

LCQ14: Regulation of travel industry

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Following is a written reply by the Secretary for Commerce and Economic Development, Mrs Rita Lau, to a question by Dr Hon Lam Tai-fai in the Legislative Council today (February 23):

Question:

Some members of the public have reflected to me that in recent years, several incidents of mainland tourists being forced to shop or being deceived when shopping were uncovered in Hong Kong, which seriously damage the local tourism industry as well as the image and reputation of Hong Kong. In this connection, will the Government inform this Council:

(a) of the respective numbers of complaints received by the authorities in each of the past three years involving mainland tourists being forced to shop or being deceived, together with a table listing the summary of the contents of as well as the authorities' follow-up actions taken on each of such cases;

(b) whether it knows, in each of the past three years, the respective total numbers of inbound tour groups and tourists from the Mainland, the respective numbers of open inspections and undercover surveillance operations carried out by the authorities concerned, the number of non-compliance cases uncovered, as well as the penalty imposed on each of the non-compliance cases;

(c) whether it has assessed if the aforesaid spate of incidents will adversely affect the tourism, catering, hotel, retail and transport industries, etc. as well as the international image and overall economy of Hong Kong; if it has assessed, of the details; if not, the reasons for that;

(d) why the Government does not regulate tourist guides and travel agencies directly, or set up an independent statutory body with dedicated responsibility to deal with matters relating to the regulation, training and licensing of the tourism industry;

(e) why the authorities have all along not mandatorily required that tourist guides must be employees of travel agencies and be entitled to reasonable basic salaries and remuneration packages, so as to enhance and ensure tourist guides' quality of services;

(f) whether it has assessed the effectiveness of the joint efforts of Hong Kong and the mainland authorities in curbing the problems of zero reception fee and negative reception fee; if it has assessed, of the details; if not, the reasons for that;

(g) given that it has been reported that in a fight which occurred on February 5 this year involving a tourist guide and tourists, the travel agency concerned indicated thereafter it had made compensations to the tourists concerned because of the pressure exerted by the Travel Industry Council of Hong Kong, whether the authorities have conducted an in-depth investigation in this regard (including investigating the facts and the responsibilities of the various parties involved, and whether criminal offences such as perverting the course of justice and improper compensation or claims, etc. were involved); if such an investigation has been conducted, of the details; if not, the reasons for that; and

(h) whether the authorities have assessed if the practice of making compensation in (g) will have negative impact; if they have assessed, of the details; if not, the reasons for that?

Reply:

President,

Tourism is an important pillar of Hong Kong's economy. We received over 36 million visitors in 2010, of which 22.68 million were from the Mainland, accounting for 63% of total visitor arrivals. About 10% of the Mainland visitors (around 2.3 million) joined tour groups to visit Hong Kong. The Travel Industry Council of Hong Kong (TIC) plays an important role in regulating the industry. It promulgates codes of conduct and directives, and puts in place a disciplinary and penalty mechanism to regulate member agents and accredited tourist guides. On the other hand, the Travel Agents Registry (TAR) under the Tourism Commission is the licensing authority and responsible for issuing travel agent's licences and related work, including conducting financial surveillance on travel agents under the Travel Agents Ordinance.

Most of the travel agents and practitioners provide quality services to tourists with professionalism. However, even a few incidents of unscrupulous business practices that undermine the interest of tourists could tarnish the overall image of the tourism industry of Hong Kong. The Government and the TIC are determined to stamp out the unscrupulous practices to strengthen the protection for tourists. Since the

implementation of a series of measures in July last year by the TIC to strengthen the regulation of receiving arrangements for Mainland inbound tours, the number of complaints from Mainland inbound group visitors has dropped substantially. In January 2011, the TIC received 14 complaints from Mainland inbound group visitors, representing a sharp decrease of nearly 70% over January last year.

My reply to the eight parts of the question is as follows.

(a) The TIC received 71, 65 and 80 shopping-related complaints from Mainland inbound group visitors in the past three years (i.e. 2008, 2009 and 2010 respectively). The complaints concern prolonged stay in designated shops, adding shopping stops that are not part of the itineraries, souvenirs sale practices, misleading or coerced shopping, etc.

On receiving a complaint from a tourist, the TIC Executive Office will follow established procedures in handling the complaint. The TIC Executive Office will contact the complainant to gather case details, and initiate mediation if no violation of TIC directives is involved. If mediation fails, the case will be referred to the Consumer Relations Committee of the TIC for handling. If there is evidence that the travel agent or tourist guide may have violated TIC directives, the case will be referred to the Compliance Committee of the TIC for follow-up. The Chairman of and the majority members in the Compliance Committee are not from the trade.

(b) The number of Mainland inbound tours registered with the TIC, inspections and surveillance operations, and non-compliance cases handled by the TIC in the past three years are set out in Annex I.

In handling non-compliance cases (including substantiated complaints or violations found during inspections), the Compliance Committee of the TIC will consider and determine the penalty according to the seriousness of the case, the disciplinary records of the parties concerned and explanations offered by the parties concerned. The penalties imposed by the TIC on violations in the past three years are set out in Annex II.

