

**立法會**  
**Legislative Council**

LC Paper No. CB(4)511/17-18  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/5/16

**Bills Committee on Travel Industry Bill**

**Minutes of the fifth meeting held on  
Friday, 27 October 2017, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon YIU Si-wing, BBS (Chairman)  
Hon LUK Chung-hung (Deputy Chairman)  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon WU Chi-wai, MH  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, 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  
Hon HO Kai-ming  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon LAU Kwok-fan, MH

**Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Dr Hon Junius HO Kwan-yiu, JP

**Public Officers attending** : Agenda item I  
Commerce and Economic Development Bureau

Mr Aaron LIU  
Deputy Commissioner for Tourism

Mr Nicky NG  
Assistant Commissioner for Tourism 1 (Acting)

Mr Brendan AU  
Registrar of Travel Agents

Department of Justice

Mr Michael LAM  
Senior Assistant Law Draftsman (I)1

Mr Jonathan LUK  
Government Counsel

**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

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**I. Meeting with the Administration**

[File Ref.: TC CR T1 22/2/26/3, LC Paper Nos. LS48/16-17, CB(3)393/16-17, CB(4)74/17-18(01), CB(4)104/17-18(01), CB(4)1101/16-17(02), CB(4)1120/16-17(01), CB(4)1221/16-17(01), CB(4)1333/16-17(01) to (04), CB(4)1578/16-17(01) and CB(4)792/16-17(01) to (02)]

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Declaration of interests

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

Discussion

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

(At 12:45 pm, the Chairman directed that the meeting be extended for 15 minutes.)

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide a written response in respect of the following issues –

- (a) whether travel agents would be required under the Bill to procure travel insurance to protect outbound tour participants of one-day tours which were not covered by the protection under the Travel Industry Compensation Fund;
- (b) whether suitable provisions would be included in the Bill to specify in detail the composition of the Travel Industry Authority ("TIA") including the number of representatives of travel agents, tourist guides and tour escorts;
- (c) the mechanism and effectiveness of tackling the impact brought by the operation of inbound tour group business on the local neighbourhood through the implementation of administrative guidelines issued by TIA;
- (d) the breakdown of expenditure in the estimated budget for TIA, including staff expenses and rental expenditure, and investment income generated from the seed money;
- (e) the funding arrangement in the event of waiver of licence fees payable by travel agents to TIA so as to provide financial relief to the travel trade;
- (f) whether travel agents were allowed to charge participants of outbound tours the amount of the levy that the travel agents should pay to the

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Travel Industry Council of Hong Kong or TIA in respect of every outbound fare received by them; and

- (g) the criteria for prosecution of unlicensed operation of travel agents under the Bill vis-à-vis the existing Travel Agents Ordinance (Cap. 218) (i.e. the judgment of *HKSAR v. CHU Lai-ming Kathy* (HCMA 355/2013)).

*(Post-meeting note: The Administration's written response for the above items was issued to members vide LC Paper No. CB(4)257/17-18(01) on 22 November 2017.)*

**II. Any other business**

4. The Chairman advised that the next meeting of the Bills Committee would be held on Tuesday, 21 November 2017 at 4:30 pm.

*(Post-meeting note: The meeting on 21 November 2017 was subsequently rescheduled to 24 November 2017.)*

5. There being no other business, the meeting ended at 1:00 pm.

Council Business Division 4  
Legislative Council Secretariat  
19 January 2018

**Proceedings of the fifth meeting of  
the Bills Committee on Travel Industry Bill  
on Friday, 27 October 2017, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000749 – 000819	Chairman	Opening remarks	
000820 – 000906	Chairman	Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
000907 – 001818	Chairman Administration	Briefing by the Administration on its response to Assistant Legal Adviser's letter dated 25 October 2017 [LC Paper No. CB(4)1578/16-17(01)]	
001819 – 002523	Chairman Deputy Chairman Administration	<p>Discussion on matters relating to insurance protection for tourist guides and tour escorts</p> <p>The Deputy Chairman did not subscribe to the Administration's explanation, and indicated his intention to propose Committee stage amendments on this subject.</p> <p>The Deputy Chairman also raised concern that many short-haul outbound tour groups that assembled and dissembled outside Hong Kong were not accompanied by tour escorts. To safeguard the interests of these travellers, he suggested that travel agents be required to deploy a tour escort for every outbound tour group, or to state whether tour escort service was provided in the promotion materials of travel agents.</p>	
002524 – 003120	Chairman Mr Martin LIAO Administration	<p>On Government's provision of a one-off capital grant as seed money for the initial operation of the Travel Industry Authority ("TIA"), Mr Martin LIAO was concerned whether the Administration would provide extra funding when TIA could not make both ends meet after initial operation. Noting that the current level of levy on outbound fares was much higher than that of the registration fees on inbound tour groups from the Mainland, he enquired how would TIA manage such imbalance and allocate its resources in respect of the regulation of inbound/outbound travel activities.</p> <p>The Administration responded that based on the analysis conducted with the consultant, TIA would be able to cope with its daily operation and achieve a self-financing status in the long run. Nevertheless, the Administration might consider the need to allocate extra funding to TIA and seek the approval by the Legislative Council when necessary.</p>	

