung (Deputy Chairman)  
Hon WONG Ting-kwong, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon WU Chi-wai, MH  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, JP  
Hon Alvin YEUNG  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon Tanya CHAN  
Hon LAU Kwok-fan, MH

**Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon HO Kai-ming

**Public Officers  
attending** : Agenda item I

Commerce and Economic Development Bureau

Mr Gregory SO, GBS, JP  
Secretary for Commerce and Economic Development

Mr Aaron LIU  
Deputy Commissioner for Tourism

Mr Eddie LEE  
Assistant Commissioner for Tourism 1

Mr Brendan AU  
Registrar of Travel Agents

Mr Nicky NG  
Senior Administrative Officer (Tourism)1

**Attendance by  
Invitation**

: Agenda item I

Hong Kong Tourism Association  
Mr Timothy CHUI  
Executive Director

香港旅遊從業員聯會  
Mr YIP Chi-wai  
Chairman

Hong Kong Tour Guides General Union  
Mr WONG Ka-ngai  
Chairman

Hong Kong (Chinese) Tour Guides General Union  
Mr TSE Yun-sang  
President

Hong Kong Tourism Industries General Union  
Mr HO Chun-tung  
Executive Director

Hong Kong Association of Travel Agents  
Mr Edmund TSANG  
Vice Chairman

Hong Kong Inbound Tour Operators Association  
Mr Ricky TSE  
Founding President

Travel Industry Council of Hong Kong

Mr Jason WONG  
Chairman

Democratic Alliance For The Betterment  
And Progress of Hong Kong

Mr SIU Wai-chung  
DAB Economic Development Affairs Deputy Spokesperson

Liberal Party

Mr LEE Chun-keung  
Vice Party Chair

The Civic Party

Miss CHENG Lai-yee  
District Councillor of the New Territories West

Hong Kong Outbound Tour Operators' Association

李毅立先生  
Chairman

Individual

Mr CHAN Sai-tong

Advisory Committee on Travel Agents

Mr Wilfred WONG  
Chairman

Individual

Mr CHOI Pat-tai

The Hong Kong Association of Registered Tour Co-ordinators

Mr WONG Wai-wing  
Chairman

Society of IATA Passenger Agents

Mr Sunil NANDA  
Vice Chairman

Individual

Mr Joseph TUNG

International Chinese Tourist Association

Mr MA Yuk-man  
Hon President

Hongkong Taiwan Tourist Operators Association

Mr Nelson LAW  
Hon Secretary

Hong Kong Inbound Travel Association

Mr LEUNG Yiu-lam  
Chairman

Hong Kong Travel Agent Owners Association Ltd.

Mr Fred LEUNG  
Chairman

Hong Kong Association of China Travel Organisers

Mr Perry YIU  
Vice President

Hong Kong Certified Tour Escort Association

Mr Stephen CHAN  
Chairman

Hong Kong Professional Tourist Guides General Union

Mr YU Shui-fai  
Vice Chairman

Individual

Mr WHY

Hongkong Japanese Tour Operators Association

Mr TAI Yun-lam  
理事

The Federation of Hong Kong Chinese Travel Agents

Mr HUI Shu-hon  
Vice Chairman

No. 1 Travel Service Ltd.  
Mr WONG Hon-leung  
Managing Director

Individual  
Mr LEUNG Pur-yin

Hong Kong Tourism Industry Employees General Union  
Ms LEUNG Fong-yuen  
Chairman

**Clerk in attendance :** Ms Shirley CHAN  
Chief Council Secretary (4)5

**Staff in attendance :** Ms Clara TAM  
Assistant Legal Adviser 9

Ms Shirley TAM  
Senior Council Secretary (4)5

Ms Lauren LI  
Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

Miss Mandy LUI  
Clerical Assistant (4)5

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Action

**I. Meeting with deputations/individuals and the Administration**

Declaration of interests

The Chairman declared that he was holding a remunerated post in a travel agent. He was also the unremunerated honorary chairman/adviser of nine tourism related associations. Details were set out in LC Paper No. CB(4)849/16-17(01).

