

**REPORT**

**OF THE**

**INVESTIGATION**

**ON**

**THE REGULATORY MECHANISM FOR**

**LOCAL TRAVEL AGENTS FOR INBOUND TOURS**

July 2000



Office of The Ombudsman

Hong Kong

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## Legend of Abbreviations

ACTA	Advisory Committee of Travel Agents
CNTA	China National Tourism Administration
The Code	Code of Conduct for Inbound Agents
CC	Consumer Council
DIR	Draft Investigation Report
ESB	Economic Services Bureau
HAB	Home Affairs Bureau
HARTCO	Hong Kong Association of Registered Tour Co-ordinators
HKATA	Hong Kong Association of Travel Agents
HKHA	Hong Kong Hotels Association
HKTA	Hong Kong Tourist Association
IR	Investigation Report
LegCo	Legislative Council
MOU	Memorandum of Understanding
Para	Paragraph
Paras	Paragraphs
RTA	Registrar of Travel Agents
SES	Secretary for Economic Services
TAO	Travel Agents Ordinance
TAR	Travel Agents Registry
TIB	Trade and Industry Bureau
TIC	Travel Industry Council
TICF	Travel Industry Compensation Fund
TICFMB	Travel Industry Compensation Fund Management Board
TSG	Tourism Strategy Group
WG	Special Working Group established by ESB on inbound agents

# 1

## INTRODUCTION

### BACKGROUND

1.1 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 tour operators. During the Chinese New Year holiday period in 1999, wide media coverage of a Mainland tour group stranded in Hong Kong generated further public concern on the quality of inbound tours in Hong Kong.

1.2 During March to July 1999, this Office approached the Trade and Industry Bureau (TIB) 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 (SES) on 20 July 1999 of her decision to conduct a direct investigation into the matter under Section 7(1)(a)(ii) of The Ombudsman Ordinance.

### PURPOSE AND AMBIT OF THE DIRECT INVESTIGATION

1.3 The purpose of this direct investigation is 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.

**1.4** The investigation focused on ESB's role in developing tourism in Hong Kong. In particular it seeks to cover -

- (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.

#### **INVESTIGATION**

**1.5** In the course of the investigation, Investigation Officers of this Office made extensive contacts with the ESB, TIB (in particular the Travel Agents Registry (TAR), the Hong Kong Tourist Association (HKTA), the Travel Industry Council (TIC) and the Consumer Council (CC)). Apart from written materials, Investigation Officers visited these organisations and held discussions with their representatives. Members of the public were also invited to offer their comments and suggestions on the subject. By the end of the

consultation period on 16 September 1999, this Office received a total of four written submissions. Views expressed in the submissions have been incorporated into the relevant Chapters. (Please see para. 6.3).

## REPORT

1.6 The Draft Investigation Report (DIR) was sent on 5 May 2000 to ESB for comment. The comments were received on 25 May 2000. This final Investigation Report (IR) was issued on \_\_\_ August 2000.

1.7 There are nine chapters and fourteen annexes in this investigation report and the gist of their contents is as follows -

- (a) Chapter 1 is an introduction on the background, purpose, ambit of and other logistical information of this investigation.
- (b) Chapter 2 contains an overview of the specific roles played and functions discharged by the Administration and two related tourist organizations, i.e. TIC and HKTA.
- (c) Chapter 3 sets out the main features of the existing mechanisms for regulating the control of local travel agents for both inbound and outbound tours.
- (d) Chapter 4 records the incidents, which caused public concern on the operation of travel agents for inbound tours and all major subsequent developments, including improvement initiatives introduced by the Administration.
- (e) Chapter 5 discusses the improvement measures introduced and highlights some of the complications involved.
- (f) Chapter 6 summarises the views expressed by the local community on the subject matter, including those from TIC, HKTA and CC on

various issues relevant to the proposed need for enhanced control for agents for inbound tours.

- (g) Chapter 7 contains the various observations and opinions made by this Office on all the issues examined.
- (h) Chapter 8 sets out The Ombudsman's conclusion and recommendation of the investigation.
- (i) Chapter 9 records the comments made by the Administration (as well as TIC, HKTA and CC) on the investigation report and the final remarks of The Ombudsman made in response to such comments.

# 2

## **ROLES AND FUNCTIONS OF ECONOMIC SERVICES BUREAU AND OTHER GOVERNMENT BUREAUX/TOURISM- RELATED ORGANISATIONS**

### **GENERAL**

2.1 The tourism industry can be divided into two parts according to whether it is outbound or inbound, i.e.-

- (a) outbound tourism basically involves all the outward travel-related activities, particularly tours organised by outbound travel agents for visiting places outside Hong Kong; and
- (b) inbound tourism includes all sundry activities involving, in particular, travel arrangements provided by inbound travel agents for people to visit Hong Kong.

2.2 ESB is the policy bureau responsible for the development of inbound tourism in Hong Kong. To achieve its policy objectives, ESB works in close partnership with relevant trade organisations such as HKTA and TIC. TIB, on the other hand, is the policy bureau responsible



for the development and regulation of the outbound tourism activities and in discharging this responsibility, it maintains a very close working relationship with TIC, particularly in licensing matters for outbound travel agents.

**2.3** This investigation focuses specifically on inbound travel agents. However, useful reference is drawn from the system for regulating outbound travel agents, and the roles played therein by TIB, TIC and CC. The latter has the role of consumer protection, which may involve both inbound and outbound local travel agencies.

**2.4** It is pertinent to point out that the Administration and a number of trade organisations are involved in a wide range of services and activities relating to the tourism industry. For the purpose of this investigation, we examine only the roles and functions of ESB, TIB, HKTA, TIC and CC, all of which are key players in respect of inbound tourism activities. At **Annex I** is a matrix showing the key players responsible for tourism promotion and the regulation of travel agents.

#### **Economic Services Bureau**

**2.5** ESB is the policy bureau for inbound tourism. One of its policy objectives is to promote Hong Kong as a key tourist destination and to develop the local tourism industry. To achieve this objective, ESB has the responsibility to -

- (a) map out and take forward the strategy for promoting tourism in Hong Kong;
- (b) provide the necessary institutional framework and financial support to encourage the development of the tourism industry;
- (c) provide the necessary infrastructure to cater for growth in tourism and to facilitate the entry of visitors into Hong Kong; and

- (d) enhance Hong Kong's attractiveness through encouraging the development of new tourist attractions and improving existing ones; and provide appropriate support to HKTA in delivering its duties.

#### Tourism Commission

2.6 Under ESB, the Tourism Commission (TC), headed by the Commissioner for Tourism was established in May 1999 to spearhead the development of inbound tourism in Hong Kong. Its key functions and responsibilities are, amongst others, to -

- (a) formulate policy and overall strategy, in consultation with HKTA and the tourist industry in promoting the development of inbound tourism in Hong Kong, as well as to oversee their implementation;
- (b) maintain liaison with the tourist industry, Mainland tourism authorities and international tourism bodies and to explore opportunities for co-operation with parties outside Hong Kong in Tourism development; and to
- (c) co-ordinate with other Government bureaux and departments on tourism related matters;

2.7 A major target area of TC has been the assessment of the need for an effective regulatory control mechanism for inbound travel agents. A copy of the organisation chart of TC is attached at **Annex II**.

