

**Executive Summary of the
Investigation Report on the Regulatory
Mechanism for Local Travel Agents for Inbound Tours**

Background

Group tours to Hong Kong, particularly those from the mainland have made significant contributions to the local economy. From time to time, criticisms had been levelled at the quality of services provided by in-bound tour operators. During the 1999 lunar New Year holiday period, wide media coverage of a mainland tour group stranded in Hong Kong further fuelled public concern about the quality of inbound tours in Hong Kong.

2. During March to July 1999, this Office approached the Trade and Industry Bureau (TIB) - renamed as Commerce and Industry Bureau (CIB) effective from 1 July 2000 and the Economic Services Bureau (ESB) for information on the regulation of travel agents and tour operators. After initial examination, The Ombudsman informed the Secretary for Economic Services on 20 July 1999 of her decision to conduct a direct investigation into the matter under Section 7(1)(a)(ii) of The Ombudsman.

3. The Administration and a number of organisations are involved in a wide range of services and activities relating to the tourism industry. For the purpose of this investigation, we have concentrated on examining only the functions of ESB, TIB, Hong Kong Tourist Association (HKTA), Travel Industry Council (TIC) and Consumer Council (CC), and the role they play in protecting the interests of inbound travellers.

Purpose and Amhit of the Investigation

4. The purpose of this direct investigation was to -

- (a) conduct an overview of the regulatory mechanism for local travel agents carrying on the business of organising inbound tours to Hong Kong;
- (b) examine the specific roles played and functions discharged by the Administration and related organisations in such an area;
- (c) evaluate the existing regulatory mechanism for local travel agents carrying on the business of organising inbound tours to Hong Kong with a view to

ascertaining whether it is adequate and effective for their intended purposes; and to

- (d) examine the need for the introduction of relevant improvement measures including setting up a regulatory framework with sufficient statutory authority.

Ambit of the Investigation

5. The investigation focused on ESB's role in developing tourism in Hong Kong. In particular it sought to examine -

- (a) the background and main features of the current regulatory framework for local travel agents carrying on the business of organising inbound tours to Hong Kong;
- (b) the relevant functions and role of ESB;
- (c) specific improvement measures introduced by the related organizations; and
- (d) improvements measures taken and/or under consideration by the Administration.

Existing Regulation of Local Travel Agents

6. In Hong Kong, the tourism industry can be divided into two parts. Outbound tourism involves all outward travel-related activities to places outside Hong Kong, while inbound tourism includes all sundry activities and travel arrangements provided to people visiting Hong Kong. Under a recent reshuffle the Government's policy portfolios, ESB has taken over TIB's responsibilities for consumer protection, competition policy and the regulation of outbound travel agents through the setting up of the Travel Agent Registry (TAR). ESB remains the policy bureau responsible for the development of inbound tourism in Hong Kong, and works in close partnership with relevant trade organisations such as HKTA and TIC in these matters.

Travel Agents providing Outbound Tours

7. A licensing scheme for outbound agents was introduced in 1986 as a result of the public outcry over a series of abscondments and failures of some local outbound travel agents. TAR was set up in 1986 to support the

Registrar of Travel Agents in the discharge of his statutory duties under the Travel Agents Ordinance Cap. 218 (TAO), which was enacted in 1985 to license travel agents providing outbound travel services from Hong Kong. A close working partnership exists between RTA and TIC in regulating outbound travel agents. The former is in charge of the overall licensing and financial surveillance, while the latter is responsible for dealing with membership and disciplinary matters. TAO provides that a travel agent has to apply for a licence if he/she conducts business activities of outbound tours. The conditions for a licence to be issued include primarily (a) the applicant is a member of TIC; and (b) the applicant is a fit and proper person to carry on the business as a travel agent. As at the end of June 2000, there were 1,143 licensed travel agents.

Travel Agents providing Inbound Tours

8. No parallel statutory licensing/regulatory scheme currently exist to regulate inbound travel agents/tour operators, although it is generally understood that the majority of licensed travel agents who deal with outbound tours also handle business relating to inbound tours. TIC introduced some self-regulatory measures, including the issue of a code of conduct for inbound travel agents (the Code) on 1 April 1999 to provide, inter alia, guidelines for its members dealing with inbound travel-related activities. TIC can impose sanctions including fines, suspension of membership etc. on members for breaching the Code. However, inbound travel agents who are not TIC members are not obliged to observe the Code. An estimated 150-200 inbound travel agents are not TIC members.

Improvement Measures

9. Relevant improvement measures introduced recently to tighten up the regulatory regime for inbound travel agents include the following –

- (a) TIC has issued a code of conduct for its inbound travel agents members to help maintain the service standards of these agents. In addition, both ESB and TIC have sought to strengthen their liaison with relevant Mainland authorities on matters concerning tours groups from the Mainland.
- (b) in May 1999, ESB formed a Tourism Commission to, inter alia, encourage improvement in the standard of services rendered by the industry to visitors, and a Working Group comprising representatives from the travel and tourism industries to consider improving the existing regulatory system to cover travel agents for inbound tours. The WG identified four options, including (i) TAR to take up the

regulatory function in addition to their regulation over the travel agents for outbound tours; (ii) the Administration to set up under the Tourism Commission an agency which mirrored the TAR but for travel agents for inbound tours only; (iii) TIC to be given legal power to regulate its members to ensure the quality of service rendered; or (iv) HKTA to be given extra statutory responsibilities for regulating travel agents for inbound tours.

