

LEGISLATIVE COUNCIL

Second Bills Committee Meeting on Travel Agents (Amendment) Bill 2001

INTRODUCTION

This paper outlines the regulatory mechanism used by the Travel Industry Council of Hong Kong (TIC) to handle complaints against inbound travel agents and to ensure service standards.

REGULATORY MECHANISM OF THE TIC

Entry requirements as a member

2. One of the requirements under the Travel Agents (Amendment) Bill 2001 (the Bill), is that an inbound travel service provider will need to obtain membership of the TIC in order to qualify for a travel agent's licence. There are two categories of membership, ordinary or affiliate, each with its own business requirements set by the TIC.

3. These requirements essentially set standards for the business operation with regard to the minimum amount of capital, financial position, staff experience, identifiable office premises, the scope of business (restricted to travel-related and tourism only), whether they are honest and respectable businessmen and are otherwise fit and proper persons.

4. The detailed requirements for membership are set out in Articles (2) and (3) of the Articles of Association of the TIC (the Articles). A copy of the Articles is at Annex A.

Annex A

Pledge of service quality

5. Upon admission, a TIC member is required to pay \$2,000 as a contribution to a Bonding Fund as a pledge of their service quality. The Bonding Fund is used to pay restitution to inbound and outbound travellers if a travel agent is found to have provided poor levels of service to its clients. It will then recover the amount back from the travel agents. In 2001, \$22,233 has been paid out. The Fund now stands at \$9.3 million.

Obligations of a TIC member

6. Once admitted into the TIC, a member is obliged to comply with the TIC's Articles and other rules and regulations. Among these rules and regulations, the most important are the Codes of Conduct for Members. These regulate the conduct and business practices of travel agents. At present, the TIC has promulgated four codes –

- (a) General Code of Conduct for TIC Members;
- (b) Code of Business Practice on Outbound Package Tours;
- (c) Code of Advertising Practice for TIC Members; and
- (d) Code of Business Practice on Inbound Package Tours.

Annex B

7. A copy each of the above codes (a) to (d) are at Annexes B(a)-B(d) respectively.

8. Apart from the above codes, the TIC will also issue from time to time directives. These directives are binding upon all TIC members and serve the same purposes as the codes.

Discipline and penalties

9. TIC members are subject to discipline and penalties if they do not comply with the requirements under the Articles, the Codes or directives. The TIC may warn or fine a member and in serious cases, suspend or even revoke membership of the TIC. This in turn will affect the business licences.

10. Article 11 of the Articles details the provisions for the termination

of membership and other penalties.

MECHANISM OF HANDLING COMPLAINTS

Consumer Relations Committee (CRC)

11. The TIC receives and handles complaints against travel agents. On receipt of a complaint from a traveller/visitor that involves claims for compensation, its Executive Office will examine the case and where applicable, liaise with the travel agent concerned to agree on a settlement acceptable to both parties. Where a settlement cannot be reached or is not acceptable to either party, the case will be brought to the CRC.

12. The CRC is one of the standing committees under the TIC's Board of Directors charged with the responsibility to handle the disputes between consumers and travel agents. Like all TIC's committees, each year, after TIC's AGM in November, the TIC Board of Directors will appoint a convenor of the CRC who in turn will nominate others to serve as members for one year. The nominations need to be considered and endorsed by TIC's Board of Directors. It makes an independent adjudication on consumers' claims against travel agents. The committee comprises a director of the TIC as convenor and 14 other members. Seven are members of the trade while the other seven are non-trade community leaders, professionals of good standing or distinguished personalities. A list of the CRC members is at Annex C. The CRC holds meeting every 2 months. Its quorum is fixed at five, with at least two members from the trade and two others from the non-trade sectors. The CRC's adjudication is binding on the member travel agents, but not on travellers/visitors. Travellers/visitors not satisfied with the CRC's decision may however seek redress of their own through legal action.