2. Mr MA Fung-kwok declared that he was an independent director of the Travel Industry Council of Hong Kong.

Action

Discussion

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).
4. The Bills Committee received views from 31 deputations/individuals attending the meeting (see **Annex**), and noted three written submissions from deputations/individuals not attending the meeting [LC Paper Nos. CB(4)955/16-17(08)&(09) and CB(4)986/16-17(01)].

Follow-up action to be taken by the Administration

5. The Administration was requested to provide a written response to the deputations'/individuals' written submissions received and views expressed at the meeting regarding the Travel Industry Bill and related matters.

*(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)1101/16-17(01) on 2 June 2017.)*

**II. Any other business**

Date of next meeting

6. The Chairman advised that the next meetings of the Bills Committee would be held on Tuesday, 6 June 2017 at 4:30 pm, and on Tuesday, 4 July 2017 at 4:30 pm.
7. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 4  
Legislative Council Secretariat  
27 June 2017

**Proceedings of the second meeting of  
the Bills Committee on Travel Industry Bill  
on Tuesday, 9 May 2017, at 2:30 pm  
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with deputations/individuals and the Administration</b>			
000107 – 000549	Chairman Mr MA Fung-kwok	Opening remarks  Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
000550 – 000856	Hong Kong Tourism Association	Presentation of views [LC Paper No. CB(4)982/16-17(01)]	
000857 – 001142	香港旅遊從業員聯會	Presentation of views as highlighted below –  (a) given cases of false accusations made against tourist guides by some Mainland inbound tourists, the term "coerced shopping" should be clearly defined in the new legislation so as to address the concerns of tourist guides; and  (b) there should be representatives from trade unions of inbound travel business in the Travel Industry Authority ("TIA").	
001143 – 001457	Hong Kong Tour Guides General Union	Presentation of views as highlighted below –  (a) the deputation supported the establishment of TIA since it would presumably involve less vested interests, and would thus be more impartial in handling matters within the trade;  (b) the Travel Industry Bill ("the Bill") should clearly delineate the responsibilities between travel agents and frontline practitioners, so as to safeguard the safety and interests of frontline practitioners; and  (c) the Bills Committee should gauge the views of frontline practitioners in the course of scrutinizing the Bill.	
001458 – 001820	Hong Kong (Chinese) Tour Guides General Union	Presentation of views [LC Paper No. CB(4)992/16-17(01)]	
001821 – 002135	Hong Kong Tourism Industries General Union	Presentation of views [LC Paper No. CB(4)992/16-17(02)]	

Time marker	Speaker	Subject(s)	Action required
002136 – 002409	Hong Kong Association of Travel Agents	Presentation of views [LC Paper No. CB(4)1029/16-17(01)]	
002410 – 002715	Hong Kong Inbound Tour Operators Association	Presentation of views [LC Paper No. CB(4)995/16-17(01)]	
002716 – 003028	Travel Industry Council of Hong Kong	Presentation of views [LC Paper No. CB(4)955/16-17(03)]	
003029 – 003300	Democratic Alliance For The Betterment And Progress of Hong Kong ("DAB")	<p>Presentation of views as highlighted below –</p> <ul style="list-style-type: none"> <li>(a) DAB supported the establishment of TIA since TIA would be more transparent and credible in regulating the acts of trade practitioners;</li> <li>(b) the Administration should formulate clear measures and guidelines for stakeholders in the trade in order to address their concerns about the criminal liability in the new legislation; and</li> <li>(c) the Administration should devise measures to promote the development of the travel industry in Hong Kong. The proposed measures included expanding the functions of the Tourism Commission, reviewing the regulation and structure of the hotel industry, and formulating medium- and long-term goals for meeting, incentive travel, convention and exhibition tourism in Hong Kong.</li> </ul>	
003301 – 003533	Liberal Party	<p>Presentation of views as highlighted below –</p> <ul style="list-style-type: none"> <li>(a) the Liberal Party supported the proposed composition of TIA, with more than half of its members being non-trade members to increase TIA's credibility. It also welcomed the criminalization of certain unscrupulous acts in the trade;</li> <li>(b) the Party also supported the status quo that tourist guides could opt for working on a freelance basis since it would lessen the financial burden of travel agents, and provide travel agents and tourist guides with greater flexibility in conducting their business and work; and</li> <li>(c) the Administration should formulate appropriate directives to address the problems between travel agents and tourist guides.</li> </ul>	
003534 – 003844	The Civic Party	Presentation of views [LC Paper No. CB(4)1029/16-17(02)]	