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		<p>On matters relating to the levy and registration fees, the Administration advised that the registration fee charged on each Mainland inbound tour group was only \$30 at present, i.e. the per-head fee was about \$0.75 for a tour group of 40 participants. As for outbound tour levies, the Travel Industry Council of Hong Kong ("TICHK") collected from travel agents Council levies at a rate of 0.15% based on each outbound fare received by the travel agents at present, i.e. the per-head levy was about \$5 for an outbound tour group fee of about \$3,330 per member. As compared with the outbound tour levy, the registration fee on inbound tour groups from the Mainland was relatively low, with room for upward adjustment. Therefore, the Administration proposed increasing the level of the registration fees since the first year upon TIA's full operation under an incremental approach whilst at the same time taking into account the affordability of the trade.</p> <p>Mr LIAO requested the Administration to provide a written response on whether travel agents would be required under the Bill to procure travel insurance to protect outbound tour participants of one-day tours which were not covered by the protection under the Travel Industry Compensation Fund ("TICF").</p>	<p>The Administration to follow up as per paragraph 3(a) of the minutes</p>
003121 – 003903	Chairman Dr CHIANG Lai-wan Administration	<p>Dr CHIANG Lai-wan expressed concern if the Bill put more emphasis on regulating the operation of inbound tour groups. She considered that the regulation of outbound travel agents was equally important and enquired how outbound travellers would be protected under the Bill.</p> <p>The Administration stressed that the development of the outbound travel market had been relatively mature with effective protection in place for outbound travellers. For example, under the levy system, an outbound traveller was subject to protection by TICF if the traveller had paid to a licensed travel agent for any two or more of travel services or arrangements, namely (a) carriage from Hong Kong to places outside Hong Kong, (b) accommodation outside Hong Kong, and (c) arrangements for an activity outside Hong Kong by the travel agent. Under TICF protection, this traveller might claim an ex gratia payment equivalent to 90% of the loss of outbound fares, and reimbursement up to \$300,000 in ex gratia payment of expenses incurred in the place of accident, in cases of injury or death in an accident during an outbound activity provided or arranged by the travel agent.</p> <p>On Dr CHIANG's suggestion of adding a provision to the Bill similar to Clause 152(b) to regulate the shops that outbound tour groups were arranged to patronize, the</p>	

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		Administration said that it would be difficult to enforce such a provision since the shops were located in other jurisdictions. The Bill sought to provide for balanced regulation of travel agents carrying on outbound and inbound travel business activities through the implementation of a licensing system and administrative measures.	
003904 – 004503	Chairman Mr POON Siu-ping Administration	Discussion on matters relating to the "false self-employment" problem in the travel industry and insurance protection for tourist guides and tour escorts	
004504 – 005037	Chairman Mr Holden CHOW Administration	<p>Discussion on measures to address the delay in or lack of reimbursement of payments by travel agents to tourist guides/tour escorts</p> <p>Mr Holden CHOW also suggested that the Administration should subsidize the training for tourist guides/tour escorts to enhance the service quality of the industry.</p> <p>The Administration said that TICHK had been in liaison with the Education Bureau in preparation for the design of a Qualifications Framework for the travel industry. In addition, the Government had allocated \$5 million in the 2017-2018 Budget to subsidize, through TICHK, the training of tourism industry members (including staff of travel agents, tourist guides and tour escorts) for enhancing the service quality of the industry, which could cover tourist guides' knowledge of new tourist attractions in Hong Kong.</p>	
005038 – 005820	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai said that there were diverse views among travel agents, tourist guides and tour escorts in relation to certain issues of the Bill. To ensure a balanced representation of stakeholders in TIA, he considered it necessary to specify in the Bill, as in the case of the arrangements for the Medical Council of Hong Kong under the Medical Registration Ordinance (Cap. 161), the detailed composition of TIA, including the numbers of representatives of travel agents, tourist guides and tour escorts. He also considered that the proportion of representatives of travel agents, tourist guides and tour escorts in TIA was crucial since it would have a bearing on the decision-making of TIA and interests of stakeholders.</p> <p>The Administration replied that while travel agents, tourist guides and tour escorts as well as non-trade members would be represented in TIA, the Bill did not further specify a breakdown of trade or non-trade members by background to provide for flexibility in the Government's appointment of suitable members to TIA.</p>	

