

**Government's Response to the Matters raised
at the Meeting of Bills Committee on Travel Industry Bill
held on 6 July 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 6 July 2018.

Scope of "Shops" (clauses 152(b) and 153(2)(j))

2. A Member asked whether "shops" in clauses 152(b) and 153(2)(j) would cover restaurants and places of public entertainment that inbound tour groups are arranged to patronize.

3. As we pointed out in paragraphs 6 and 7 of LC Paper No. CB(4)1578/16-17(01), the Bill has incorporated empowering provisions through clauses 152(b) and 153(2)(j) such that the Travel Industry Authority (TIA) can establish and implement an administrative scheme for regulating shops as designated venues for inbound tour groups to conduct shopping activities.

4. We propose that the target regulated by the administrative scheme be the same as that under the current "Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers" of the Travel Industry Council of Hong Kong (TIC), namely shops that inbound tour groups are arranged to patronize for shopping. As of now, we do not see a need to bring under the future regulation restaurants and places of public entertainment that inbound tour groups are arranged to patronize. That said, when formulating concrete details of the administrative scheme, TIA will take into account all relevant circumstances, including the prevailing industry development, the current scheme and regulatory experience of TIC, views of the travel trade, etc.

Regulation of Assisted Meetings (section 12 in Schedule 9 to the Bill)

5. A Member enquired if there is a need to amend section 12 in Schedule 9 to the Bill to ensure real-time communication between members with distance participation and members actually present at a meeting of TIA.

6. Paragraph 12 of LC Paper No. CB(4)1335/17-18(02) states that section 12(4)(b) in Schedule 9 to the Bill serves to stipulate an in-principle requirement of regulating assisted meetings. So long as members participating in a meeting by telephone, video conference or other electronic means and members being actually present at the meeting can hear each other, the requirement in the above provision is fulfilled. The procedure for convening meetings and for the conduct of business at those meetings will be formulated by TIA under section 10(2) in Schedule 9. In fact, the formulation of section 12(4)(b) in Schedule 9 to the Bill is commonly found in other ordinances, including the Competition Ordinance (Cap. 619) (see section 13(2) in Schedule 5¹), Insurance Ordinance (Cap. 41) (see section 6(b) in Schedule 1B²) and Property Management Services Ordinance (Cap. 626) (see section 9(2) in Schedule 3³). We consider the formulation in the Bill appropriate.

Committees related to Financial Management and Investment Arrangement of TIA

7. A Member enquired whether TIA would establish committees related to financial management to assist it in reviewing statements of accounts, managing and applying the Travel Industry Compensation Fund (TICF), etc. Another Member enquired about TIA's investment arrangement of the seed money.

8. Section 27 in Schedule 9 to the Bill contains empowering provisions such that TIA can establish committees to assist it in handling the matters within the scope of its functions. The scope covers formulation of statement of accounts, as well as management and application of TICF. We envisage that TIA, same as other trade-related statutory regulatory bodies, will establish a standing committee to advise it on affairs related to general financial management, including reviewing annual statements of accounts

¹ The provision reads, "A member who participates in the meeting by telephone, video conferencing or other electronic means is to be regarded as being present at the meeting if (a) that member is able to hear the other members who are actually present at the meeting; and (b) the members who are actually present at the meeting are able to hear that member."

² The provision reads, "A member of the Authority who participates in a meeting of the Authority by telephone, video conferencing or other electronic means is to be regarded as being present at the meeting if (a) that member is able to hear the other members who are physically present at the meeting; and (b) the members who are physically present at the meeting are able to hear that member."

³ The provision reads, "For determining the quorum, a member of the Authority who participates in the meeting by telephone, video conferencing or other electronic means is to be regarded as being present at the meeting if (a) that member is able to hear the other members who are actually present at the meeting; and (b) the members who are actually present at the meeting are able to hear that member."

and auditors' reports. Furthermore, we envisage that TIA, with reference made to the practice of the existing regulatory regime of the travel industry, will establish a standing committee on TICF management to advise it on affairs related to management and application of TICF. In the light of the above, on appointment of non-trade members to TIA, we will add into the Government's proposed amendments to the Bill possession of knowledge in finance as one of the considerations. We expect that the non-trade member(s) concerned will serve on the aforementioned standing committees⁴.

9. As we previously pointed out, the Government will provide TIA with a one-off capital grant to support its initial operation. Detailed arrangements about the deposit and investment of the grant will be determined by TIA after its establishment. Under section 18(2) in Schedule 9 to the Bill, TIA can deposit funds not immediately required for use on fixed term or call deposit or in a savings account in a bank, or invest the funds. We envisage that the standing committee on affairs related to general financial management as mentioned in the preceding paragraph will tender advice to TIA in this regard.

Commencement Date of Parts 2 to 6 in Schedule 10 in the Bill

10. A Member enquired about the commencement date of Parts 2 to 6 in Schedule 10 to the Bill.

11. Parts 2 and 3 in Schedule 10 concern the transitional arrangements of existing travel agents, tourist guides and tour escorts after the commencement of the Travel Industry Ordinance. The commencement dates of these two parts will be the same as the date of full commencement of the Travel Industry Ordinance. Parts 4, 5 and 6 in Schedule 10 concern the transitional arrangements of the Registrar of Travel Agents, TIC and TICF Management Board before the Travel Agents Ordinance (Cap. 218) is repealed. The commencement dates of these three parts will be earlier than the date of full commencement of the Travel Industry Ordinance.

Wording of Section 16 in Schedule 9 to the Bill

12. As regards paragraph 16 of LC Paper No. CB(4)1335/17-18(02) that we reported at the meeting on 6 July 2018, having regard to the concerns

⁴ Under section 27(5) in Schedule 9 to the Bill, the majority of the members of a standing committee must be members of TIA.

raised by a Member and Assistant Legal Adviser about the wording of section 16 in Schedule 9 to the Bill at the earlier meeting on 22 June 2018, we, together with the Department of Justice, have examined the original formulation in detail and referenced similar provisions in the Competition Ordinance (Cap. 619) (i.e. section 18 in Schedule 5). We will propose amendments to the original formulation in such a way that decisions of TIA are not invalidated solely by: a defect in the appointment of a member of TIA; a vacancy among the members of TIA; the absence of a member of TIA from the meeting at which the decision was taken; or any omission, defect or irregularity in the procedures adopted by TIA that does not affect the decision taken.

Tourism Commission
Commerce and Economic Development Bureau
September 2018