2.8 TC has established an hoc Tourism Strategy Group (TSG) to develop inbound tourism at the macro-level for the future. As regards matters relating to the regulation of inbound travel agents, TC has also formed a special Working Group (WG) since June 1999.

#### *Tourism Strategy Group (TSG)*

2.9 The terms of reference of TSG are to consider and make recommendations to the Government in respect

of tourism development from a strategic perspective through the formulation of -

- (a) Vision: the overall positioning of Hong Kong as a tourist destination;
- (b) Strategy: the policies and strategy to achieve that vision; and
- (c) Initiatives: the adequacy of actual/planned initiatives in both hardware and software to implement the strategy.

*Special Working Group (WG)*

2.10 For the purposes of gauging views from trade organisations on the regulation of inbound travel agents, TC formed a WG with the objective of advising the Government specifically on how to strengthen the regulation of inbound travel agents. Details of the WG's proposals are at paras. 5.5 to 5.7.

**Trade and Industry Bureau (TIB)**

2.11 TIB has policy responsibility for, inter alia, the promotion of consumer protection and the regulation of outbound travel services from Hong Kong. Although outbound travel services is not the focus of this investigation, we consider it necessary, for reference purposes, to cover also TIB's responsibilities discharged through TAR in areas relating to the licensing and regulation of travel agents providing outbound travel services from Hong Kong.

Travel Agents Registry (TAR)

2.12 In 1985, TAR was established to provide support to the Registrar of Travel Agents (RTA) who has a statutory function under the Travel Agents Ordinance (TAO) to license travel agents providing outbound travel services from Hong Kong. Please see **Annex III** for the establishment and strength of TAR and **Annex IV** the enforcement statistics under TAO.

### The Registrar of Travel Agents (RTA)

**2.13** The head of TAR is RTA who has overall responsibility for the issue of licences, administration and enforcement of the provisions of TAO. He has the following main specific tasks -

- (a) carries out financial surveillance over the licensed travel agents through annual renewal of licences, and by imposing conditions on licences; and
- (b) conduct investigation into the activities of travel agents suspected of breaching the provisions of TAO.

### **The Travel Industry Council (TIC)**

**2.14** TIC's statutory role in enforcing self-regulation of the outbound travel industry was established in 1988. Its aim is to regulate its members by improving trade practices, formulating and enforcing codes of conduct and issuing relevant directives for their compliance, collecting statutory levies and handling public complaints.

**2.15** The TIC is governed by a Board of Directors comprising 21 members, as follows -

- (a) the Chairman;
- (b) 8 members-elected directors;
- (c) 8 members association representatives ; and
- (d) 4 independent directors appointed by the Financial Secretary.

**2.16** Also established under TAO are two bodies supporting the regulatory mechanism. The Advisory Committee on Travel Agents (ACTA), advises the Chief Executive on matters relating to the administration of the Ordinance, the business of travel agents, and the users of the services of travel agents. Its membership

is shown in **Annex V**. TIC will respect and consider the advice of ACTA. The Travel Industry Compensation Fund Management Board (TICFMB), established in 1993, is responsible for, inter alia, holding, managing and administering the Travel Industry Compensation Fund (TICF). This Office notes that TIC is well represented on related bodies with three TIC members sitting on ACTA and two representatives appointed to the TICF management Board on an ad personum basis.

**2.17** TICF was set up under TAO to provide ex-gratia payment to aggrieved travellers and financial relief to those injured or killed while on tours outside Hong Kong. Local travel agents licensed under TAO are required to pay 0.3 % of the outbound package tour fares as Levy. Half of the levy goes to TICF and the other half finances the TIC's self-regulatory efforts. In this connection, the TICFMB has entered into a Memorandum of Understanding (MOU) with TIC authorising the latter to collect the Fund levy. A copy of the MOU is at **Annex VI**.

**2.18** TAO requires travel agents to contribute levies of 0.3% of the tour fare. **Annex VII** shows a copy of the levy paid chop of the TICF. Travel agents which are members of TIC are required to contribute to TICF vide the following two types of levies -

- (a) the Fund levy, being 0.15% of tour fare which is used to finance a compensation fund for outbound travellers.
- (b) the Council levy, also 0.15% of tour fare which is used to finance TIC's self-regulatory functions.

#### **The Consumer Council (CC)**

**2.19** CC was established in April 1974. The functions of the Council are focused, amongst others, on the protection and promotion of the interests of all consumers, whether of goods and services. The organisation chart of CC is at **Annex VIII**.

**2.20** CC is involved with the following activities

and objectives in relation to tourist complaints -

- (a) identifying and investigating consumers complaints and concerns;
- (b) promoting public awareness of consumer rights and responsibilities through publicity media campaigns and consumer educational activities and projects;
- (c) obtaining redress for group victims through court action; and
- (d) advising on all consumer issues and policies.

**2.21** CC has a close working relationship with TIB, which has policy responsibility for consumer protection. At **Annex IX** is a list showing the major protection laws enforced in Hong Kong

**2.22** CC provides services to all consumers, including tourists, when they come across unfair trade practices, including, for example, the following circumstances -

- (a) when goods or services do not correspond to description;
- (b) when there are delays in delivery; and
- (c) when services provided are not up to standard.

**2.23** For public information, CC provides on its web site a list of the various consumer protection laws in Hong Kong. To warn visitors against patronizing unscrupulous shops named by CC, it also publishes various publicity materials including a multi-lingual leaflet entitled "Be a smart Consumer", a copy of which is at **Annex X**.

#### **The Hong Kong Tourist Association (HKTA)**

**2.24** HKTA is a statutory body established in 1957. HKTA promotes Hong Kong globally as a travel destination.

As well as playing a fundamental role in increasing awareness and demand for Hong Kong as a travel destination, HKTA services consumer and trade information needs. It also assists and guides the tourism industry in areas such as product development and market understanding, both supported by targeted market research efforts. In addition, it performs a co-ordinating role in the overall destination Hong Kong marketing effort, and assists the Government (specifically the Tourism Commission) in formulating tourism policy and monitoring and measuring the economic contribution of tourism. **Annex XI** shows the organisation chart of HKTA.

**2.25** HKTA's Board of Management, includes -

- (a) the Chairman;
- (b) 9 members; and
- (c) Secretary for Economic Services or Commissioner for Tourism.

**2.26** HKTA's efforts in promoting tourism in Hong Kong are made in close partnership with the Administration and other related trade organisations.

