

LEGCO QUESTION NO. 14

(Written Reply)

Asked by : Hon Howard YOUNG

Date of meeting : 14 June 2006

Replied by : Secretary for Economic
Development and Labour

Question

It has been reported that some institutions made use of the grey areas in the Travel Agents Ordinance to organize study tours. At present, 20% of the study tours are not organized by registered travel agents, and participants of such tours will not be protected by the Travel Industry Compensation Fund. In this connection, will the Government inform this Council:

- (a) of the total number of complaints received in the past three years about study tours and the main contents of such complaints;
- (b) of the measures in place to eliminate unlicensed travel agents so as to protect the participants of study tours; and
- (c) whether it will consider making a mandatory requirement that study tours must be organized by licensed travel agents and led by Tour Escort Pass holders; if so, of the time it plans to implement the requirement; if not, the reasons for that?

Reply

Madam President,

- (a) In the past three years (January 2003 to May 2006), the number of complaints relating to study tours received by the Travel Agents Registry is as follows –

<u>Year</u>	<u>Number of complaint cases</u>
2003	2
2004	23
2005	3
2006 (as at end of May)	1
Total	29

All the above complaints are suspected cases of operating unlicensed travel agent business.

- (b) & (c) According to section 4 of the Travel Agents Ordinance (TAO), any person who carries out the following business in Hong Kong should apply to the Registrar of Travel Agents for a travel agent licence-

- (i) to obtain for another person carriage, by any means of conveyance, on a journey which is to commence in Hong Kong and which thereafter is to take place mainly outside Hong Kong; or
- (ii) to obtain for another person accommodation at a place outside Hong Kong (not exceeding 14 days).

When it comes to the notice of the Registrar that any organization is involved in operating unlicensed travel agent business, the Registrar will follow up immediately and, where necessary, refer the case to the Police for further investigation. Any person who contravenes relevant provisions of the TAO is liable to a maximum penalty of a fine of \$100,000 and imprisonment for two years on conviction.

In determining whether an organization which organizes study tours is involved in conducting unlicensed travel agent business, the Registrar will, having regard to the above interpretation under the TAO, take into account a host of factors including whether such activity is the core business of the organization (e.g. frequency of the activity and the motive of organizing such activity), whether the operation is conducted on a commercial basis (e.g. whether the objective is to obtain pecuniary gain), and other relevant considerations.

The TAO sets out clearly what kind of business constitutes travel agent business, and requires the application for a travel agent licence before carrying out such business. It is not the intention of the legislation to capture an organization which does not operate travel services on a commercial basis and as its core business. Taking study tours as an example, quite a number of the study tours are organized by local universities or secondary schools in collaboration with overseas universities or schools, so as to make use of the facilities and teaching resources of these overseas institutions to arrange learning and exchange activities for local students during long school holidays. Therefore, we do not consider it appropriate to require all organizations organizing study tours to obtain a travel agent licence, or to restrict the organization of study tours to licensed travel agents only. Notwithstanding the above, for the sake of consumer protection, the Registrar, the Travel Industry Council of Hong Kong (TIC) and the Consumer Council have all along been encouraging parents to collect more information before enrolling their children for study tours. In case where the organizer of a study tour is not a licensed travel agent or has not engaged a licensed travel agent to make the arrangements, parents should consider whether the organization has the relevant experience and capability in organizing study tours. Moreover, parents should take out travel insurance for their children according to their needs.

As to travel agents, in order to enhance the quality of the study tours organized by them, the TIC issued a directive on “Code of

Business Practice on Study Tours” in March 2006 which sets out in detail areas where travel agents need to pay attention to and comply with when organizing study tours. For example, travel agents must assign tour escorts who are holders of Tour Escort Pass to accompany all study tours, specify the ratio of tour escorts to tour participants, and provide customers with comprehensive information of the study tours, such as the host organization, details of the teaching and extra-curricular activities, location of accommodation, etc. The directive has also attached and made reference to the “Guidelines on Study Tour outside HKSAR” issued by the Education and Manpower Bureau. The TIC will closely monitor the situation to ensure travel agents’ compliance with the relevant directive. According to the TIC’s regulations, if a member travel agent is found to be in breach of the TIC’s directive, it will be warned or fined by the TIC. For repeated cases, the travel agent’s membership with the TIC may be suspended or revoked, which may lead to suspension or revocation of its licence by the Registrar.

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