



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2801 4458)

25 May 2017

Mr LEE Lik Kong, Eddie
Asst Comr for Tourism 1
Commerce and Economic Development Bureau
22/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Mr LEE,

Re: Travel Industry Bill

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects. I would like to seek information/clarification on the following matters.

A. Comparison with existing regulatory regime

It is noted from the Legislative Council ("LegCo") Brief that the Bill has adapted certain licensing requirements from the Travel Agent Ordinance (Cap. 218) as well as from existing regulatory requirements imposed by the Travel Industry Council ("TIC") of Hong Kong. To assist members of the Bills Committee in understanding the regulatory regime proposed under the Bill, please set out (in the tabular form as suggested in **Annex**) proposed provisions/requirements under the Bill which are:

- (a) adapted from existing provisions/requirements in Cap. 218 or its subsidiary legislation;
- (b) adapted from the existing requirements imposed by TIC through its codes of conduct, directives or guidelines etc.; and
- (c) newly proposed under the Bill.

B. Regulation of unscrupulous acts in the travel trade

According to paragraph 6 of the LegCo Brief, the proposed new regulatory regime will regulate the activities of the travel trade against unscrupulous acts or practices from three aspects, namely:

- (a) primary legislation (e.g. criminalize certain acts including carrying on travel agent business without a licence, employing or engaging any unlicensed tourist guide or tour escort, failing to display prescribed information about a tour group);
- (b) subsidiary legislation (e.g. licence conditions against coerced shopping); and
- (c) directives, codes of conduct and guidelines to be administratively formulated and issued by the Travel Industry Authority ("TIA") (e.g. directives to require a travel agent to sign a service agreement with its tourist guides/tour escorts).

Contravention of above three types of prohibitions will be subject to different levels of criminal penalties and/or disciplinary orders. Accordingly, please let us know the factors which have been respectively taken into consideration in regulating certain unscrupulous acts or practices through primary legislation, subsidiary legislation or administrative directives.

It is also noted in clause 152 of the Bill that TIA is empowered to regulate the shops that inbound tour groups are arranged to patronize in relation to that patronage. It seems that such power may go beyond the scope of the bill as set out in the long title of the Bill, which mainly seeks to regulate the activities of the travel agents, tourist guides and tour escorts. Please clarify. Furthermore, please let us know the proposed ways to exercise such power over the relevant shops.

C. Existing subsidiary legislation made under Cap. 218

There are eight pieces of subsidiary legislation made under Cap. 218, namely:

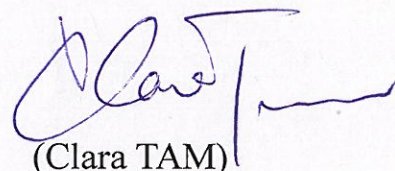
- (a) Travel Agents Regulations (Cap. 218A);
- (b) Travel Agents Ordinance (Specified Date) Notice (Cap. 218B);
- (c) Travel Agents Ordinance (Specification of Council Levy) Notice (Cap. 218C);
- (d) Travel Agents Ordinance (Specification of Fund Levy) Notice (Cap. 218D);

- (e) Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) Rules (Cap. 218E);
- (f) Travel Industry Compensation Fund (Procedure for Ex gratia Payments) Rules (Cap. 218F);
- (g) Travel Agents (Fee Concessions) Regulation 2015 (Cap. 218G); and
- (h) Travel Agents (Fee Concessions) Regulation 2016 (Cap. 218H).

Part 3 of Schedule 11 to the Bill proposes to repeal Cap. 218. By virtue of section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), the subsidiary legislation made under Cap. 218 will be repealed upon the commencement of the Travel Industry Ordinance (if enacted). Would you please let the members know whether new subsidiary legislation made under Cap. 218 will be made to replace each of the existing subsidiary legislation? If the answer is in affirmative, please let us know the contents of the subsidiary legislation to be made and the relevant legislative timetable.

I would be grateful if you would let me have your response in bilingual form at your earliest convenience, preferably **before 6 June 2017**.

Yours sincerely,



(Clara TAM)

Assistant Legal Adviser

Encl.

cc. DoJ (Attn: Mr Michael LAM & Mr Jonathan LUK (By Fax: 3918 4613))
Clerk to Bills Committee

Travel Industry Bill

Comparison with existing regulatory regime

	Requirements/ provisions modelled on Cap. 218 or its subsidiary legislation (please specify relevant provisions)	Requirements adapted from existing TIC's regulatory requirements (please specify relevant directives/codes of conduct, etc.)	New requirements under the Bill
Interpretation of key terms (e.g. outbound travel service, travel agent business, controller)			
Licensing requirements for travel agents (e.g. capital requirement, factors for considering whether applicant is suitable to hold licence)			
Licensing requirements for tourist guides and tour escorts (e.g. requirements for issue and renewal of licence as to age, education level, completion of training courses, and passing of the examination)			
Inspection, investigation and disciplinary mechanism (e.g. grounds for suspending or revoking a licence)			
Administration of Travel Industry Compensation Fund and levies			
Appeal mechanism			
Keeping of register, inspection and copying of register			
(Others)			