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		<p>The Chairman said that to ensure the fairness of the appointment process and the protection of consumers' interests under the new regulatory regime, the composition of TIA should be specified in detail in the Bill. The Administration was requested to provide a written response on this matter.</p>	<p>The Administration to follow up as per paragraph 3(b) of the minutes</p>
005821 – 010633	<p>Chairman Ms Starry LEE Administration</p>	<p>Ms Starry LEE urged the Administration to take forward proposals such as empowering TIA to conduct investigation into repeated complaints about inbound tour groups causing nuisance to the neighbourhood, and introducing a demerit point system for travel agents carrying on inbound tour group business, with a view to ensuring that the travel agents concerned would duly address the issues.</p> <p>The Administration said that the Government had been exploring various measures to tackle traffic congestion caused by coaches, such as increasing the number of temporary metered coach parking sites. In future, TIA could consider issuing suitable administrative measures for travel agents to observe.</p> <p>Ms Starry LEE considered the measures implemented by the Administration ineffective in tackling the problems brought about by inbound tour groups to the local community. The Administration was requested to provide written information on the mechanism and effectiveness of tackling the relevant impact through the implementation of administrative guidelines issued by TIA.</p>	<p>The Administration to follow up as per paragraph 3(c) of the minutes</p>
010634 – 011257	<p>Chairman Mr CHAN Chi-chuen Administration</p>	<p>Referring to Clause 152(b) of the Bill, Mr CHAN Chi-chuen asked about the justification for TIA having more power to regulate the activities in relation to inbound tour groups than outbound tour groups.</p> <p>The Administration explained that the provision of Clause 152(b) was only practicable for the operation of inbound tour groups. The Bill sought to provide for balanced regulation of outbound and inbound travel business activities. As the current regulatory regime by TICHK on the outbound travel market was well-developed and effective, TIA would make reference to TICHK's regulation in future.</p> <p>Mr CHAN enquired further about the application of the Bill on outbound tour groups assembling and disassembling in the Mainland. Since some of these groups were not accompanied by tour escorts, he was concerned if the safety of such tour participants and the service quality of such outbound tours could be</p>	



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		<p>safeguarded by the Bill.</p> <p>The Administration explained that if the said outbound tour was organized by a Hong Kong travel agent, the relevant travel activities would be subject to the regulation under the Bill even though the participants assembled and disassembled outside Hong Kong. Under the existing regulatory regime, there was no requirement for every outbound tour to be accompanied by a tour escort. The provision of tour escort services was market decision to meet individual customers' needs and mandating the provision of such services might give rise to cost implications on outbound tour fees.</p>	
011258 – 012632	Chairman Administration	<p>Briefing by the Administration on the financial arrangements for TIA [LC Paper No. CB(4)104/17-18(01)]</p> <p>The Chairman noted that the aggregated operating expenditure of the Travel Agents Registry ("TAR") and TICHK was about \$50 million per year at present, and the estimated operating expenditure of TIA was about \$65 million. As regards the adequacy of the seed money to support TIA's initial operation, he enquired whether the Administration had taken into account inflation, office rentals, and increase in staff expenses as a result of more staff to be recruited by TIA as compared with TICHK cum TAR when projecting TIA's expenditure.</p> <p>The Administration replied that it, in co-operation with a professional consultant, had adopted a prudent approach and made reference to experience of other statutory bodies such as the Insurance Authority when preparing TIA's budget, and that the estimated expenditure had included all relevant items..</p> <p>The Chairman requested the Administration to provide written information about the breakdown of expenditure in TIA's budget, including staff expenses and rental expenditure, and investment income generated from the seed money.</p>	The Administration to follow up as per paragraph 3(d) of the minutes
012633 – 013541	Chairman Mr MA Fung-kwok Administration	Referring to the regulation of on-line travel agents under the new regime, Mr MA Fung-kwok considered it difficult to ascertain whether the travel business activities marketed on-line were targeted at the public of Hong Kong. Noting that TIA would seek the assistance of the China National Tourism Association ("CNTA") as appropriate in regulating on-line travel agents carrying on business in the Mainland, he cast doubt on the kind of assistance that could be sought. He suggested that TIA should adopt the approach of positive or negative listings of travel agents to facilitate public's selection of licensed	

