

**Government's Response to the Matters raised
at the Meeting of Bills Committee on Travel Industry Bill
held on 9 October 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 9 October 2018.

Regulating Shops to which Inbound Tour Groups are Arranged to Patronise

2. Hon Starry LEE enquired at the meeting about the measures implemented by the Government and relevant organisations to minimise the impact of the activities of inbound tour groups on the community before the full commencement of the new regulatory regime.

3. The Government is deeply concerned about the inconvenience caused by inbound tour groups to the community, and all along works closely with the travel trade to minimise such impact through various targeted measures, including encouraging coaches to use legal parking spaces, urging the trade to maintain order when receiving tour groups and leveraging on information technology to strengthen visitor and vehicular flow control, etc. From time to time, the Travel Industry Council of Hong Kong ("TIC") also conducts on-site inspections, as well as issues circulars to and holds talks for the trade to appeal for their proper management of tour groups.

4. In response to the concerns of Hon Starry LEE, the Commerce and Economic Development Bureau, TIC and relevant trade practitioners, members of the Legislative Council (including Hon YIU Si-wing and Hon Starry LEE) and Kowloon City District Councilors held a meeting in May this year to discuss relevant matters. In the past few months, the Government, together with TIC and other relevant stakeholders, has also proactively strengthened measures adopted, including:

- (a) In the 3rd quarter of 2018 alone, TIC has already conducted 5 on-site inspections to affected areas to better understand the problems faced by the districts. TIC has also written to 4 tourist guide associations and issued a total of 8 circulars and short text messages to travel agents/tourist guides/shops, separately urging the trade practitioners to make orderly arrangement when

receiving inbound tour groups, so as to collaboratively minimise the impact brought about by tour groups to the community;

- (b) the Committee on Shopping-related Practices of TIC has set up a Task Force to explore ways to alleviate the impact brought about by inbound tour groups to Kowloon City district. The Task Force had a meeting with the “Working Group on Concern about the Problems Caused by Coaches in the District” of the Kowloon City District Council to gather views of the local community in August. To explore further measures, the Task Force also met with the representatives of the shops in the district in September to reflect and follow up on their views;
- (c) on tackling congestion caused by coaches, the Police issued nearly 1 600 traffic summons against coaches in Kowloon City district in the first three quarters of 2018, which is 97% of the annual total of 2017. In respect of illegal coach parking in Kowloon City district, the Police has been conducting targeted specific operations, and the frequency of operations has been increased from once a month to twice a month from July 2018 onwards;
- (d) the Tourism Commission, Transport Department and other relevant departments have also been promoting the use of legal coach parking spaces through exploring and introducing different measures, which includes providing an additional run-in/out to the car park on short-term tenancy at the junction of Bailey Street and Sung Ping Street to facilitate the access of tour coaches from Chi Kiang Street, with a view to heightening coaches’ incentive of using the car park; and
- (e) the travel trade has also introduced measures to mitigate the congestion, which include: a trade organisation involving inbound travel market launched a pilot scheme from June to August 2018 to provide subsidies to tour coaches transporting tourists to jewelry shops at Man Lok Street, so as to encourage them to use the car park at the junction of Bailey Street and Sung Ping Street; and a key operator of inbound tour groups has, after negotiating with the operator of a car park in Hung Hom, come up with the offer of additional parking cards, such that other tour coaches can park temporarily at the 10 parking spaces of that operator, with a view to preventing the tour coaches from occupying the roads.

5. We expect that the Travel Industry Authority (“the Authority”), upon its full operation, can strengthen regulation on various fronts. We will, in response to the request of Hon Starry LEE, propose to the Authority to conduct on-site inspection before registering a shop to which inbound tour groups are arranged to patronise, with a view to ensuring that the premise is suitable for receiving tourists, or that appropriate visitor and vehicular flow control measures have been put in place. We will also recommend the Authority deploy more manpower to conduct on-site inspections in affected areas, as well as formulate suitable administrative measures against licensees or shops that are not amenable to repeated advice and willfully undertakes poor management in arranging inbound tour groups to visit shops and restaurants in a non-co-operative manner, with actions (e.g. disciplinary orders, issuance of warning letters and imposition of demerit points) to be taken after investigations and relevant proceedings. If there remains no improvement to the community’s situation over time, we will also request the Authority to, when formulating the requirements and details of the administrative scheme (e.g. devising a mechanism for assessing the visitor and vehicular flow), take into account fully all relevant circumstances, including the prevailing industry development, TIC’s regulatory experience and different stakeholders’ views, etc. Any travel agent that violates the administrative measures will be subject to disciplinary actions taken by the Authority (including imposition of demerit points, financial penalty and suspension of license, etc.). The Authority can also refuse to register shops that violate the administrative measures.

