

(Draft – Please check against delivery at Chamber)

LEGCO QUESTION NO. 6

(Oral Reply)

Asked by : Hon TAM Heung Man

Date of meeting : 1 March 2006

Replied by : Secretary for Economic
Development and Labour

Question

Regarding the monitoring of travel agents, will the Government inform this Council whether:

- (a) current legislation requires travel agents to take out indemnity insurance; if so, of the details; if not, the reasons for that;
- (b) the authorities will stipulate that the licensee of a travel agent wound up by court order shall not act as a licensee within a certain period of time, so as to avoid travel agents evading their responsibilities to pay compensation by closing down their businesses; if they will, of the details; if not, the reasons for that; and
- (c) the authorities will stipulate that the licensee of a travel agent shall have certain experience in the management and operation of a travel agent and shall undergo continuing professional education on a regular basis, in order to improve the quality of tourism services; if they will, of the details; if not, the reasons for that?

Reply

Madam President,

- (a) At present, the Travel Agents Ordinance (“TAO”) does not require travel agents that operate package tours to take out professional indemnity insurance. Like all other commercial operations, travel agents have the responsibility to adopt effective risk management measures based on their operational needs, including taking out

professional indemnity insurance to reduce their financial risk in the event of liability claims.

In order to strengthen the risk management of travel agents and protect the interest of outbound travellers, the Travel Industry Council of Hong Kong (TIC) issued a directive in 2002 requiring travel agents operating outbound package tours to conduct business only with licensed or registered service providers overseas. The TIC further issued two circulars in January 2005 regarding the safety of outbound travellers. These circulars are “*Outbound tour operators' requests for partners outside Hong Kong*” and “*Safety Checklist for Package Tours*”. The former stipulates that a travel agent when working with land operators and travel service providers outside Hong Kong, should request them to comply with a set of basic safety requirements. The other circular requests the land operators, local tourist guides and Hong Kong tour escorts to implement a series of monitoring measures before and during the journey to ensure travellers’ safety. The TIC will continue to monitor travel agents’ compliance with such requirements. This helps reduce their operational risks.

Taking out professional indemnity insurance is a risk management decision of the travel agents. It also hinges on the availability of this type of insurance policy in the insurance market. The Government will continue to remind the travel trade to take out insurance in accordance with their operational risks and needs, and assist them in taking forward the issue of insurance coverage with the insurance sector. We are now working with the trade to assess the feasibility of requiring travel agents to take out professional indemnity insurance on a mandatory basis and its impact on the travel industry and consumers.

- (b) The Registrar of Travel Agents (the Registrar) has to vet applications for the travel agent licence in accordance with sections 11 and 12 of the TAO. The vetting criteria include whether the applicant or the person who manages the travel agency (all referred to as “the applicant”) is a “fit and proper person”. The following are the factors for considering whether an applicant is “fit and proper” –
 - (1) whether there has been conviction of an offence involving fraud, corruption and dishonesty;

- (2) whether there has been conviction of an offence against any provision of the TAO;
- (3) whether the person is an undischarged bankrupt or in the process of liquidation; and
- (4) whether the person is a “fit and proper person” in other aspects.

According to the TAO, the applicant has to provide records relating to bankruptcy and liquidation when submitting the application. The Registrar will not grant a travel agent licence to an applicant who is an undischarged bankrupt or is in the process of liquidation. The current vetting mechanism does not specify that a licensee whose business has been wound up by court order could not act as a licensee within a certain period of time; but the licensee is still subject to the “fit and proper” consideration. The same practice is adopted by some other sectors.

- (c) Under the present regulatory system for the travel agents, the Travel Agents Registry is responsible for the licensing of travel agents in accordance with the TAO, whilst the TIC is responsible for overseeing the day-to-day operation of travel agents. According to the Memorandum and Articles of Association of the TIC, a travel agent should employ at each of its premises at least one manager who has at least two consecutive years’ relevant experience in the operation of a travel agent in his/her recent five years of employment. This is to ensure the daily operation of the travel agent is in compliance with the basic requirements of the trade.

To enhance the professionalism of the travel trade and provide quality services to the travellers, the Government and the TIC have all along attached great importance to the training and development of trade members. The TIC has not imposed any compulsory training and continuing education requirement on the licensees. This is to avoid imposing over-stringent requirements that stifle the development of the trade. The TIC has from time to time organised relevant training courses and encouraged members of the travel trade at all levels to upgrade their professional skills.

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