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**A Submission in Response to the Consultation Paper on
“Review of the Operation and Regulatory Framework of
the Tourism Sector in Hong Kong”**

by

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Economic Rationales for Strengthening Regulation

There are serious market failures in the Mainland Inbound Market as witnessed by the following observations. These prompt the Government to review the Regulatory Framework for the entire tourism sector.

- (a) Weaknesses in the tourism supply chain, including incomplete contracts among various suppliers of services and agents to clearly define their respective duties and responsibilities.
- (b) Services providers exploit regulatory arbitrage between Mainland and Hong Kong authorities.
- (c) Substantial product differentiations in package contents and service qualities.
- (d) Pricing and other related-information not transparent.
- (e) Serious asymmetric information between travel agents and Mainland inbound tourists.
- (f) Any bad publicity or complaints from Mainland tourists would create significantly negative externalities and damages to Hong Kong's reputation as an international tourist centre.

In view of these market failures, we support the policy recommendation that the Government should actively strengthen its regulatory function relating to the tourism sector.

Answers to the Major Consultation Questions

- (1) We agree that the existing regulatory arrangement for travel agents should require some significant changes. The Consultation Paper well summarized about the problems faced by TIC and the regulatory framework of the tourism sector in Hong Kong. The recent eye-catching, high-profile cases of maltreatment of Mainland visitors had blown out of proportion and put the Government in an embarrassing position. Both the public and major political parties have demanded for urgent actions. As stated in Section 3.1 of the Report, the relevant issues are:
 - (a) TIC lacks sufficient power, such as statutory investigative power and sanctions, in regulating the trade and hence the efficiency of its regulatory work is undermined.
 - (b) TIC, as a self-regulatory trade body, is inevitably perceived by the public as riddled with conflict of interest.
 - (c) In Hong Kong, the formulation of tourism policies (by HKSAR Government),



promotion (by HKTB) and trade regulation (by TIC) now fall under the purview of three different agencies. This arrangement is regarded as fragmented.

- (2) One important element for an effective regulation of the travel agents conducting business in Mainland market is about the capability of Hong Kong's regulatory agency in co-operating with the corresponding Mainland authority. The current arrangement is relatively weak for this purpose.
- (3) We consider that Option 3 is the most appropriate arrangement for regulating Hong Kong's travel agents. The proposed Options 1 and 2 would mostly base on the further enhancement of the current TIC system. Unfortunately, we consider that the creditability of TIC has been tarnished significantly in recent years. It would not be easy for new non-trade members or even a non-trade Chairman to function effectively within TIC, given the complexity of issues involved and the rapid evolvement of the Hong Kong inbound market from the Mainland. The marginal impact of enhancing TIC's Board structure to handle regulatory affairs, particularly for the Mainland inbound market, would have been diminishing rapidly.

Furthermore, Option 3 offers more flexibility than Option 4. Option 3 would permit the invitation of relevant external experts to assist in the formulation of regulatory policy, more options for funding arrangement and remuneration package.

- (4) There are four additional issues to be considered:
 - (a) The governing board of the Statutory Agency should comprise all relevant members, including TIC representatives, academics, representatives of various major political parties, the legislator from the tourism sector, consumer advocates, other related-trade members, etc.
 - (b) The new Agency should have a strong research team, *inter alia*, to analyze the comparative advantage, cost structure, revenue structure, business models, etc. of the industry. These information are vital for the formulation of industrial and regulatory policies.
 - (c) In order to set up a new appeal system, a proper review of the existing system should be in order. Currently, there have been some important and subtle differences between the decision-making parameters of TIC's disciplinary committees and the Appeal Board, thus arousing more uncertainties and grievances.



- (d) The remuneration structure of TIC's staff is comparative low. We suggest the remuneration structure of the Agency should take into account of the experience of TIC and other similar agencies of the Government.
- (5) The current Tourist Guide Accreditation System set up by TIC is not effective. The system has not been back up by statutory power. Additionally, tourist guides have challenged the authority of TIC in recently years and the disciplinary framework has been compromised to some extent. We do not see any feasible measures to enhance the current system under Option 1 and 2.
- (6) We support that an independent statutory tourist licensing system should be introduced. We agree that "regulating tourist guides through a statutory licensing system will help clarify the roles of and relationship between the regulator and the parties being regulated" (Section 5.6). This proposed system will be similar to the regulation of real estate agents (property market), insurance agents (insurance industry) and share dealers (equity market). This will be an integral part of the long-term solution for a properly regulated tourism industry.
- A "grandfather" arrangement should be granted for all existing tourist guides. If there are new requirements for new guides as compared with the prevalent requirement, current tourist guides should be given a certain period of time (e.g. within two years) to complete these new requirements. Additionally, a more structured and substantiated "continuous professional enhancement programme" should be introduced.
- (7) & (8) We do not consider a separate Tourist Guide license for Mainland inbound tourist guides be necessary. One license should cover tourist guides servicing visitors from all destinations.
- (9) Inbound and outbound are two different nature of businesses. TIC's Board started mainly with core agents engaged in outbound business and thus its structure has been biased towards the outbound. Its assumption of additional functions to regulate inbound activities has put TIC in a difficult position and stretched its resources to limits. As the inbound sector has become increasingly important, it is advisable to introduce two different licenses for outbound and inbound travel agents separately.



(10) & (11) We do not consider that it would be necessary to introduce a separate license for Mainland inbound tour agents (and tourist guides). The requirement of standard of services should be the same for tourists from all destinations. If there is any specific requirement for a certain market, this could be introduced in the form of operational guidelines.

(12) The “user-pay and cost recovery” principle upon tour agencies should be applied to a certain extent only (e.g. 60% or 70%), as the business activity of tour agents generated significant externalities. A better regulated tourism industry would not only bring in more business for tour agencies directly, but also benefits many other economic activities, including hotels, restaurants and retail business, indirectly. Should every sector and every firm benefitted by this new regime be required to pay according to a certain fee structure? The answer is obvious no as the administrative cost for such a system would be overwhelmingly expensive and there would be strong political resistance as well.

In order to obtain the best support of the industry for this new regulatory arrangement, particularly during the transition period, the new system should not create substantial additional cost to parties concerned, including tour agents, tour guides and tour escorts. The economic argument of externalities also does not support the spreading of all cost to travel agents alone.

(13) Thus, it is reasonable for the Government to provide the Agency with a one-off grant or loan to support the expenditure at its initial stage of operation. Additionally, the government could also consider to finance recurrent income partially to support the annual operation of the Agency.



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