Time marker	Speaker	Subject(s)	Action required
003845 – 004102	Hong Kong Outbound Tour Operators' Association	Presentation of views [LC Paper No. CB(4)992/16-17(03)]	
004103 – 004404	Mr CHAN Sai-tong	Presentation of views as highlighted below –  Mr CHAN opined that the Consumer Council and the Travel Industry Council of Hong Kong ("TICHK") adopted double standards in treating low-fare outbound tour groups and low-fare Mainland inbound tour groups, biasing against the latter. He disagreed that low-fare Mainland inbound tour groups were necessarily of low quality.	
004405 – 004715	Advisory Committee on Travel Agents	Presentation of views [LC Paper No. CB(4)1029/16-17(03)]	
004716 – 005053	Mr CHOI Pat-tai	Presentation of views [LC Paper No. CB(4)955/16-17(04)]	
005054 – 005405	The Hong Kong Association of Registered Tour Co-ordinators	Presentation of views [LC Paper No. CB(4)955/16-17(05)]	
005406 – 005710	Society of IATA Passenger Agents	Presentation of views as highlighted below –  (a) the new legislation was a right step of the Administration to mitigate the risks of the travel industry, protect the interests of the Hong Kong public and maintain the reputation of Hong Kong's travel industry; and  (b) the Society urged the Administration to look into matters on outbound travel agents under the new regulatory regime.	
005711 – 005934	Mr Joseph TUNG	Presentation of views [LC Paper No. CB(4)955/16-17(06)]	
005935 – 010228	International Chinese Tourist Association	Presentation of views as highlighted below –  (a) in drafting the subsidiary legislation, the Administration should gauge the views of both travel agents and frontline practitioners and delineate their respective responsibilities. It should also clarify matters involving overseas jurisdictions in regulating on-line travel agents; and  (b) the Administration should introduce relief measures to help the travel industry tide over economic hard times.	

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010229 – 010415	Hongkong Taiwan Tourist Operators Association	Presentation of views [LC Paper No. CB(4)1029/16-17(04)]	
010416 – 010648	Hong Kong Inbound Travel Association	<p>Presentation of views as highlighted below –</p> <ul style="list-style-type: none"> <li>(a) TIA should not operate on a self-financing basis. Instead, it should be fully financed by the Government;</li> <li>(b) only the person/party directly involved in the criminal act prescribed in the new legislation should bear the criminal responsibility;</li> <li>(c) the Association objected to mandating an employment relationship between travel agents and tourist guides/tour escorts through the new legislation since such a regulation would disrupt the normal operation of the travel industry;</li> <li>(d) the existing Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers should be retained so as to uphold Hong Kong's reputation as a shoppers' paradise; and</li> <li>(e) funds should be set aside from the Travel Industry Compensation Fund for providing training to tourist guides, tour escorts and managerial staff of the travel trade in order to raise the professionalism of the trade and attract new blood.</li> </ul>	
010649 – 010955	Hong Kong Travel Agent Owners Association Ltd.	Presentation of views [LC Paper No. CB(4)986/16-17(02)]	
010956 – 011257	Hong Kong Association of China Travel Organisers	<p>Presentation of views as highlighted below –</p> <ul style="list-style-type: none"> <li>(a) TIA, if operated on a self-financing basis, would increase the financial burden of travel agents whose levies paid were to support TIA's operation. The Association therefore opposed to the self-financing arrangement, and proposed that TIA should be fully financed by the Government;</li> <li>(b) regulating the employment relationship between travel agents and frontline practitioners offered little flexibility to the trade and might affect the operation of travel agents;</li> <li>(c) there was a need to regulate on-line travel agents to protect the rights of consumers; and</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		(d) a high-level working group and a bureau responsible for tourism matters should be established for the sustainable development of the industry in the long term.	
011258 – 011543	Hong Kong Certified Tour Escort Association	Presentation of views [LC Paper No. CB(4)982/16-17(02)]	
011544 – 011845	Hong Kong Professional Tourist Guides General Union	Presentation of views as highlighted below –  (a) the fees for renewal of tourist guide licences should be waived; and  (b) an employment relationship between travel agents and tourist guides should be established. The Union called for greater protection of tourist guides who were currently not entitled to employees' insurance coverage and other benefits.	
011846 – 012143	Mr WHY	Presentation of views as highlighted below –  the new legislation should not only regulate Mainland inbound tours, but also outbound tours to protect the rights of outbound travellers.	
012144 – 012457	Hongkong Japanese Tour Operators Association	Presentation of views as highlighted below –  (a) for the long-term development of the travel industry, a bureau responsible for tourism matters should be established. More tourist attractions and ancillary facilities should also be provided to attract tourists;  (b) in order to equip frontline practitioners and new blood with the skills to serve different markets, the Administration should consider organizing foreign language courses for them; and  (c) the Association opposed to regulating the work relationship between travel agents and tourist guides/tour escorts to be an employment one.	
012458 – 012803	The Federation of Hong Kong Chinese Travel Agents	Presentation of views [LC Paper No. CB(4)955/16-17(07)]	
012804 – 013111	No. 1 Travel Service Ltd.	Presentation of views as highlighted below –  (a) in addition to travel agents, tourist guides and tour escorts, the new legislation should regulate other stakeholders of the travel industry; and	