# 3

## **THE MECHANISM FOR REGULATING TRAVEL AGENTS**

### **INTRODUCTION**

3.1 TAO was enacted in 1985 to provide for the licensing of outbound travel agents to protect the interest of Hong Kong travellers following a series of incidents involving abscondments or failures of some outbound travel agents. According to our understanding, the inclusion of inbound travel agents into the licensing scheme was not considered necessary as the problem then was caused by outbound travel agents only. Actually, the services provided by inbound agents are substantially different from those of the outbound agents

### **THE EXISTING REGULATORY FRAMEWORK**

#### **Travel Agents providing Outbound Tours**

3.2 TAO provides for the appointment of a RTA, the establishment of ACTA, the licensing of travel agent, the establishment of a TICF, a TICFMB to administer the fund, the imposition of levies on travel agents and for matters connected therewith or incidental thereto.

3.3 TAO forms, in essence, parts and parcel of the whole scheme of regulatory control for outbound travel agents. It provides a useful tool against unscrupulous or bogus fly-by-night outbound travel agents who may



abscond with travellers' deposits or who may suddenly go bankrupt. The regulatory scheme for outbound travel agents was introduced after a series of major abscondments, which triggered off a call from the consumers for stronger protection.

**3.4** A travel agent is defined under Section 4 of TAO as a person who "carries on business if he holds himself out as carrying on the business of, and carries on the business of, obtaining for another person-

- (a) carriage, by any means of conveyance, on a journey which is to commence in Hong Kong and which thereafter is to take place mainly outside Hong Kong; or
- (b) accommodation at a place outside Hong Kong for which payment is, or is to be, made to that person by or on behalf of that other person of an amount on account of the cost of that accommodation."

**3.5** TAO provides that a travel agent has to apply for a licence if he/she conducts business activities of outbound tours. The preconditions for issuing a licence are -

- (a) the applicant being a member of TIC;
- (b) the applicant is a fit and proper person to carry on the business as a travel agent; and
- (c) the premises to which the application relates is considered suitable for the operation of the business as a travel agent

**3.6** As at the end of June 2000, there were 1,143 licensed travel agents on the registrar.

**3.7** The regulatory function provided in TAO is discharged by RTA, and the main provisions are highlighted as follows -

- (a) Section 11- The Registrar may grant a licence and may impose such conditions as he thinks

are necessary.

- (b) Section 12 - The Registrar may refuse to grant a licence if he is of the opinion, inter alia, that the applicant is not a fit and proper person or the applicant is in breach of, or is unable to comply with, the condition imposed under section 11 (1A)
- (c) Section 19 - The Registrar may suspend or revoke a licence.
- (d) Section 21 - The Registrar may invoke the power to investigate a licensed travel agent suspected of carrying out its business contrary to public interest.
- (e) Section 48 - Any person who, inter alia, fails to comply with section 24 commits an offence and is liable either on conviction upon indictment to a fine of \$100,000 and to imprisonment for 2 years or on summary conviction to a fine of \$10,000 and to imprisonment for 6 months.

**3.8** In summary, TAO provides a statutory framework for the control and licensing of outbound travel agents. 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. As far as TIC is concerned, sanctions including fines, suspension of TIC membership etc., can be imposed on members who breach the rules. It is important to note that under the current practice and statutory requirements, a licence can only be issued to a TIC member and therefore expulsion of a licensed agent from TIC will also lead to a revocation of his licence.

#### Improved Control Measures for Travel Agents under the Regulation of TAR/TIC

**3.9** The existing regulatory measures imposed by TAR and TIC on licensed travel agents aim at minimising

the extent of financial losses to travellers in the event of default by travel agents. Both TAR and TIC assume an important role in this regard and have an inherent responsibility to ensure that improvements are being made to the regulatory mechanism for relevant licensed travel agents so that they could deliver the required standard of services to the public.

**3.10** It is noticed that following a series of recent incidents involving failure and suspected default of some licensed travel agents, RTA, on the recommendation of the ACTA, has developed a more stringent action plan for the surveillance of travel agents. This aside, there is also an enhancement scheme introduced by RTA and by TIC to further strengthen the existing regulatory measures, particularly in the areas concerning problems of overbooking and cancellation of tours and fraud prevention by licensed travel agents. The various measures are summarised below.

#### *Overbooking and Cancellation of Tours*

**3.11** TIC, in carrying out its duties as part of the regulatory mechanism, introduced over the years the following rules -

- (a) prohibition of tour price increases within 28 days before departure dates;
- (b) compensation of 3% of tour fares by travel agents to travellers for cancellation of tours within 14 days in peak seasons (viz. Lunar New Year and Christmas) and within 7 days at other times;
- (c) requiring travel agents to denote airlines for advertised tours and checking advertisements to detect misrepresentations;
- (d) requiring the registration of tours before they are put on sale and advertised; and
- (e) routine monitoring complaints lodged against travel agents by collecting information from its members etc.

**3.12** In this connection, travel agents, who are members of TIC and who are found to have breached any of the rules above stated may be subject to disciplinary action by the TIC. In 1998, two travel agents were fined a total of \$8,000 for not complying with the TIC rules governing overbooking and cancellation of tours. (Notes: statistics on enforcement actions taken by TAR are provided at para. 3.18 below).

**3.13** Information available indicates that both ACTA and TIC recognise the need to step up control of licensed travel agents for outbound tours. Some of these measures that have been recently introduced by TIC in consultation with TAR include -

- (a) setting compensation for cancellation of tours within the notice period at 15% of the tour fare except for short-haul tours to destinations within the Guangdong Province;
- (b) requiring prompt refunds of tour fares and compensation and expeditious return of travel documents within 3 working days, upon cancellation of tours;
- (c) extending the notice period for tour cancellation from 7 days to 14 days for all major long holidays;
- (d) preventing advertising bogus rates by way of imposition of rule, where necessary to ban bogus prices advertising; and
- (e) ensuring openness and fairness in the TIC's sanction system with details and objective criteria made known to travel agents.

**3.14** With regard to the issue raised in para. 3.11(b), it is understood that ACTA has already further recommended TIC to consider adopting a 14-day advance notice period as the standard across the board to enhance consumers' protection in case of tour cancellation by travel agents for outbound tours. Regular reviews are also being made by TIC and other related organizations

on the regulatory measures for travel agents for outbound tours. For example, a working group has been formed under the ACTA to review, inter alia, the need for further improvements measures to be introduced to the existing control mechanism for travel agents for outbound tours.

#### *Fraud Prevention*

**3.15** This Office notes that TAR is the first line of defense. The existing procedure, as advised by TAR, requires first-time applicants for travel agents licences to be subject to criminal background checks. TAR also requires applicants to make a declaration that they are free from any bankruptcy or liquidation proceedings. In addition, TAR also checks the financial status of licensed agents from time to time.

**3.16** On fraud prevention, it is noted that before granting TIC membership, TIC imposes on first-time applicants certain requirements with regard to the amount of paid-up capital, number and experience of staff, suitability of premises in which the business as a travel agent is to be conducted, etc. (Notes: The pre-conditions imposed by TAO for the granting of a travel agents licence are shown in para. 3.5 above).

