

**Government's Response to the Matters raised
at the Meeting of Bills Committee on Travel Industry Bill
held on 2 March 2018**

Purpose

This paper sets out the Government's response to the matters raised at the meeting of the Bills Committee on Travel Industry Bill (the Bill) held on 2 March 2018.

Registration Fee of Mainland Inbound Tour Groups (clause 33)

2. Some Members asked about the policy intent of the Bill in targeting Mainland inbound tour groups in collecting registration fees. As we have pointed out at various meetings before, one of the key policy objectives of the Bill is to combat unscrupulous acts in the trade to protect the interests of tourists. Over the years, there have been incidents involving Mainland inbound tour group business, some of which have even involved injuries and deaths, reflecting the subpar conditions of carrying on such business and also seriously tarnishing the image and reputation of Hong Kong's tourism industry. Furthermore, out of the complaints relating to inbound tour groups handled by the Travel Industry Council of Hong Kong (TIC) in recent years, an overwhelming majority¹ involved Mainland inbound tour groups and drained a large amount of TIC's resources in follow-up. In the light of the above, the Government needs to introduce targeted measures into the Bill to strengthen the regulation of the Mainland inbound tour group market and, with reference made to TIC's current arrangement, empower the Travel Industry Authority (TIA) to require licensed travel agents carrying on Mainland inbound tour group business to pay Mainland inbound tour group registration fees. The registration fees will be prescribed by TIA through subsidiary legislation.

Change of Ownership or Control (clause 34)

3. A Member at the meeting suggested amending clause 34 such that it only applies to licensed travel agents that intentionally change, or permit a change of, the ownership or control of its business as a travel agent without

¹ From 2011 to 2017, over 95% of complaints relating to inbound tour groups were concerned with Mainland inbound tour groups.

TIA's prior approval, and does not apply to those with a genuine need for a temporary or short-term change of the ownership or control. We consider that, having regard to the relevant parts of the Bill in context (including the wording of clause 34(1) and the definition of "controller" in clause 2(3)), it is impossible for a licensed travel agent to change, or permit a change of, the ownership or control of its travel agent business without knowledge of such a change. The offence in clause 34(1) is clearly targeted at licensed travel agents that knowingly make the abovementioned change.

4. In fact, clause 34 of the Bill stems from sections 16(1) and 48(2) of the Travel Agents Ordinance (Cap. 218). Under section 16(1), a licensed travel agent shall not change or permit any change of ownership or control of his business as a travel agent without obtaining prior approval in writing from the Registrar of Travel Agents; and under section 48(2), any licensee who contravenes section 16(1) commits an offence and is liable to a fine of \$10,000. At present, licensed travel agents are required all along to observe this prevailing requirement, which has been effectively implemented. We consider it appropriate to continue adopting the relevant provisions in the Bill.

Display of Travel Agent Licence (clause 36)

5. A Member at the meeting asked whether, in cases where licensed travel agents carry on business in premises not open to the public (e.g. in a back office), but may occasionally request customers to come up for administrative dealings on a need basis, the licences have to be displayed at such premises. As we pointed out in paragraphs 6 to 7 of LC Paper No. (4)468/17-18(02), only licensed travel agents that choose to carry on business in Hong Kong and in the premises open to the public will be required to display licences in the premises concerned, such that the public can identify their status of being licensed. For licensed travel agents that do not choose to carry on business in premises open to the public (e.g. through a website or any other electronic means in a back office), the requirement to display licences in premises will not be applicable; merely requesting customers to come to back offices for administrative dealings will not automatically render the premises concerned open to the public.

Display of Information about Tour Group (clause 37)

6. A Member at the meeting suggested that the Government consider spelling out the proposed scope of the clause more clearly. Under

clause 37(1), if a licensed travel agent arranges a vehicle for transporting a tour group, it must display, in the prescribed way, the prescribed information about the tour group on the vehicle. As we pointed out at the meeting, this clause aims to assist participants of inbound and outbound tour groups (interpreted according to the literal meanings), as well as inspectors and investigators of TIA, in identifying the vehicles arranged by licensed travel agents for transporting the participants in Hong Kong. We consider that this is a basic and reasonable requirement to receive inbound and outbound tour groups, and can also facilitate the regulatory work of TIA. The information to be displayed, and the way in which the information is to be displayed, will be prescribed by TIA through subsidiary legislation. When formulating the requirements, TIA will make reference to the relevant requirements of TIC, which have been effectively implemented all along², and consult the trade and other stakeholders.

Chinese Version of “a valid certificate of competency in first aid, or another similar certificate, issued by an institution specified by the Authority” (clauses 43(2)(a)(iv) and 47(2)(a)(iii))

7. Having regard to the views given by the Assistant Legal Adviser at the meeting, we will amend the Chinese text of clauses 43(2)(a)(iv) and 47(2)(a)(iii) by changing “申請人持有該局指明的機構發出的有效急救技能證書，或其他類似證明書” to “申請人持有有效急救技能證書或其他類似證明書，而該證書或證明書是由該局指明的機構發出的”。

**Tourism Commission
Commerce and Economic Development Bureau
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² Under the relevant requirements of TIC at present, when receiving inbound visitors, travel agents are required to display on coaches their licence numbers; if the inbound visitors are Mainland inbound tour groups, the travel agents are required to display on coaches the tour numbers as well.