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		(b) the new regulatory regime of the travel industry in Hong Kong should be promoted to the Mainland counterparts, who had close working relations with trade practitioners of Hong Kong.	
013112 – 013413	Mr LEUNG Pur-yin	<p>Presentation of views as highlighted below –</p> <p>(a) TIA should rate tourist guides so that travel agents could make reference to such ratings when hiring tourist guides;</p> <p>(b) in view of the increasing competition from on-line travel agents, TIA should regulate them in order to protect the interests of consumers; and</p> <p>(c) TIA should help travel agents fight for rewards as appropriate from airlines, which depended largely on travel agents in selling their products to travellers.</p>	
013414 – 013731	Hong Kong Tourism Industry Employees General Union	Presentation of views [LC Paper No. CB(4)995/16-17(02)]	
013732 – 014348	Chairman Administration	<p>The Administration's response to the views and concerns expressed by deputations and individuals attending the meeting was as follows –</p> <p>(a) the past cases of non-compliance in the trade, some involving injuries and deaths of visitors, had tarnished the image and reputation of Hong Kong's travel industry, thus calling for a need to reform the existing regulatory regime. The number of complaints made by members of Mainland inbound tour groups to TICHK had recorded a year-on-year increase of 25% in the past six months. A general consensus was reached after the extensive public consultation and discussion since 2011 that an independent statutory body, i.e. TIA, should be established to regulate Hong Kong's travel industry. Any delay in establishing TIA would affect the interests of consumers and reputation of Hong Kong's travel industry. Besides, the proposal by some deputations and individuals on the establishment of a tourism bureau could not replace the need for the legislation to regulate the trade;</p>	

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		<p>(b) in view of the growing popularity of buying travel products through on-line travel agents amongst Hong Kong citizens, the proposal of bringing on-line travel agents under the regulation of the new legislation aimed to afford greater protection to outbound travellers of Hong Kong and ensure a level playing field for both on-line and traditional travel agents. The Administration added that the nature of travel agent generally was that travel services were only obtained for consumers after the receipt of payments, so it was important to ensure the proper conduct and professionalism of the trade. Regardless of any new mode of business operation, the need to safeguard consumers' interests could not be compromised. Obtaining a licence was a prerequisite for carrying on travel agent business and the procedures involved were not complicated;</p> <p>(c) the Administration noted the concern of some trade members about the legal responsibilities to be borne by travel agents and frontline practitioners in view of the provisions in the Bill that sought to criminalize certain unscrupulous acts in the travel trade. The Administration would ensure that legal responsibilities of travel agents and frontline practitioners would be clearly delineated in drafting the relevant subsidiary legislation. In cases of coerced shopping, key considerations would include whether the travel agent and tourist guide had committed the act of coerced shopping, and whether all reasonable steps had been taken to avoid the commission of the act. The Administration stressed that all suspected non-compliance and criminal cases would be investigated fairly and impartially by TIA;</p> <p>(d) the Administration noted the varying views on whether the relationship between travel agents and tourist guides/tour escorts should be regulated to be an employment one through the new legislation. Given that Hong Kong was a free market, that no legislation mandated an employment relationship for any other sectors, and that general matters on the relationship between employers and employees could be dealt with by the existing labour-related legislation, the Administration considered it inappropriate to mandate an employment</p>	