**3.17** TAR and TIC also operate an enhanced surveillance system to monitor the activities of travel agents in high seasons. Prior to each major holiday period, TIC would advise TAR of the levy loading of travel agent and draw its attention to unusual cases, e.g. exceptionally high loading by a travel agent as compared to its track record. Both TAR and TIC have undertaken to conduct inquiries or investigations into suspicious cases.

#### Statistics

**3.18** The following statistics provided by TAR shows the number of enforcement actions taken in the years of 1997, 1998 and 1999 -

#### Enforcement statistics provided by the TAO

Type of offence	1997	1998	1999
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			(up to 20.12.99)
Revocation of licence	42	76	71
Suspension of licence	0	0	2
Re-instatement of revoked licence	1	0	1
Action taken pertinent to Section 48 of TAO (Note: all offences are related to operation of travel agents without a valid licence.)	1	1	0

### **Travel Agents Providing Inbound Tours**

**3.19** At present, there are two main types of operators engaging in the inbound travel business, namely -

- (a) travel agents; and
- (b) tour operators.

**3.20** As with their outbound counterparts, inbound travel agents normally arrange accommodation, transportation and/or programmes for visitors of Hong Kong on package tours. Tour operators are providers of local tours for these visitors. There is, at present, no statutory licensing/regulatory scheme for the control of inbound travel agents/tour operators. According to information available, the majority of travel agents licensed under TAO who deal with outbound tours also handle business relating to inbound tours.

#### Self-regulatory mechanism

**3.21** In the absence of a formal regulatory mechanism for the control of inbound travel agents/operators (including tour guides), relevant trade

organisations have to devise their own system of control. TIC issued a "code of conduct for inbound agents" (the Code) on 1 April 1999 aiming, inter alia, to provide the necessary guidelines for its own members dealing with inbound travel-related activities. TIC's aim is to ensure its member's compliance with the Code so that only services of the required standards are delivered to the public. The Code, which TIC introduced following the recent incidents involving visitors from Mainland being stranded while on package tours in Hong Kong, is obviously a necessary form of remedial action taken by TIC to prevent the recurrence of similar incidents in the future. (Notes: More details concerning the Code are provided in paras. 5.2 to 5.4 below). In addition, TIC had over the years issued three other sets of codes covering a wide spectrum of areas of concern for its members' compliance. These are as follows -

- (a) Code of Business Practice on Outbound Package Tours;
- (b) Code of Advertising Practice for TIC Members; and
- (c) Code of Business Practice on Inbound Package Tours

**3.22** This Office notices that TIC can impose various sanctions including fines, suspension of membership etc. on members for breaching the Code. Inbound travel agents who are not TIC members are not obliged to observe the Code. The estimated number of inbound travel agents who are non-TIC members is 150-200.

**3.23** Travel agents/operators (including tour guides) regard TIC membership as part of a self-regulatory regime introduced by the relevant trade organisations to ensure the services by their own members are provided at a satisfactory level. Under such a system stressing on self-regulation, members with TIC/HKTA affiliation are expected to operate their business in accordance with the rules, regulations as well as codes of practices issued by their respective trade organisations.

*TIC membership*

**3.24** The Memorandum and Articles of Association of TIC provides for the following three different classes of TIC membership, -

- (a) Association Members (Notes: **Annex XII** shows a list of the eight Association Members of the TIC);
- (b) Ordinary Members; and
- (c) Affiliated Members.

**3.25** As mentioned in para. 3.16 above, first-time applicants have to satisfy certain prerequisites before admission, (e.g. the amount of the paid up capital, number and experience of staff and suitability of premises for use as office accommodation etc.) With regard to TIC membership, it is relevant to point out that in accordance with Section 11 of TAO, the issue of a licence by TAR is subject to the "condition that the applicant shall be and remain a member of an approved organisation (which is in effect TIC) during the period that the licence is in force" (Notes: See para. 3.8 above).

**3.26** An extract of the Memorandum and Articles of Association of TIC relating to qualifications and restrictions for admission as members is at **Annex XIII**.

**3.27** According to TIC, it has a total of about 1,200 members (of all three classes), of which about 300 deal with inbound related activities.

*HKTA membership*

**3.28** According to HKTA, it currently has some 1,510 members under two categories of membership. This comprises 1,194 "Ordinary" members and 316 "Travel Industry" members. "Ordinary" members are made up mainly of "Recognised Travel Agents" (90 persons), tour operators (99 persons) and others (1,005 persons). "Travel Industry" members are any body of persons incorporate or group of persons unincorporate, being an



international passenger carriers; an hotel proprietor; a recognised travel agents; or a tour operator. "Ordinary" members are those bodies of persons unincorporate who are interested in travel and tourist development and not eligible for membership under "Travel Industry" members. The admission criteria of HKTA membership are -

- (a) In business for at least 6 months in business;
- (b) A clean complaint record;
- (c) Properly registered with the Government as a business;
- (d) Independent, identifiable premises in Hong Kong;
- (e) A healthy financial standing;
- (f) Experienced managerial staff;
- (g) Clear price tagging;
- (h) Full sales receipts;
- (i) "Tour Operators" applicants need to employ either a full-time, part-time or freelance tour co-ordinator registered with the HKTA, and must pass a tour inspection conducted by the Association; and
- (j) "Recognised travel agent" shall produce a certificate from an international passenger carrier to the effect that the applicant is the agent for such carrier.

### Complaints

**3.29** According to information provided by ESB, there had been few complaints relating to allegation of malpractice of inbound travel agents. ESB received only **nine** complaints over the past 3 years, the majority of these related to the refund of air-tickets arranged through local travel agents and/or against the conduct

of local tour co-ordinators. There is, in addition, the problem of so-called "zero-fare tours" which will be discussed in paras. 4.4 to 4.9 below. The table below shows the number of complaint cases received by HKTA against inbound travel agents/tour operators from January 1997 to October 1999 -

Complaint cases received by HKTA  
against inbound travel agents/tour operators

Year	Member	Non-Member	Total	Cases lodged by Mainland Tourist	Cases related to "zero-fare tour"
1997	29	9	38	5	0
1998	27	14	41	8	5 (including 3 lodged against HKTA member and 2 against non-member)
1999 (Jan to Oct)	23	17	40	6	3 (including 1 lodged against HKTA member)

Lack of a legislative backing

**3.30** Without legislation backing the regulating of inbound travel agents, ESB and the relevant trade organisations are unable to take preventive action to curb malpractices by inbound travel agents. As mentioned in para. 3.17 above, the surveillance system operated by TAR under Section 24 (1) of TAO covers the activities of outbound travel agents only.

Sanctioning power of TIC

**3.31** The system of membership with a built-in mechanism to mete out sanctions for non-behaving members is a self-initiated control mechanism introduced by TIC to regulate the trade practices of its members. It is noted that under Section 11 of the Memorandum and Articles of Association of TIC, a member of TIC may indeed be "disqualified" if the "Board has reason to believe that it is in the public interest to do so, or that the Member has committed or is likely to commit fraud".