- (c) HKTA has developed a "Quality Tourism Services Scheme" to ensure that retailers and restaurants participating in the scheme will provide a certain standard of service to customers.
- (d) Both CC and HKTA have been stepping up publicity on consumer protection measures in Hong Kong to tourist and will strengthen co-operation in handling consumer complaints, including those from tourists. HKTA revealed that it has set up a "one-stop" complaints handling mechanism for tourists.

Observations and Opinions

10. The Ombudsman has made the following observations with regard to this investigation, -

- (a) There is disparity in the protection being offered to outbound tourists from and inbound tourists to Hong Kong. The existing statutory regulatory regime for travel agents only covers travel agents in their outbound tour businesses. Inbound travel agents who happen to be TIC members would be subject to the regulation of TIC because of their TIC membership. Deficiencies are inherent in such a system in that (i) inbound travel agents are not obliged to join TIC. Some 150 to 200 non-TIC inbound travel agents can therefore operate without any supervisory control and they are not bound by TIC's directives or its self-regulatory Code; and (ii) by extension, there is no control over the standard of operation and services provided by inbound travel agents, tour operators and tour guides and these can vary greatly.
- (b) There is a consensus among the relevant trade organisations that the Administration should consider the need to bring inbound travel agents within the regulatory

framework to facilitate the development of inbound tourism to Hong Kong. TIC and HKTA offer self-regulatory of members, albeit for different purposes. HKTA is a promoter rather than a regulator of the local tourist industry. TIC assumes the role of regulator for outbound tour operators and it has agreed to extend this role to inbound travel agents. However this would require legislative amendments before such changes can be effected.

Conclusion

11. In summary, this investigation concludes that-
- (a) there is a need to introduce an appropriately enhanced regulatory system for inbound travel agents and tour guides in order to remove the current disparity in the level of consumer protection for travellers travelling from and to Hong Kong; and
 - (b) the existing division of policy responsibilities between ESB and TIB should be rationalized so that one policy bureau could be made responsible for the regulation for both outbound and inbound travel agents. This deficiency has been rectified following the reshuffle of the policy portfolio of ESB and TIB, which became effective as from 1 July 2000. Since the re-organisation, ESB has taken over TIB's policy responsibilities for, inter alia, regulation of outbound travel agents and TAR.)

Recommendations

12. Having regard to the above conclusion and the need for the introduction of improvement measures as identified, The Ombudsman has made 10 recommendations for consideration by ESB.

Regulatory Mechanism

- (a) To consider the need for introducing a regulatory mechanism, with legislative backing if necessary, for inbound travel agents.
- (b) To consider implementation, where practicable, of the

recommendations contained in the various study reports commissioned, for example, by the HKTA etc.

- (c) To determine whether to introduce a licensing scheme for tour guides or the need for other alternative measures for enhancing their service standards.
- (d) To consider drawing up a more comprehensive consumer protection framework to sanction unscrupulous retailers and other tourist services providers.
- (e) To consider reviewing the policy demarcation and administrative functions of ESB vis-a-vis those of TIB in relation to the regulatory control of local travel agents with a view to bringing it under the umbrella of one bureau.

Ordinance

- (f) To consider extending the scope of the existing Travel Agents Ordinance to cover inbound travel agents.

Liaison with Trade Organisations

- (g) To consider expediting the current consultation process with the trade organisations for the purposes of formulating an overall strategy for regulation and control of inbound travel agents.

Publicity

- (h) To consider the need for a specific publicity programme with the assistance of the relevant trade organisations and CC, to provide adequate advice and warnings to overseas visitors on unscrupulous retailers and malpractices of other tourist services providers.

Communication

- (i) To consider strengthening further communication with the concerned government bureaux/departments and relevant trade organisations and overseas organisations with a view to, for example, identifying a need to providing clearer guidelines to deal with similar incidents involving "stranded" travellers in the future.

- (j) To consider the policy implications involved with regard to possible implementation of the options (i) and (iii) contained in the ESB's paper for the Working Group.

Response received from ESB

13. The concerned bureaux and relevant organisations/bodies have been invited to comment on the draft investigation report (DIR). On the whole, no specific objections were raised to our observations and recommendations in the DIR. ESB revealed that the findings in the regulatory impact assessment (RIA) report on the proposed regulation of inbound travel agents commissioned by the Government in February 2000 support the licensing scheme for inbound travel agents but not licensing of tour guides. In this connection, ESB has, in practice, accepted the regulatory framework for inbound travel agents as proposed in option (iii) stated in para. 9(b) above. It intends to introduce the necessary amendment bill to LegCo in early 2001.

Final Remarks

14. This Office notes that the Government is making considerable efforts in the promotion of tourism in Hong Kong. Various events on the Millennium celebrations, the proposed hosting of the Asian Games as well as the Walt Disney project aim at attracting visitors to Hong Kong. This Office believes that an effective regulatory system on inbound travel agents should be established as soon as possible and that this will go a long way towards promoting tourism in Hong Kong.

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