

Major Findings of the Public Consultation

Regulatory Arrangement of Travel Agents

Major Consultation Questions ¹	Comments Received
<p>(1) Does the existing regulatory arrangement for travel agents require any changes?</p> <p>(2) If changes are required, apart from examining the merits, drawbacks, implications and cost-effectiveness of the reform options, are there factors other than those in paragraph 4.2 (in the consultation paper) that should be considered?</p>	<ul style="list-style-type: none"> • There was broad consensus that the existing regulatory regime of the tourism sector should be reformed to instil a higher degree of independence, impartiality and transparency in view of the changing circumstances of the industry and the heightened concern on consumer rights protection in recent years. • Some were of the view that the incidents involving malpractices in Mainland inbound tour operation in mid-2010 had revealed the inadequacy of the existing self-regulation by the Trade Industry Council (TIC). • There were views that the reform options should also address the problem of “zero/negative reception fee”.
<p>(3) Which of the four options set out in the consultation paper would best cater for Hong Kong’s situation and needs?</p> <p>(4) Do you have any comments regarding the substantive arrangements (such as functions, power, composition, governance and checks-and-balances) of the preferred option?</p>	<ul style="list-style-type: none"> • The TIC put forward a modified option during the consultation period, which was built on Option (2). The TIC modified option accepted revamping the composition and functions of the TIC Board so that the majority of Board directors would be non-trade practitioners as recommended under the original Option (2). In addition, building on the proposal to set up a separate independent committee to handle appeal cases, the TIC modified option further proposed to transfer all compliance cases involving travel agents, tourist guides and tour escorts to another new independent committee. The TIC would continue to draw up codes of conduct and directives for the travel trade and handle refund requests directed at travel agents. The TIC considered that this modified option would address the criticism of “insider

1. These are the major consultation questions set out in the consultation document on “Review of the Operation and Regulatory Framework of the Tourism Sector in Hong Kong”.

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	<p>regulating insider” without having to set up a new statutory body.</p> <ul style="list-style-type: none"> ● The majority of submissions from travel agents, including the standard letters, supported the TIC’s proposal. Some of them further held the view that an effective regulatory framework should be one presided by a majority of trade representatives who possessed a sufficient understanding of the operation of the trade and the necessary expertise. ● A few travel agents were against the current licensing prerequisite of being a TIC member and favoured Option (4). ● Most of other submissions favoured either Options (3) or (4) and believed a complete overhaul of the current regime the only way to restore credibility to the regulatory framework. The majority of public bodies, academics, political parties, business organisations and some District Councils (DC) members had a clear preference for Option (3) as they considered an independent statutory body with non-trade members constituting the majority of its Board and with well-defined statutory functions, would be more effective in addressing the public concern over “insiders regulating insiders”. ● Some comments, in particular those from tourist guides organisations, favoured (4). They considered that the existing self-regulation by the TIC was ineffective and lacked credibility.

Regulation of Tourist Guides

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<p>(5) Do you consider the current Tourist Guides Accreditation System set up by the TIC effective in regulating tourist guides?</p> <p>Assuming the retention of the two-tier regulatory regime (i.e. Option (1) or (2)), what are the areas for improvement in order to enhance the effectiveness of the regulation of tourist guides?</p>	<ul style="list-style-type: none"> • Most of the respondents who have provided comments to this question, in particular tourist guides organisations and members of the public, considered that the current Tourist Guides Accreditation System was ineffective. • Some of the views on the current Tourist Guides Accreditation System are set out below - <ul style="list-style-type: none"> (a) the TIC, being a trade organisation, would favour the interest of travel agents. The TIC, comprising mainly proprietors or managers of travel agents, should not be responsible for the regulation of tourist guides; (b) the current Tourist Guides Accreditation System set up by the TIC was not effective as the system did not have the backing of statutory power. In recent years, there were challenge from tourist guides against the authority of the TIC, so the disciplinary framework had been compromised to some extent; (c) it was unusual that a trade organisation would be responsible for formulating regulation, conducting examination, and issuing passes in the regulation of tourist guides; (d) the existing regulation of tourist guides by the TIC was not satisfactory as inspection checks were not adequate to tackle the problem of illegal tourist guides; and (e) tourist guides were not members of TIC, so they did not enjoy members' rights.
<p>(6) If the tourism sector is to be regulated by an independent statutory body or the Government</p>	<ul style="list-style-type: none"> • There was general support from tourist guides organisations, travel agents, general public, individual DC members and political parties for a statutory licensing system to regulate tourist