According to the latest information available, TIC advised that it had taken action, inter alia, to terminate and suspend membership of its members who had breached the relevant provisions under the Memorandum and Article of Association of TIC.

**3.32** The next Chapter discusses the reported "stranding" incidents and problems associated with the so-called "zero-fare tours".

# 4

## **THE INCIDENTS AND RELATED ISSUES**

### **THE INCIDENTS**

4.1 The first publicized incident involving a package tour group from the Mainland being stranded in Hong Kong occurred on 17 February 1999, during the Lunar New Year holiday period. The group consisted of 108 visitors from Wuhan, Mainland. In the same month another group of 22 tourists from Sichuan was left unattended when they arrived in Hong Kong on 18 February 1999. According to newspaper reports, these two incidents were the result of a financial dispute between a local travel agent in Hong Kong and its counterpart from the Mainland. The incidents also brought to light the question of "zero-fare tours".

### **The Investigation**

4.2 Both TIC and The China National Tourism Administration (CNTA) conducted their own investigations into the incidents. According to ESB, the Commissioner for Tourism had since contacted CNTA because any effective remedy would require co-operation from Hong Kong and the Mainland. ESB advised that CNTA had since issued a directive to various local tourism authorities in the Mainland to tighten up management over travel agents engaging in outbound business as well as to require them to introduce specific measures to improve liaison between Hong Kong and Mainland agents. The Commissioner for Tourism has also met with the representatives of CNTA to discuss the strengthening of cross borders co-operation in handling similar incidents in the future.

**4.3** TIC has introduced a number of remedial measures to prevent recurrence of such incidents. These include -

- (a) the issue of the Code in 1999 on the handling of inbound tours;
- (b) a "tacit" agreement reached with the Guangdong Tourism Administration in mid 1999 to the effect that package tours from the Mainland should in future be handled only by Hong Kong travel agents who are members of TIC; and
- (c) issue of a directive requiring all TIC members handling inbound tours from the Mainland to continue providing their services notwithstanding any financial dispute between the Mainland and Hong Kong travel agents (Notes: This specific directive was introduced as a special arrangement for the Lunar New Year. It had not been incorporated into TIC's code of conduct).

## **ZERO FARE TOURS**

### **Complaints**

**4.4** According to ESB, "zero-fare tours" refer to a practice by some inbound travel agents who offer free service to tour groups visiting Hong Kong or en route to a third destination. Under this practice, tour guides would "escort" tour members to patronize designated shops. To compensate for their "free service" to tour members, they would receive rewards or commissions from shop operators in respect of purchases made at these shops. This practice is quite common among inbound travel agents, including tour operators and tour guides who arrange visitors on package tours to Hong Kong from other neighbouring South East Asian countries.

**4.5** According to TIC, there are about 7,000 tour guides providing services to inbound tour groups. The

types of complaints associated with "zero-fare tours" lodged with HKTA may be broadly classified into two categories in which the agents/operators/guides concerned were accused of either -

- (a) taking visitors to unscrupulous shops which over-charge for their merchandise; or
- (b) leaving their visitors stranded in Hong Kong when they encounter financial difficulties.

**4.6** Complaints under para.4.5(a) above were mainly directed at shops using unethical sales tactics such as -

- (a) the so-called bait-and switch tactic whereby customers are persuaded to purchase goods introduced by the salesmen in preference to their original chosen items. This method is most commonly employed by unscrupulous camera and video shops;
- (b) coercive selling of products/services, including misrepresentation, overcharging and exhibition of unclear price tags;
- (c) discourteous attitude of sales personnel;
- (d) poor service; and
- (e) inferior quality of goods/services.

**4.7** At **Annex XIV** is the information provided by HKTA about unethical sales tactics commonly used by shops in the retail sectors.

**4.8** Trade organisations have expressed grave concern on the malpractices at para. 4.5(b) above because they damage Hong Kong's image as a tourist destination and shoppers' paradise. Their view was essentially that the problem of "zero-fare tours" could only be resolved with concerted efforts by the countries where the tours originated and the regulatory authorities in Hong Kong.

**4.9** On 26 November 1998 ESB held a meeting with

representatives from TIB, CC, HKTA and TIC to discuss, inter alia, ways to combat malpractices associated with the "zero-fare tours". The meeting agreed that TIB, in consultation with CC, would examine further the existing consumer protection regime to ascertain if there was room to improve protection to consumers, local and tourists from unethical retailers. ESB has also solicited the necessary support from TIC and other tourism related organisations, such as hotel associations etc. to introduce legislation to regulate inbound travel agents.

**4.10**           The next Chapter will focus on the main improvement measures.

# 5

## **IMPROVEMENT MEASURES**

### **DEFINITION OF INBOUND TRAVEL AGENTS**

**5.1** According to the Code (para. 3.21) issued by TIC, inbound agents are defined as "a person carries on business as an inbound agent if he carries on the business of making arrangements for another person or group -

- (a) to travel from a place outside Hong Kong to Hong Kong on a journey the itinerary of which includes accommodation, sightseeing, meals, shopping, visits, academic, sports or cultural exchange, exhibition, conference, or performance; or
- (b) to travel from a place outside Hong Kong to any other third place whether or not by way of Hong Kong on a journey the itinerary of which includes the items of the itinerary stated in (a) above".

### **SPECIFIC IMPROVEMENT MEASURES**

#### **TIC**

**5.2** Apart from issuing the Code and other directives, TIC has obtained a "tacit" understanding with the Guangdong Tourism Administration that package tours to Hong Kong from the Mainland would henceforth be arranged, as far as practicable, through and/or be received only by local travel agents who are TIC members



(para. 4.3 above).

### **The Code**

**5.3** As stated in para. 3.21 above, TIC issued the Code in April 1999 on inbound tours. The objectives, principles and performance pledges as contained in the Code are highlighted below -

#### Objectives

- (a) To ensure that the public receive the best possible service from travels agents.
- (b) To maintain and enhance the reputation, standing and good name of the TIC and its members.
- (c) To encourage initiative and enterprise on the part of members in the belief that properly regulated competitive trading between travel agents will best serve public interest and the well being of the travel industry.
- (d) To ensure that public interest and the reputation of the Hong Kong tourist industry is predominant in all considerations despite competitive trading between travel agents.
- (e) To encourage the growth and development of the inbound travel industry in accordance with the above objectives.

#### Principles

- (a) Travel agents shall familiarise themselves with all the provisions of this Code of Business Practice.
- (b) Travel agents shall act in accordance with the objectives of this Code of Business Practice.
- (c) Travel agents shall comply with such Directives as may be issued by the TIC from

time to time.

- (d) Travel agents shall maintain a high standard in serving inbound travellers and shall comply with all relevant statutory requirements.
- (e) Travel agents shall make every effort to ensure that clear and accurate information is provided to enable their clients to exercise informed judgement in making their choice of services.