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		<p>on-line travel agents.</p> <p>The Administration explained that TIA would seek the assistance of CNTA or relevant tourism authorities as appropriate to deal with on-line travel agents carrying on business outside Hong Kong that were considered necessary to obtain a licence under the Bill. TIA might also explore the opportunities to enter into memoranda of understanding with these authorities to strengthen collaboration on matters including mutual exchange of information. To strengthen consumer education, TIA would also publish up-to-date lists of licensed travel agents (no matter operating on-line or with physical presence) from time to time to assist local consumers in ascertaining and choosing licensed travel agents under the new ordinance.</p> <p>Mr MA remained concerned as some proper on-line travel agents carrying on business outside Hong Kong might opt to be unlicensed under the Bill to avoid depositing the required guarantee money with TIA. Seeking assistance from CNTA or overseas tourism authorities might not be effective.</p> <p>The Administration said that it had made reference to other pieces of legislation, such as the Securities and Futures Ordinance (Cap. 571), in determining the application of the Bill in respect of travel agents carrying on business outside Hong Kong. Although there might be challenges in enforcement, it was noted that some major on-line travel agents had already obtained travel agent licences under the existing regulatory regime.</p>	
013542 – 014222	Chairman Mr HO Kai-ming Administration	<p>Mr HO Kai-ming raised concern that many short-haul outbound tours travelling from Hong Kong to the Mainland were currently not accompanied by tour escorts. Such an arrangement would not only affect the livelihood of tour escorts, but would also pose risks to the safety of tour participants, especially during emergencies. He suggested that provisions should be added to the Bill to mandate each outbound tour to be accompanied by a tour escort.</p> <p>The Administration replied that the travel trade had not reached any consensus on whether every outbound tour should be accompanied by a tour escort. In fact, consumers had different preferences in respect of outbound tour service and fare level. To enhance travellers' awareness of whether an outbound tour would be accompanied by a tour escort, TIA would consider requiring travel agents to specify such information in related promotion materials.</p>	

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		<p>Mr HO pointed out that although consumers were more concerned about the fare level, the Government should duly protect the interests of travellers and impose suitable requirements on travel agents when necessary. He considered that statutory requirements should be introduced to require, for example, an outbound tour group that attained a certain number of participants be accompanied by a tour escort.</p> <p>The Administration said that apart from the tour escort, tour participants might seek help from the tourist guide who accompanied the group during the journey. In case of emergencies, the Government would also provide suitable assistance to the tour group through its relevant offices in the Mainland and the Immigration Department.</p>	
014223 – 015101	Chairman Mr POON Siu-ping Administration	<p>Mr POON Siu-ping raised concern about the estimated expenditure of TIA on rental and staff costs. Given that TIA would be empowered to discharge a more comprehensive set of statutory regulatory functions and that the aggregated staff number of TAR and TICHK was already 87, he considered that the total staff number of TIA should be more than 90 as estimated in TIA's budget.</p> <p>The Administration explained that some of TICHK's current posts, such as those for providing membership services, were not applicable under TIA's structure, and that the administrative functions of TAR and TICHK needed not be duplicated under TIA's structure. Therefore, in addition to the new posts added for discharging new functions, TIA would require about 90 staff members in total.</p> <p>Mr POON also noted that over the past 20 years, the Government had waived the fees related to travel agent licences four times. He raised concern about the financial impact posed on TIA if such licence fees payable by travel agents to TIA were waived again in future.</p> <p>The Administration responded that the fee concessions were one-off measures no matter under the existing or new regulatory regime. It would provide written information on this subject after the meeting.</p>	The Administration to follow up as per paragraph 3(e) of the minutes
015102 – 020128	Chairman Administration	The Chairman was concerned about the arrangement of levy payment under the Bill, where travel agents were required to pay a levy to TIA in respect of the outbound fare received in relation to an outbound package, i.e. a combination of two or more of the outbound travel services or arrangements "relating to the same tour". He considered the arrangement impractical as travel agents	