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<p>(i.e. Option (3) or (4)), should a statutory tourist guide licensing system be introduced? If yes, should there be a transition period and how long should the period last?</p>	<p>guides. Most of the respondents considered that such system could affirm tourist guides' professionalism and improve the service quality of the travel industry.</p> <ul style="list-style-type: none"> ● A few of the respondents provided comments to the transitional period. Most of them considered that a transitional period would be necessary and the duration they suggested roughly ranged from six months to three years. There was also comment that the transitional period should depend on whether there would be new requirements under the statutory licensing system. ● There were views that the new licensing system should be implemented immediately without any transitional period as there were usually more problems during the transition, e.g. some illegal activities of those who would not be eligible for licensing as tourist guides under the new system. ● Some of the submissions also expressed views on the regulation of tour escorts and the general view was that a statutory licensing system should also be introduced for them.
<p>(7) Given the problems associated with Mainland inbound tours, should a separate Tourist Guide Pass or Licence be introduced to further regulate the qualification requirements for tourist guides receiving Mainland inbound tours? (Paragraph 6.3 in consultation paper)</p> <p>(8) If a separate Tourist Guide Pass or Licence for tourist guides receiving Mainland inbound tours is introduced, what additional requirements</p>	<ul style="list-style-type: none"> ● Most of the respondents, mainly tourist guides organisations and individual members of the public, did not support the introduction of separate licensing requirements for tourist guides receiving Mainland inbound tours. The general view was that tourist guides, regardless of the market segment they served, should be subject to the same requirement. ● A few respondents, mostly individual members of the public, supported the introduction of separate licensing requirements for tourist guides receiving Mainland inbound tours as they considered that Mainland visitors were a major source of tourists visiting Hong Kong but the number of related complaints had been increasing. A set of more stringent requirement could improve the service quality of Mainland

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<p>should be prescribed for the Pass/Licence?</p> <p>Would it be unfair to tourist guides receiving Mainland inbound tours if the requirements are more stringent than those for the existing passes?</p>	<p>inbound tours.</p> <ul style="list-style-type: none"> ● Suggestions on additional licensing requirements for tourist guides receiving Mainland inbound tours included - <ul style="list-style-type: none"> (a) imposing a minimum period of residency requirement in Hong Kong for tourist guides receiving Mainland inbound tours; and (b) requiring tourist guides receiving Mainland inbound tours to pass examinations on general knowledge about Mainland China, e.g. tourism structure, people and culture, basic legal aspects, education and political systems etc.

Licensing System for Travel Agents

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<p>(9) Do you think different licences (with different requirements) should be introduced to regulate outbound and inbound travel agents?</p>	<ul style="list-style-type: none"> • There were more respondents in favour of one single licence to regulate all travel agents carrying on outbound and inbound travel business. Among these respondents, most of them were travel agents or associations formed by travel agents. They supported the modified option proposed by the TIC. They considered that the existing practices of most travel agents were in compliance with relevant rules and regulations, with only a small number of travel agents being problematic. Requiring travel agents to acquire different licences for operating different types of travel business would “penalise” good as well as bad travel agents. • There were also views that the existing problem in the tourism sector was about the ineffective self-regulation of the trade instead of about licensing. • Those who supported the introduction of different licences included individual members of the public, tourism practitioner, academics and individual DC members. Their views were that it would be appropriate to introduce different licences due to the different nature and operating environment of different types of travel business. Different types of licences could ensure more effective regulation.
<p>(10) Do you think a separate licence for travel agents receiving Mainland inbound tours should be introduced in view of the problems associated with those tours?</p>	<ul style="list-style-type: none"> • The general views collected did not support a separate licence for travel agents receiving Mainland inbound tours. The reasons included that the requirement of service standard for different tourists from all destinations should be the same and it would be unfair to just impose a specific requirement to a specific market.