Annex C

13. For complaints lodged by inbound visitors, the TIC's Executive Office will, upon receipt of the complaint, contact its member travel agent concerned for an investigation and if applicable, settlement. From experience,

most of the cases can be settled at this stage. Hence, all cases handled in the CRC so far related to outbound travel only. In 2001, 70 cases of travellers' complaints have been handled by the CRC and 41 cases determined to justify compensation. The compensation granted to travellers by travel agents ranges from \$30 to \$3,500 per traveller.

ENFORCING THE CODES OF CONDUCT

Compliance Committee (CC)

14. The CC is another standing committee under TIC's Board of Directors responsible for handling cases involving breaches of the TIC's Articles, codes of conducts and directives. Cases that have been heard in the CRC may be further referred to the CC if it is found that these cases involve malpractice or breaches of the codes or the directives. The Executive Office may also detect such breaches in the course of its surveillance, and from advertisements or reports in the media or its regular contacts within the trade.

15. The CC is convened by a director and comprises 9 other members from the TIC Board. A list of the CC members is at Annex D. The quorum is fixed at five. The CC will administer reprimand or impose other penalties such as fines against the members. Under the TIC Articles, a member may be fined up to \$10,000 on the first occasion, \$50,000 on the second occasion and \$100,000 on the third and subsequent occasions. In case of serious breaches, the CC may also recommend to suspend or revoke a membership. All cases of non-compliance will be published in "the Voice of the TIC", a quarterly publication of the TIC. Travel agents aggrieved by the decision of the CC may appeal to the Appeal Board comprising three independent non-trade members appointed by Government and two TIC directors. In 2001, 53 cases have been examined by the CC and all have been substantiated. The penalties imposed range from warning to \$10,000 per case. A table summarizing the cases and the penalties imposed is at Annex E.

Annex D

Annex E

Investigation

16. Where a member is suspected of having violated a material part of the Articles or the Codes of Conduct or the prevailing directives, the TIC may conduct an investigation in respect of that member's business.

ENSURING SERVICE STANDARD OF INBOUND TRAVEL AGENTS

Code of Business Practice on Inbound Package Tours

17. The Code of Business Practice on Inbound Package Tours at Annex B(d) requires all TIC members operating inbound package tours to conclude contracts with their overseas counterparts on a wide range of issues that are frequently subjects of complaints by inbound visitors. These issues are related to hotel accommodation, means of transportation, details of itinerary, meals and dining places, shopping arrangements, service charges, etc. TIC members are required to observe this code and other codes mentioned in paragraph 6 above and other relevant directives to ensure service standard.

18. The TIC has undertaken to strengthen its code for inbound tours in the light of future operational experience. Recently, in view of the fact that inbound travel agents are receiving an increasing number of Mainland visitors, TIC has issued a circular to its members setting out the new requirements to regulate the treatment of the Mainland tour groups, e.g. signing an agreement with TIC to guarantee that they will abide by the laws of Hong Kong and TIC's Code of Conduct, drawing up detailed itinerary with their Mainland counterpart and forbidding changes without consent of travellers etc. Those who fail to comply with the requirements may be disciplined by TIC and may be suspended from receiving such tour groups. A copy of this circular is at Annex F.

Annex F

Certification System for Tour Guides

19. Parallel to the legislative amendment, TIC, together with concerned parties, is devising a training and certification system for tour guides modeling on that for outbound tour escorts. In future, only those who have completed the prescribed courses and passed the required examination will be eligible to apply for a certificate and only those with a certificate will be able to

serve as inbound tour guides. Through such training and certification system, the service and skills of tour guides could be improved and maintained. The Skills Upgrading Scheme Steering Committee has also recently approved the inclusion of the training scheme for tour guides under the Skills Upgrading Scheme. The training courses will commence around the middle of 2002.

CONCLUSION

20. Members are invited to note the information contained in this paper.

Economic Services Bureau
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**Copies of annexes are available in hard copies only and can be made available on request to Economic Services Bureau at 2810 3507 or email to tcenq@tc.esb.gov.hk.