(c) The increasing number of Mainland inbound tourists in recent years contributed to the growth in our tourism, catering, hotel, retail and transport sectors. The incidents concerning the service quality of tourist guides in recent months will inevitably affect the overall image of the tourism industry of Hong Kong. Although

these incidents did not cause a drop in the number of inbound tours and individual visitors, the TIC has implemented a series of measures to strengthen the regulation of receiving arrangements for Mainland inbound tours, and taken seriously any incidents that affect the interest of tourists. We have also stepped up promotion of smart consumption and Honest and Quality Hong Kong Tours, so that tourists are better aware of their rights when shopping in Hong Kong. As the performance of tourism and related sectors is affected by a wide range of factors, we are not in a position to assess the impact of any individual incident on those sectors.

(d) The regulatory framework of the tourism industry and the functions and the roles of the TIC have evolved in tandem with the development of the tourism industry. On regulation of travel agents, the Government required all outbound travel agents to be licensed by the TAR in 1985. In 1988, the Government brought in trade self-regulation to form the two-tier regulatory regime, and required that all outbound travel agents in Hong Kong must be members of the TIC before applying for travel agent's licence. In 1999, the TIC introduced an accreditation system for tour escorts. In 2002, the Government brought all inbound travel agents under the two-tier regulatory regime. As regards the regulation of tourist guides, the TIC introduced an accreditation system for tourist guides in 2004 to enhance their knowledge, skills and professional ethics. Under this system, travel agents may only assign tourist guides with valid passes issued by the TIC to receive inbound tourists. Applicants for tourist guide passes must meet the academic standards stipulated by the TIC, hold certificates recognised by the TIC and pass the relevant examinations. Furthermore, holders of tourist guides passes are required to comply with the TIC's requirements on Continuing Professional Development programme. These changes in the regulatory framework have been made in response to market needs, and were implemented after extensive deliberation in the trade and discussions with other stakeholders.

For the healthy and sustainable development of the tourism sector, the Chief Executive announced in the Policy Address last October that the Government would review the operation and regulatory framework of the entire tourism sector, including the role, powers, responsibilities and operation of the TIC, as well as its working relationship with the TAR. We have come up with some preliminary thinking on the direction, scope and work plan of the review. After exchanging views with Members of the Legislative Council Panel on Economic Development at the end of this month, we will prepare a consultation document and proceed to consult the trade and the public.

(e) The operation of the tourism industry is subject to seasonal fluctuation. Travel agents need to engage more part-time or self-employed tourist guides in peak seasons to provide service, while many tourist guides work for several travel agents to increase job opportunities. It is uncommon for tourist guide to work for and be employed full time by one travel agent.

The Government has always been concerned about the remuneration of frontline staff in the tourism industry. One of the ten measures which the TIC implemented on February 1, 2011 is to require local receiving agents of Mainland inbound tours to remunerate the tourists guides and sign agreements with them that stipulate the agreed remuneration. This requirement applies to both travel agents' employees or self-employed tourists guides engaged to provide service. This measure helps ensure that the tourist guides could receive an expectable income and reduce their dependence on commission. To further strengthen protection for tourist guides, the TIC implemented another measure which prohibits receiving agents from asking tourist guides to share or advance unreasonable payment for the receiving cost.

(f) The Government maintains close liaison with the China National Tourism Administration (CNTA) and Mainland tourism authorities on tourism co-operation and regulation of the industry in Hong Kong and the Mainland. In July 2010, the Government and the CNTA reached a consensus – the CNTA would request the relevant Mainland authorities to further enhance the management of tour groups visiting Hong Kong, strengthen the responsibilities of tour escorts, and support and complement Hong Kong's efforts to regulate the tourism market. On August 9, 2010, the CNTA issued a working notice to all local tourism authorities in the Mainland, requiring them to strengthen the regulation of outbound tours to Hong Kong in accordance with the Mainland legislation, such as the Regulation on Travel Agents (the Regulation). Under the Regulation, travel agents are prohibited from attracting customers by quoting a tour fare that is lower than the tour cost. Moreover, the Regulation stipulates that if a travel agent engages another agent to provide tour services, it must pay the other agent a fee not lower than the receiving cost.

The Mainland tourism authorities have all along supported our regulatory work and have taken initiatives to complement the ten measures implemented by the TIC, including enhancing publicity in the Mainland on smart consumption for visitors to Hong Kong and regulating the content of the tour contract signed between Mainland travel agents and Hong Kong receiving agents. The Government will continue to liaise with the relevant Mainland authorities and make joint effort to strengthen the

regulation.

(g) and (h) We are very concerned about the dispute case involving a tourist guide and Mainland visitors during the Chinese New Year Golden Week. The incident is under investigation by the TIC, which has requested the travel agent concerned to submit a report. The Government's position is that the incident must be taken seriously. If violation on the part of the person or the travel agent involved is found after investigation, penalty must be imposed in accordance with the TIC's codes. If criminal act or violation of laws of Hong Kong is revealed during the investigation, the TIC will refer the case to law enforcement agency for action.

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