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	<ul style="list-style-type: none"> ● Those against a separate licence for travel agents receiving Mainland inbound tours included individual DC members, tourist guides organisations, academic, and individual members of the public. Apart from them, a large number of travel agents or associations formed by travel agents, which supported the modified option of the TIC, were also in favour of one single licence for operating all types of travel business. ● There were a few comments from individual members of the public supporting a separate licence for travel agents receiving Mainland inbound tours. Some of them considered that the market of Mainland inbound tours was developing and immature, and Mainland visitors were a major source of tourists visiting Hong Kong but the number of related complaints had been increasing, a separate licence would therefore be necessary for better regulation.
<p>(11) If you think a separate licence should be introduced for travel agents receiving Mainland inbound tours, what additional requirements should be prescribed for this licence?</p> <p>Would it be unfair to the travel agents receiving Mainland inbound tours if the requirements are more stringent than those for the existing licence?</p>	<ul style="list-style-type: none"> ● Suggestions on additional licensing requirements for travel agents receiving Mainland inbound tours included - <ul style="list-style-type: none"> (a) additional capital requirement or deposit depending on the size of different tour operators; (b) imposing guarantee money requirement on travel agents receiving Mainland inbound tours and (c) increasing the penalties for travel agents receiving Mainland inbound tours found to have breached the relevant rules and regulations. ● Apart from specific requirements on travel agents receiving Mainland inbound tours, there were also views that the general threshold for setting up business should be raised and travel agents should be required to

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	<p>deposit guarantee money, so as to reduce the risk of malpractices by them.</p> <ul style="list-style-type: none"> • A few travel agents, associations formed by travel agents and a tourist guides organisation commented that the existing requirement of TIC membership as a pre-requisite for applying for a travel agent licence should be removed.

Financial Arrangement

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<p>(12) Regardless of your chosen option, do you agree that the financial arrangement should be based on a “user-pay and cost-recovery” principle? If yes, do you agree that reasonable means to generate additional income should be considered?</p> <p>What means would you consider appropriate? (Paragraph 4.33 in consultation paper)</p>	<ul style="list-style-type: none"> • There were concerns regarding the adoption of the “user-pay and cost-recovery” principle as that might lead to an increase in licence fees for travel agents, tourist guides and tour escorts and/or extension of the current levy to inbound tours. Some submissions expressed concern that it would be difficult to define users under the “user-pay” principle since, apart from the travel trade, other sectors as such retail, hotel and catering, would also benefit from a well-regulated tourism industry. • Even for some of those who supported the “user-pay and cost-recovery” principle, they considered that attention should be paid to the effect of the principle on the business operation of travel agents, especially the affordability of small-and-medium-sized enterprises. There were views that the new system should not impose substantial additional cost to the parties concerned, including travel agents, tourist guides and tour escorts, in particular during the transition period, in order to secure the support of the industry for the new regulatory system. • Some respondents, who supported the principle, including individual DC members, considered that this could provide a means to recover the costs of supervision and regulation by the regulatory body from the trade. Some suggestions on the appropriate means included - <ul style="list-style-type: none"> (a) charging levies on three different types of businesses as appropriate: outbound tours; ticketing; and inbound tours. The charges should make reference to the work and services required from each of the three types of businesses; and (b) introducing other fees for demand-driven services, e.g. charging regulated entities for complaints handling.

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<p>(13) If an independent statutory body is to be established, do you consider it reasonable for the Government to provide the body with one-off grant or loan to support the expenditure at its initial stage of operation? If you consider it unreasonable, what other approach would you suggest? (Paragraph 4.33 in the consultation paper)</p>	<ul style="list-style-type: none"> • There was broad consensus that the Government should provide a one-off capital grant to support the operation of an independent statutory body at its initial stage, if one were to be set up. • Other suggestions to finance the independent statutory body included - <ul style="list-style-type: none"> (a) identifying sponsors for the body; and (b) the Government to finance part of the operation of the body.