#### Performance pledge

**5.4** Under the Code, inbound agents shall sign contracts with overseas travel agents for the benefits of both parties. The scope and standard of services provided shall be clearly specified in the quotation and duly carried out by the inbound agents. The contract shall specify the following items:

##### *Hotel accommodation*

- (a) The name, grade and type of hotels shall be specified. Alteration of hotels shall be specified. Alteration of hotels as a result of reasons beyond control shall be allowed provided that the hotels are not of grades inferior to the original ones.

##### *Transportation*

- (b) The means of transportation shall be specified, such as air-conditioned coach, limousine, or ferry.

##### *Itinerary*

- (c) The items on the itinerary shall be clearly specified. Whether the tour price includes all the admission fees and whether there are any self-paid programmes shall be specified. All scenic spots mentioned on the itinerary shall be visited. Alteration or cancellation

of any item on the itinerary as a result of unforeseen circumstances such as foul weather, traffic congestion, riots, strikes, technical problems of vehicles, and the like shall be explained to tour participants in detail. In the event of any alteration or cancellation of items on the itinerary resulting in an increase in operating costs, no surcharges shall be imposed on the overseas agents or tour participants. In the event of any alteration or cancellation of items on the itinerary resulting in a decrease in operating costs, the difference in tour price shall be reimbursed to the overseas agents or tour participants.

*Meals and dining places*

- (d) The hygiene conditions of the places at which the travellers dine shall be of primary concern to the inbound agents when choosing such places. The number and type of meals served shall be specified, such as Chinese, Western or others.

*Tour guides*

- (e) Experienced and responsible tour guides shall be assigned to the tour. The tour guides shall carry out the services undertaken by the inbound agent.

*Shopping*

- (f) Inbound agents shall specify the number of shopping activities to be arranged. If the agents or their staff make arrangements for or recommendations to travellers regarding shopping, they shall guarantee and be responsible for the products sold at such shops.

*Service charge*

- (g) The service charge to be paid by tour

participants shall be specified in the contract.

*Methods and term of payment*

- (h) The methods and term of payment shall be clearly specified in the contract.

*Others*

- (i) Travel agents shall bear moral obligations in general business practices not specified in the contract, such as confirming flights and assisting travellers to seek medical treatment in case of illness or accidents.

**WG Established by ESB**

**5.5** This Office notes that ESB has been exploring various options, including the introduction of a statutory framework to regulate and control inbound travel agents.

**5.6** In the wake of the incidents described in Chapter 4, ESB formed a WG comprising representatives from the travel and tourism industries to consider improvements to the existing regulatory system over travel agents for inbound tours. At its first meeting held on 22 June 1999, the WG identified the following options -

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

responsibilities for regulating travel agents for inbound tours.

**5.7** The meeting reached a consensus to introduce a statutory regulatory scheme. In addition to the WG meeting, ESB had also undertaken a series of informal consultations with key inbound tour operators, hotel associations, and TIC in August and September 1999. ESB advised that the industry supported the introduction of a regulatory mechanism that would involve TIC, to be complemented by a licensing regime, which had proved to be effective in respect of outbound travel agents. The latest development is that ESB has written to TIC on 8 December 1999 asking it to assume regulatory responsibility for inbound travel agents. TIC replied on 24 February 2000 and agreed to do so upon introduction of a statutory backed self-regulatory scheme. When enacted, such legislation will require all travel agents, both inbound and outbound, to become members of TIC before getting their licences from the Government. TIC also made known its views that only one type of licence should be issued for travel agents and that the Board of Directors of TIC should be suitably expanded to reflect a more balanced representation of the different voices of the travel industry.

**5.8** The focus of the next Chapter will be on the views of the community and of the trade organisations.

# 6

## **CONCERNS OF THE COMMUNITY AND VIEWS OF OTHER TOURISM related BODIES**

### **INTRODUCTION**

#### **1999 Policy Address**

**6.1** The Chief Executive emphasized in his 1999 Policy Address the importance of promoting tourism in Hong Kong. He said, "Tourism is a major driving force behind Hong Kong's economic development, and can directly or indirectly create a large number of jobs. To strengthen the co-ordination of the tourism industry, the Administration has appointed the first Commissioner for Tourism (Notes: See functions in para. 2.6 above). We are also reviewing our strategy on the development of tourism and encouraging better co-operation among the various parties. We have announced a series of schemes concerning new tourist attractions, which we are now implementing in stages."

#### **Views and Suggestions**

**6.2** The incidents mentioned in Chapter 4 above attracted substantial public and media attention. A common view expressed by commentators and trade organisations was that the stranding incidents could have been avoided if a statutory regulatory mechanism for inbound travel agents were in place. In the course of investigation, we also noticed signs of public

concerns that Hong Kong's image as a first class tourist destination might be jeopardized by the adverse publicity generated. Amongst such concerns were -

- (a) the Administration's failure to curb the malpractice of inbound travelling agents/tour operators;
- (b) the urgent need to introduce legislation for the licensing and control of inbound travel agents;
- (c) protection of the legitimate interest of tourists.; and
- (d) punishment of unscrupulous travel agents.

#### **PUBLIC COMMENTS/SUGGESTIONS ON THE ISSUE**

**6.3** On announcing the direct investigation, members of the public were invited to offer their comments and suggestions on the subject matter for the period of 16 August 1999 to 16 September 1999. During the consultation period, this Office received four submissions. A summary of the salient points raised in these submissions is as follows -

- (a) Unscrupulous inbound travel agents who arranged the so-called "zero-fares tours" for tourists were damaging HK's reputation as a tourist destination.
- (b) The Administration had failed in its responsibilities to promote and develop tourism in HK. It was suggested that the service standards/professionalism of HK's inbound travel agents/operators and tour guides should be enhanced.
- (c) The Administration as well as the related trade organisations had failed to play their respective role, particularly on matters dealing with the control mechanism for travel agents providing services of inbound tours.

## OTHER COMMENTS/SUGGESTIONS ON THE ISSUE

### Views from TIC

6.4 TIC considers that an effective self-regulatory framework can be devised for inbound agents similar to the existing one for outbound travel agents. To enhance the quality of outbound tours, TIC has introduced a certification system for outbound tour escorts in 1999. TIC believes that regulation of inbound tour-coordinators should likewise be part and parcel of the regulatory structure for inbound travel agents, and the most effective and cost-effective means will be to set up a certification system within the industry.

### Views from HKTA

#### *General*

6.5 We have been provided by HKTA with a copy of the Executive Summary and the Full Report of HKTA Strategic Organisation Review on its role, organisation and management (the Report). It is understood that HKTA Board and senior management had commissioned a consultancy firm to undertake a strategic organisation review of HKTA in mid 1997. The main findings of the Report relevant to this DI are summarised as follows -

- (a) Hong Kong needs to implement an integrated strategy for developing tourism, together with short-term measures to re-build visitor numbers and yield.
- (b) In terms of tourism, establishing more comprehensive consumer protection legislation is the biggest priority in this area.
- (c) Apart from introducing licensing (or other regulatory mechanisms) for in-bound travel agents and tour guides as a priority matter, some form of compulsory accreditation should



be considered for tour guides.