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		<p>would have difficulties in ascertaining whether travellers were buying the outbound travel services or arrangements "relating to the same tour", especially if the services were bought on different dates, at different branches of the travel agents or through the on-line platforms of the travel agents. In addition, although consumers might claim that they had bought another service for the same tour from the travel agent, it was sometimes impossible for the latter to verify the claim. This was particularly the case where cross-boundary ferry and bus tickets did not bear the names of the travellers and where reservations for hotel rooms might only show one guest's name. He suggested that the scope could be narrowed to cover outbound fares received by travel agents in relation to two or more of the services and/or arrangements received "in a single transaction".</p> <p>The Administration explained that outbound travellers with receipts showing the payment of the outbound fare and the levy were protected by TICF. The Administration considered that the Chairperson's suggestion would weaken the protection for outbound travellers and become a retrogressive move. To resolve this matter, consumers purchasing another outbound travel service or arrangement at a different time for the same tour would be required to present the relevant receipt of the outbound travel service or arrangement previously bought as proof, such that the travel agents concerned could frank the receipts concerned to accord TICF protection to the consumers. The Administration would review this matter further with the travel trade.</p> <p>Meeting extension</p> <p>In response to the Chairman's concern about the difficulty in recognizing a travel agent whose trade name was different from its company name, the Administration explained that it had all along been emphasizing to the public the need to check the licence number instead of the trade/company name of a travel agent, and that TIA would continue public education on this front.</p> <p>The Administration was also requested to provide written response on whether travel agents were allowed to charge participants of outbound tours the amount of the levy payable by the travel agents to TICHK and TIA in respect of every outbound fare received by them under the existing and new regulatory regimes respectively.</p>	<p>The Administration to follow up as per paragraph 3(f) of the minutes</p>
020129 – 021803	Chairman Administration	<p>The Chairman raised further concerns on –</p> <p>(a) the meaning of "carrying on travel agent business"</p>	

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		<p>under the Bill. He considered that the definition under the Bill was not consistent with the judgment of <i>HKSAR v CHU Lai-ming Kathy</i> (HCMA 355/2013, [2014] 1 HKLRD 1033). Outbound tours arranged by district councillors or religious groups might fall outside the new regulatory scope, and the tour participants concerned would not be protected by the Bill;</p> <p>(b) the criteria for determining whether accommodation was provided on board for a means of transport, considering that cruise trips were considered to come with on-board accommodation outside Hong Kong at present. This would affect the levy payment made by travel agents;</p> <p>(c) the measures to be adopted by TIA to expedite the processing of complaints; and</p> <p>(d) the future mechanism to deal with emergencies involving inbound and outbound tour groups.</p> <p>The Administration responded that –</p> <p>(a) in determining whether a business activity was ancillary to a person's principal business, TIA must have regard to all relevant matters. This was consistent with the judgement of HCMA 355/2013, [2014] 1 HKLRD 1033;</p> <p>(b) although there was no definition on accommodation, consideration could be given to whether a separated room was provided on board, the duration of stay on board, availability of any facilities ancillary to the accommodation service, etc. Having regard to all relevant factors, and subject to the development of outbound travel products in future, it was considered that accommodation was included in a cruise trip, but not in an aircraft service or train service on the Guangzhou-Shenzhen-Hong Kong Express Rail Link;</p> <p>(c) in comparison with TICHK's arrangement where the quorum for panel meetings to handle cases of suspected violations was five members, the minimum number of members to form an inquiry committee was three only under the Bill. This would facilitate the arrangement of inquiry proceedings to handle disciplinary cases and expedite the process;</p> <p>(d) it was expected that TIA would collaborate with the trade in handling emergencies involving inbound and outbound tour groups. TIA might engage a service</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>provider to deal with such emergencies, having regard to its experience in and connection with the trade so as to discharge its functions effectively.</p> <p>The Chairman also requested the Administration to provide written information on the criteria for prosecution of unlicensed operation of travel agents under the Bill vis-à-vis the Travel Agents Ordinance (Cap. 218) at present in view of the judgment of HCMA 355/2013.</p>	<p>The Administration to follow up as per paragraph 3(g) of the minutes</p>
<b>Agenda item II – Any other business</b>			
021804 – 022002	Chairman Mr WU Chi-wai Administration	Date of next meeting  Closing remarks	