

LCQ3: Protection of Consumer Rights against Default of Travel Agents

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Following is a question by the Hon CHAN Kam-lam and a reply by the Secretary for Economic Development and Labour, Mr Stephen IP, in the Legislative Council today (March 7):

Question

At present, people who, through travel agents, only book air tickets or overseas accommodation are not covered by the Travel Industry Compensation Fund ("TICF"). As it often happens that travel agents are closed down after a festival, will the Government inform this Council whether it will consider establishing a mechanism similar to that of the TICF to protect the interests of these people?

Reply

Madam President,

According to the Travel Agents Ordinance (the Ordinance), the Travel Industry Compensation Fund (TICF) may make an ex-gratia payment to a traveler who has obtained the outbound travel service arranged by a travel agent and has suffered loss in terms of outbound fare due to the default of the travel agent. In accordance with the definition of "outbound travel service" under Section 32A(2) of the Ordinance, the TICF ex-gratia payment only covers "outbound travel service" which includes at least two of the following three items of services -

- (a) carriage on a journey which is to commence in Hong Kong to a place outside Hong Kong;
- (b) accommodation at a place outside Hong Kong;
- (c) an activity arranged by travel agents which is to take place outside Hong Kong.

If a consumer purchases only one of the above service items, for example, purchasing air ticket(s) through a travel agent, he will not be entitled to the TICF ex-gratia payment since the service falls outside the definition of "outbound travel service" under the Ordinance. This is similar to the case where a consumer purchases an air ticket direct from an airline or accommodation from an overseas hotel, and such purchases will not be covered by the TICF.

As to whether we should extend the coverage of the TICF to include those consumers who purchase air tickets or overseas accommodation through travel agents, we have to consider a number of issues, including possible increase in risk exposure of the TICF upon extension of the coverage and the potential pressure on the existing level of levy.

Recently, the Travel Industry Council of Hong Kong (TIC) has re-examined whether it is necessary to extend the coverage of the TICF to the air ticketing service of travel agents having considered the travel trade's mode of operation, liabilities of the parties involved, risk exposure, cost and consumer protection. As consumers who purchase only air tickets through travel agents are exposed to lower risks than those who join group tours or package tours, the TIC considers that at present, there is no need to extend the coverage of the TICF to cover the air ticketing service provided by travel agents.

The TIC is drawing up a directive for its members to clearly set out the responsibilities of travel agents (including consolidators and selling agents) selling air tickets. Under the directive, consumers who have completed the transactions and obtained confirmed air tickets before the default of the selling agent should have their air tickets honoured by the consolidators and should not be affected by default of the selling agents. The TIC will consider drawing up a directive of similar nature in respect of the sale of hotel accommodation by travel agents. This directive will also set out clearly the responsibilities of the travel agents (including the wholesalers and the selling agents) to protect consumer rights.

In addition, if consumers purchase air tickets and hotel accommodation services for the same trip through the same travel agent at different times, the travel agent should combine these two service items in a single receipt and pay the relevant levy. The Government has requested the TIC to issue a circular to all travel agents, reminding them to issue a single receipt to a consumer who purchases both air tickets and hotel accommodation for the same trip to enable the consumer to enjoy protection by the TICF. The TIC and the Consumer Council will continue to step up publicity and public education in this regard. They will also remind consumers that if the latter purchase air tickets or hotel accommodation services from the travel agent, they should ensure that when they pay for the services, they should obtain the air tickets or hotel vouchers immediately in order to minimise their loss in case of default of the travel agent.

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