*Specific views in regard to our investigation*

**6.6** HKTA's view is that it is worthwhile to explore a registration system for inbound travel agents to offer better protection of the interest of overseas visitors and ensure good business practices. At a meeting with Investigation Officers on 8 November 1999, HKTA representatives informed this Office that -

- (a) Many countries have been operating a licensing system for travel agents without an outbound or inbound distinction.
- (b) Licensing only outbound travel agents would convey a message that Hong Kong attaches less importance to promoting Hong Kong as a place of first-class tourism destination.
- (c) The Administration should take a more proactive stance in introducing measures to protect the interests of visitors to Hong Kong.
- (d) The interests of those who carry out their business ethically should always be protected.

**6.7** HKTA's representatives also expressed the following views expressed on a number of related issues at the meeting -

- (a) HKTA plays the role of promoter of inbound tourism and not as an enforcer of rules and regulations in respect of a regulatory scheme for travel agents.
- (b) HKTA has an informal working relationship with other tourism-trade-related organisations such as TIC.
- (c) HKTA's view on matters pertaining to regulatory control for inbound travel agents was reflected to ESB at the WG meeting held

on 22 June 1999. With regard to the proposals that the regulatory role for inbound travel agents be assumed by HKTA (para. 5.6(d)), it will be a policy decision for the Administration to make. The draw-back of such a proposal is that it may probably divert HKTA's focus from its main activities of promotion of tourism to Hong Kong to the new role of an enforcement agency.

- (d) In general, there is a need for the Administration to consider the pros and cons for introducing a regulatory scheme for tour guides and to upgrade the service standards and professionalism of tour guides.

Views from the Consumer Council (CC)

**6.8** At the meeting held on 18 November 1999 between the representatives of the CC and the Investigation Officers, the following information/confirmation was gained -

- (a) CC had attended meetings with the relevant bureaux/trade organisations to discuss problems associated with "zero-fare tours" etc.
- (b) CC is represented in TICFMB and ACTA. In addition, it also has a close working relationship with the relevant bureaux/the tourism-trade related bodies. For example, a CC representative has been appointed as member of the working group formed by HKTA to discuss matters relating to the Quality Services Scheme (QTS) undertaken by HKTA (para. 6.7(b)).
- (c) CC had not been invited to become a member of WG formed by ESB to discuss, inter alia, the control and regulation of travel agents providing inbound tours.
- (d) With regard to the proposed licensing scheme for tour guides, CC supports the introduction

of a regulatory mechanism for inbound travel operators. However, it does not support the introduction of a licensing scheme for tour guides. CC considers it adequate to make the inbound travel operators responsible for the acts of their tour guides and to keep the regulatory mechanism simple for implementation.

- (e) CC considers it necessary to introduce a more comprehensive consumer protection framework to sanction unscrupulous retailers and other tourist services providers.
- (f) CC is, however, skeptical as to whether it should assume a regulatory role for travel agents and/or for other trades.

Views from Hong Kong Association of Registered Tour Co-ordinators (HARTCO)

**6.9** According to ESB, HARTCO commissioned a study in 1998 entitled "An Evaluation of the Need to Upgrade the Service Professionalism of Hong Kong's Tour co-ordinators". The study recommended that a licensing scheme for tour guides should be introduced. The salient points of the report are as follows -

- (a) All new entrants to the industry should undergo a comprehensive basic training course.
- (b) They should be formally registered or licensed, either by self-regulation or through legislation.
- (c) A practical and enforceable monitoring and control system should be adopted.
- (d) A code of conduct/ethics, based on international standard and practices, should be set up to provide guidelines for Hong Kong's tour co-ordinators to follow.
- (e) Special programme should be held to enhance

public awareness of the important role played by tour co-ordinators in Hong Kong.

**6.10** The recommendation contained in the above report is of particular relevant to this investigation, having regard to the important role played by tour guides in the overall context of development of inbound tourism.

Views from The Hotel Trade, including Hong Kong Hotel Association (HKHA) and The Federation of Hong Kong Hotel Owners Limited

**6.11** According to ESB, the above mentioned trade bodies had also expressed their concern about the "zero-fare tours" incidents (See paras. 4.4 to 4.9 above). Their views on matters relating to "zero-fare tours" as well as their views on the need or otherwise for a regulatory regime for in-bound travel agents and tour operators/guides are highlighted as follows -

- (a) Closer liaison should be maintained between the Administration and the China National Tourism Authority (CNTA) to stop the malpractice of "zero-fare tours" by inbound travel agents.
- (b) Consideration should be given to introducing a licensing system to regulate in-bound travel agents.
- (c) Administration should consult the hotel trade for its views before setting up an inbound travel agent licensing system.
- (d) Further improvement should be made in relation to communication between the Commissioner for Tourism and the CNTA to prevent malpractice of "zero-fare tours" from happening again.
- (e) There is a need to strengthen the level of professionalism of inbound travel agents because their services will directly affect the level of satisfaction of visitors and their desire to make further visits to Hong

Kong.

- (f) The operation of "zero-fare tours" by some inbound travel agents and tour operators/guides will create serious problems for Hong Kong because such malpractice will damage the good image of Hong Kong as a tourist destination.
- (g) The problem of "zero-fare tours" can only be resolved by Hong Kong working together with the countries where the tours originated from, and introducing effective legislation and law enforcement measures.
- (h) There is a need to cultivate a stronger sense of business ethics in the trade.
- (i) Consideration should be given to the setting up of a "Fund" similar to the TICF to provide compensation/ex-gratia payment to victims of misdeeds caused by inbound travel agents.

**6.12** The overall observations of and views on issues so far looked into in the course of this investigation will be dealt with in the next chapter.

# 7

## OBSERVATIONS AND OPINIONS

### GENERAL

7.1 This investigation is not a full scale review of all issues relating to local travel agents. The following overall observations only focus on areas where the need for administrative and legislative improvements has been identified.

7.2 Through this investigation, this Office has identified the absence of a statutory regulatory regime for inbound travel agents or tour guides as a fundamental underlying problem. This is in direct contrast to the position of outbound travel agents where under Section 21 of TAO, RTA may invoke the power to investigate a licensed travel agent suspected of carrying out its business contrary to public interest. This Office further notes that ESB has yet to finish its consultations with trade organisations on how various options to improve the regulatory mechanism for inbound travel agents may be implemented (paras. 5.6 to 5.7). The regulation of tour guides is another matter, which calls for further consideration by ESB. This Office believes that the setting up of a licensing system for tour guides may go a long way to maintaining the quality of the inbound travel services.

