

8 July 2011

Team 1
Tourism Commission
Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
2nd Floor, East Wing, Central Government Offices
Lower Albert Road
Central
Hong Kong

Dear Sirs,

CONSULTATION PAPER ON REVIEW OF THE TOURISM SECTOR IN HONG KONG

I am writing to submit my view on the reform options introduced in the consultation paper entitled "review of the operation and regulatory framework of the tourism sector in Hong Kong" ("the Paper").

The Reform Options

The Paper tabled four options:

Option 1: amend the Travel Agents Ordinance; stipulate the role of the Travel Industry Council as a public association; and revamp the composition of the Travel Industry Council Board and committees.

Option 2: review the "functions, powers and responsibilities" of the Travel Industry Council and transfer certain functions to a government department.

Option 3: establish an independent statutory body and transfer the Travel Industry Council's trade regulatory function to it.

Option 4: transfer the Travel Industry Council's trade regulatory function to a government department and have it responsible for the overall regulation of the tourism sector.

I am pleased to learn in the consultation process that the government is open to new suggestions or details that may result in a hybrid of the options. The Paper states at the outset that its objective is to set direction for the sustainable and healthy development of the tourism industry, an objective with which I fully agree.

My Submission

In a market based economy, businesses and consumers together shape business practices. The interplay between them is complex; it should be in the interest of all to leave them to their own devices, as long as everyone is playing by the rules. I believe this would ensure efficiency and creativity, being fundamental elements in the constructive power of free enterprise.

However, I also believe that there must be an overseer to ensure free and fair play. In this respect, as explained in the Paper, Hong Kong has been in the main adopting a self regulation approach. This approach is in line with the nature of our economy and had been working well until quite recently when a series of unpleasant incidences occurred, causing damage to the reputation of the industry as well as that of Hong Kong. Regrettably, most of these incidences were concerned with similar trade practices involving inbound visitors from Mainland China. I therefore share the view that the policy objective should be geared to resolving the underlying cause of such trade practices. Thus revamping the entire self regulatory system seems to me a disproportionate response to a relatively focused problem.

For the reason as explained, I submit therefore Option 3 and 4 are unwarranted, as they in effect abolish altogether the present system of self regulation.

I turn now to Option 1 that seems to be a model close to the current regime. Under the current regime, the trade is regulated with a two-tier system: the Travel Agent Registrar as a government agency is responsible for licensing and the Travel Industry Council exercises self regulation. The Paper reports there are concerns that the current regime is inadequate in some respects. I would highlight two inadequacies that in my view are valid concerns. First, the trade association lacks the power to investigate and impose sanctions; and, second, there is perception that it lacks independence to make fair rules and administer justice.

It does not seem appropriate to bequeath extensive investigative power to a trade body for members to investigate the affairs of other members; there are obvious conflicts of interest in such a process. Even revamping the composition of the Travel Industry Council with broader participation of non trade members may not be sufficient to address those concerns over independence and credibility.

Therefore Option 1 does not seem adequate.

Option 2 seems to be a hybrid of Option 1 and 4. It lets the trade association continue to make rules and deal with disciplinary and adjudication matters. However, it calls for creating an independent appeal panel and enlarging the government establishment to support the appeal panel and to scrutinize rules that the trade association makes from time to time.

I am in general in favor of this option, but have the following suggestions.

As it is inappropriate to equip a trade association with extensive investigative powers (views stated above), the Travel Industry Council cannot effectively deal with disciplinary matters. On the contrary, adjudication as a voluntary process for seeking amicable solutions, where no formal investigation is required, should be encouraged and it can be mediated by the council through a special function committee.

For matters that require sanctions or disciplinary actions (cases involving malpractices), I would suggest, it is more appropriate to be in the hands of a governmental agency that can administer laws and subsidiary regulations, with appropriate extent of investigative powers. An independent appeal panel (outside the ambit of government agencies and related trade bodies) can be formed to ensure fair administration and exercise discretion in warranted circumstances. In serious cases that involve fraudulent or deceitful acts, recourse to the police should of course be at the disposal of the public and all parties concerned.

Finally, I would reiterate one point I made earlier: businesses and consumers together shape trade practices. In those cases that involved inbound tourists, if the consumers were better informed, they could behave more cautiously, making decisions on the basis of overall value proposition of the service providers, as opposed to the mere level of price of a trip. In this respect, the Consumer Council has a role to play in working with its counterpart on the mainland.

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I would appreciate it if you could consider views and suggestions as submitted above.

Yours faithfully,

Joseph Fu

c.c. Travel Industry Compensation Fund Management Board
Inbound Committee of the Travel Industry Council