

(Draft – Please check against delivery at Chamber)

**LEGCO QUESTION NO. 1**

(Oral Reply)

Asked by : Hon Howard Young

Date of meeting : 8 March 2006

Replied by : Secretary for Economic  
Development and Labour

Question

About providing travel agents with protection against professional indemnity risks, as well as assisting them in applying to the Travel Industry Compensation Fund ("TICF") for refund of the advanced payments made and contacting travel insurance companies for outbound tour group members when accidents happen, will the Government inform this Council:

- (a) given that some travel agents have not taken out professional indemnity insurance because they cannot afford the high premiums and that the TICF has accumulated a balance of over \$420 million up to the end of last year, whether the authorities concerned will consider utilizing the fund to take out indemnity insurance collectively on behalf of travel agents, so as to strengthen the protection for outbound tour group members;
- (b) as travel agents will make advanced payments when accidents occur to outbound tour groups to expedite relief of the group members, but the agents have to go through complicated formalities afterwards to recoup the advanced payments from the TICF, whether the authorities will consider streamlining such formalities; and
- (c) whether the authorities will require tour group members to take out travel insurance on a mandatory basis, and to provide travel agents with copies of their insurance policies to enable travel agents to contact insurance companies on their behalf when accidents happen; if they will, when the measure is expected to be implemented; if not, the reasons for that?

## Reply

Madam President,

- (a) 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. Although 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 with the insurance sector. We are now working with the travel and insurance sectors to look into the feasibility of setting up a collective scheme for travel agents to take out professional indemnity insurance and the impact of such proposal on the travel industry and consumers.

The Travel Industry Compensation Fund (“the Fund”) was established in accordance with the Travel Agents Ordinance (“the Ordinance”) and the Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) Rules (“the Rules”). The Ordinance and the Rules clearly set out the objectives of the Fund which is to provide ex gratia payment to travellers who procured outbound travel services arranged by travel agents in case of default of travel agents; and to provide immediate contingency financial relief to outbound travellers injured or killed in accidents in the course of an outbound travel activity organized by a travel agent. The Fund is made up of collection of levy at a rate of 0.15% from the outbound fare received. To change the current use of the Fund and allow it to be used to help travel agents take out professional indemnity insurance (PII), the existing legislation will need to be amended. The Government is of the view that this proposal must be carefully considered and there should be full consultation before any decision is made.

- (b) The Ordinance and the Rules set out that the traveller concerned or his personal representative, or the authorised person, can apply to the Fund

for an ex gratia payment if the traveller is injured or killed in an accident in the course of an outbound travel activity organized by a travel agent. The ex gratia payment covers medical treatment expenses at place of accident (up to \$100,000), funeral expenses at the place of accident or transportation cost for returning the remains of the deceased (up to \$40,000) and compassionate visit expenditure (up to two relatives, each with \$20,000 as the ceiling). The Ordinance and the Rules also stipulate clearly the procedures and criteria for such application, including the requirement that only an application filed by the traveller concerned or his personal representative or the authorised person will be processed. General speaking, applications that are filed by such applicants can obtain ex gratia payment within two weeks under the present statutory framework. In respect of cases where a travel agent has made advance payments in order to provide emergency support for the injured or deceased traveller, but has not obtained the authorisation from the traveller concerned, the Fund cannot make such payments to that travel agent under the existing Ordinance and the Rules.

We note that there have been travel agents who had made advance payments after the accidents but failed to recover such payments from the Fund due to the procedures mentioned above. We consider that if the travel agents can submit clear evidence showing that they have made advance payments for relevant expenses permitted under the Fund to assist the injured or deceased travellers, they should be able to apply for reimbursement of such expenses from the Fund. In this regard, we have invited the Travel Industry Council of Hong Kong (the TIC), based on their experience, to work out improvement proposals concerning the coverage of the Fund and the application procedures. We will consider the proposals from the TIC and review if there is a need to amend the Ordinance and the Rules.

- (c) We encourage all outbound travellers, no matter whether they are on vacation or business, joining package tours or making arrangements on their own, to take out travel insurance according to their needs. We believe that it is appropriate for each traveller to assess his or her own needs and the risk of each trip in deciding whether he or she should take out travel insurance policies. The travel and insurance industries are working together to design user-friendly travel insurance products

which can offer basic protection to travellers in purchasing such products. The Government, the TIC and the Consumer Council (CC) will continue to educate the public about the importance of purchasing travel insurance.

In the light of past experience, if travellers cooperate with the travel agents to provide information on their travel insurance policies before departure, the travel agents would be able to coordinate promptly the rescue operations and follow up actions in case of an accident. In this connection, the TIC issued a circular in 2002, suggesting travel agents to request travellers to take out travel insurance which will at least cover urgent evacuation and compensation for injuries and death arising from accidents, and obtain from travellers the relevant information of their travel insurance policies for reference.

As the travel insurance information involves personal data of the travellers, travel agents cannot require its provision on a compulsory basis, and can only advise the travellers concerned to do so. The Government, the TIC and the CC will strengthen public education to encourage travellers to release the information of their travel insurance policies to the travel agents.

The Administration will introduce a new category of “travel insurance agents” under the Insurance Intermediaries Quality Assurance Scheme to encourage travel agents to register as travel insurance agents so that they can sell travel insurance to travellers. The implementation of the proposal will facilitate travellers to take out travel insurance.

- End -