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		<p>relationship for the trade in the Bill. As in other sectors, the important point was that, before entering into co-operation, travel agents and tourist guides/tour escorts should understand clearly their mode of cooperation according to their intention and preference and clarify their identities for safeguarding mutual rights and benefits. When handling disputes over the identity as an employee or a self-employed person, the court would make a decision based on the actual circumstances of the case and had set out relevant factors for consideration in some past cases; and</p> <p>(e) frontline practitioners' labour rights would be protected under the new regulatory regime. TIA would require by administrative means that a travel agent must sign a service agreement with a tourist guide/tour escort, whereby the travel agent must pay service remunerations to the tourist guide/tour escort and must not require the tourist guide/tour escort to bear or unreasonably advance any payment for a tour received.</p>	
014349 – 014710	Chairman Mr POON Siu-ping Administration	<p>Mr POON Siu-ping was concerned about the representation of frontline practitioners in TIA and the selection criteria of TIA members.</p> <p>The Administration advised that TIA would comprise both travel trade and non-trade members. The Administration would continue to listen to the views of different stakeholders regarding the composition of TIA. In response to the enquiry of Mr POON, the Administration confirmed that TIA members would be appointed by the Chief Executive of the Hong Kong Special Administrative Region instead of being recommended by the trade.</p>	
014711 – 015035	Chairman Deputy Chairman Administration	<p>The Deputy Chairman referred to a recent High Court ruling which affirmed the legality of TICHK's directive that travel agents should make payment of service remunerations to tourist guides assigned by them to receive Mainland inbound tours. He was of the view that such an arrangement helped ensure the service quality of tourist guides by preventing them from engaging in coerced shopping for commissions. He considered that, by clearly stipulating an employment relationship between travel agents and tourist guides in the new legislation, it would be more favourable for the Administration to regulate the travel trade and for travel agents to provide clear guidelines for tourist guides.</p>	

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015036 – 015339	Chairman Mr SHIU Ka-fai	<p>Mr SHIU Ka-fai considered that the engagement of freelance tourist guides would provide greater flexibility to travel agents, in particular those small and medium-sized and micro-enterprises. These travel agents might be driven out of the market if they were forced to employ tourist guides on permanent terms. Mr SHIU opined that it would be unfavourable for frontline practitioners of the travel industry if the market was dominated by a few large travel agents.</p> <p>As regards criminalizing certain trade misconduct under the Bill, Mr SHIU urged the Administration to give thought to protecting the interest of frontline practitioners who mainly followed travel agents' instructions whilst working.</p>	
015340 – 015645	Chairman Mr Paul TSE	<p>Mr Paul TSE expressed the following views at the meeting –</p> <ul style="list-style-type: none"> <li>(a) he cast doubt on the effectiveness of the Administration in regulating on-line travel agents under the new regulatory regime;</li> <li>(b) he urged the travel trade to take note of the criminal acts, the conduct of which was not criminal at present, in the Bill;</li> <li>(c) the new legislation might have a great impact on travel agents and frontline practitioners who served Mainland inbound tour groups, since most criminal acts in the Bill were related to inbound travel business; and</li> <li>(d) the Administration should strike a balance between regulating the travel trade and safeguarding the livelihood of practitioners concerned.</li> </ul>	
015646 – 020019	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai was worried that the operation of on-line travel agents and development of such in future would be undermined by the new regulatory regime. The Administration should take into consideration the future development of on-line travel business when regulating the travel industry.</p> <p>The Chairman advised that due to inadequate discussion time, the Administration would reply to the matters raised by members at the next meeting.</p> <p>The Chairman requested the Administration to provide a written response to the</p>	The Administration

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		deputations'/individuals' written submissions received and views expressed at the meeting.	to follow up as per paragraph 5 of the minutes
<b>Agenda item II – Any other business</b>			
020020 – 020126	Chairman	Concluding remarks  Date of next meeting	

Council Business Division 4  
Legislative Council Secretariat  
27 June 2017