Ways of Serving Notices or Summonses

6. A Member suggested amending clause 167 of the Bill with a view to clarifying under what circumstances should a notice or summons required to be served on a licensee under the Bill be regarded as duly served.

7. According to clauses 7(2)(b) and 42(3)(b) of the Bill, any person applying for a license from the Authority must provide his or her correspondence address and electronic mail address. This implies that each and every licensee should have a correspondence address and electronic mail address known by the Authority.

8. In the light of the Member’s view, we will further amend clause 167 of the Bill, such that a notice or summons to a licensee can only be regarded as duly served when left at or sent by post to the licensee’s correspondence address **and** sent by electronic means to the licensee’s electronic mail address, if not delivered to the licensee personally.

9. Furthermore, for the sake of consistency, we will also make a consequential amendment to clause 167(2), such that a notice or summons to a person other than a licensee can only be regarded as duly served when left at or sent by post to the person's last known address (if available) **and** sent by electronic means to the person's last known electronic mail address (if available), if not delivered to the person personally. The exact amendments made to the clauses as mentioned in paragraph 8 above and this paragraph are shown at the **Annex**.

Guarantee Money Requirement for Application for Travel Agent License Made before the New Ordinance Fully Commences

10. The Chairman enquired that, in the case where a person makes an application for travel agent license to the Registrar of Travel Agents, but the application has yet to be finished processing before the Bill fully commences, whether the person has to, in accordance with the Bill, deposit guarantee money with the Authority upon the Authority's satisfaction with the application and the subsequent issue of a travel agent license and a business permit to him or her.

11. According to clause 4(1) of Division 2 of Part 2 of Schedule 10, for the aforementioned case concerning transitional arrangements, the Authority must determine the application in accordance with the existing Travel Agents Ordinance (Cap. 218), as if the Travel Agents Ordinance (Cap. 218) had not been repealed in accordance with Part 3 of Schedule 11. As the existing Travel Agents Ordinance (Cap. 218) does not require an applicant to deposit guarantee money, the applicant in the aforementioned case is **not** obliged to deposit guarantee money with the Authority established in the future.

Advice Given by Legal Adviser Appointed by Inquiry Committee at Deliberations of the Committee

12. In respect of clause 117 of the Bill, a Member enquired that, in the case where a legal adviser appointed by an inquiry committee advises the committee at deliberations of the committee, whether every party to the inquiry or person representing each party must be informed of that advice.

13. According to clause 105(1)(f) of the Bill, an inquiry committee has the power to appoint a legal adviser to assist and advise the committee on "any question of law as to evidence, procedure or any other matter in relation to the inquiry". As stated in LC Paper CB(4)1063/17-18(02), the

committee's decision-making can be improved and the chance of legal challenges against the decision made can be reduced if parties to an inquiry have an opportunity to address the legal advice given by the legal adviser to the committee. To guarantee the transparency and credibility of an inquiry, if a legal adviser advises the committee on "any question of law as to evidence, procedure or any other matter in relation to the inquiry", clause 117(1) of the Bill should be binding **regardless of occasion**, meaning that the legal adviser must do so in the presence of every party to the inquiry or person representing each party, or that every party to the inquiry or person representing each party must be informed of the advice if the advice is given after the committee has started to deliberate as to its decision. Therefore, if a legal adviser appointed by an inquiry committee advises the committee at deliberations of the committee on "any question of law as to evidence, procedure or any other matter in relation to the inquiry", every party to the inquiry or person representing each party **must be** informed of that advice.

Tourism Commission
Commerce and Economic Development Bureau
October 2018

Travel Industry Bill

Committee Stage

Amendments to be moved by the Secretary for Commerce and Economic
Development

(Updated as at 15 October 2018)

Clause

Amendment Proposed

167

By deleting the clause and substituting—

“167. Service of notices or summonses

- (1) A notice or summons required to be served on a licensee under this Ordinance is to be regarded as duly served if—
 - (a) it is delivered to the licensee personally; or
 - (b) it is—
 - (i) left at, or sent by post to, the licensee’s correspondence address; and
 - (ii) sent by electronic means to the licensee’s electronic mail address.
- (2) A notice or summons required to be served on a person other than a licensee under this Ordinance is to be regarded as duly served if—
 - (a) it is delivered to the person personally; or
 - (b) it is—
 - (i) left at, or sent by post to, the person’s last known address (if available); and
 - (ii) sent by electronic means to the person’s last known electronic mail address (if available).”