7.3 This investigation has enabled this Office to gain a better understanding of, amongst other things, the existing regulatory system for local travel agents, the interfacing issues between ESB, TIB and other tourism-related bodies, the problems associated with "zero-fare tours", the law and administrative measures introduced by the Administration and by the trade

organisations for the control of local travel agents involved in receiving visitors from overseas to prevent recurrence of similar incidents in the future.

#### **OBSERVATIONS AND OPINIONS**

#### **7.4 (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;**

- (i) TAO was introduced in 1985 to provide a licensing scheme for local travel agents operating travel services outward from Hong Kong (para. 3.1)
- (ii) TAO does not cover travel services for visitors to Hong Kong. There is no requirement for local travel agents operating inbound tours only to join TIC as members (paras. 3.24 and 3.27).
- (iii) The membership system under TIC and HKTA is a self-regulatory mechanism (paras. 3.21 to 3.28). As such, the Code has no application to the estimated 150 to 200 local travel agents providing inbound travel services who are non-TIC members (para. 3.22). Non-TIC members are therefore not bound by the directives/sanctions of TIC, and the requirements of the Code.
- (iv) TIC imposes on applicants certain requirements relating to paid-up capital, number and experience of staff, suitability of premises, etc. before granting them membership. (para. 3.16) Likewise, applicants for HKTA's membership in the category of "Recognised Travel Agent" also have to meet certain admission criteria (para. 3.28). Compliance with such admission criteria is an important feature of the self-

regulatory regime as they can effectively screen out fly-by-night operators.

- (v) Considerable efforts have been made by the trade organisations such as TIC etc. to improve trade practices. TIC has over the years issued various codes of conduct and directives for compliance by its members (para. 3.21).
- (vi) There is no corresponding mechanism for regulating travel agents or tour guides providing services to visitors to Hong Kong (paras. 4.5, 7.4(e) and 8.3). The importance of the standard of services of tour guides cannot be over-emphasized. There are definite merits for the Administration to devise a scheme for the training, certification, registration or licensing and control of tour guides, either by self-regulation or through legislation.

**(b) The relevant functions and role of ESB**

- (i) Para. 2.6 and 2.7 above describe some of the roles and responsibilities of the TC set up under ESB. Through TC, ESB plays in overall terms the most important role in assessing and examining the need for introducing a regulatory regime for local travel agents carrying on the business of organising inbound tours to Hong Kong. This task is not yet completed.
- (ii) One of the roles assumed by ESB through TC is to "co-ordinate with other Administration bureaux and departments on tourism related matters". This Office notes that this is carried out through -
  - (a) establishing the Tourism Strategy Group and a Working Group to



consider the problems highlighted (paras. 2.8, 2.10 and 5.7);

- (b) co-ordinating efforts of the relevant bureaux and trade organisations in matters relating to the development of inbound tourism(para. 2.6(c));
- (c) tackling problems emanating from the so-called "zero-fare tours" (paras. 4.8 and 4.9); and
- (d) advising TIB on the need for establishing a more comprehensive consumer protection legislation against unscrupulous retailers (para. 4.9).

(iii) This Office notes that this WG had so far only met once (paras. 5.6 and 5.7), although meetings with major trade organisations had been held to discuss options floated at the formal meeting.

(iv) One of the options proposed by ESB for controlling inbound travel agents is for TAR to take up the regulatory function in respect of both outbound and inbound travel agents (para. 5.6(a)). This proposal would involve a revision of portfolios between ESB and TIB.

**(c) Specific improvement measures introduced by the related organizations; and**

(i) In the absence of the threat of legislative sanctions against unruly travel agents, the trade has to rely on primarily TIC's self-regulatory regime. Specifically, TIC has taken the following steps to tighten the regulatory control for inbound travel agents, including -

- (a) As mentioned in paras. 3.21, 5.3 to 5.4 above, TIC issued the Code in April 1999 to regulate its members dealing with inbound travel activities. So far, this is the most important set of guidelines issued by TIC for inbound travel agents. It should bring about a positive effect by establishing a standard of practice for its members dealing with inbound travel agents.

#### *Overseas Tourism Authorities*

- (b) As stated in paras. 4.3 and 5.2 above, co-operation between the Administration and trade organisations from Hong Kong and relevant overseas administration is necessary to ensure that an acceptable level of services is provided by travel agents for tourists visiting Hong Kong. TIC has been in close contact with CNTA as well as other provincial tourism administration such as the Guangdong Tourism Administration with a view to reaching an understanding on the means to improve the service standards of travel agents dealing with inbound tourists to Hong Kong. In this connection, it is understood that TIC has reached a "tacit" agreement with the Guangdong Tourism Administration so much so that arrangements for package

tours from the relevant locations in the Mainland to Hong Kong will henceforth only be handled by travel agents who are members of TIC.

(ii) As illustrated in paras. 7.4(c) (i) (a) and (b) above, considerable efforts have been made by TIC to improve the existing regulatory mechanism for local inbound travel agents. Specifically, the Code issued by TIC for inbound travel agents is a good example to show TIC's continuous efforts in dealing with, particularly the existing self-regulatory mechanism for inbound travel agents. Nevertheless, this Office is of the view that self-regulation may not be enough to stamp out/reduce the prevalent malpractices.

**(d) Improvements measures taken and/or under consideration by the Administration.**

(i) The Administration has made considerable efforts to improve the regulatory mechanism for outbound travel agents, including the enactment of TAO. This Office observes that the regulatory measures imposed on outbound travel agents can, perhaps, be used as a very useful reference point by the Administration when drawing up a corresponding regulatory scheme for inbound travel agents.

(ii) This Office observes that ESB is consulting trade organisations on improvement measures needed for travel agents for organising inbound tours. In this connection, ESB has formed a Working Group (WG) (paras. 2.10 and 5.6) to study the proposal and the WG had discussed various alternative

improvement measures (paras. 5.6(a) to (d)) needed for strengthening the existing regulatory regime over travel agents for inbound tours.

(iii) According to information available, TIC, upon being consulted by ESB, has indicated that it is willing to assume regulatory responsibility for inbound travel agents. (para. 5.7)

(iv) It is the duty of the Administration to introduce, as soon as possible, a more comprehensive framework of control for inbound travel agents. Insofar as the two bureaux, TIB and ESB, are concerned, they both play an important role in the context of travel agents and related issues. As such, it is our strong view that there is an urgent need for the Administration to consider reshuffling the present portfolios of the bureaux concerned so much so that their involvement in this regard can be rationalized. (para. 6.4(f))

**(e) Other Observations and Opinions**

(i) As stated in paras. 4.5, 6.4, 6.6(c), 6.7(d) and 6.9 to 6.10 above, trade organisations have clearly voiced their support for introducing a certification scheme for tour guides so that they can be formally registered or licensed, either by self-regulation or through legislation.

**7.5** Based on the above overall observations, the conclusion and recommendations of this investigation will be discussed in the next chapter.

# 8

## CONCLUSION AND RECOMMENDATIONS

### GENERAL

8.1 In connection with the 1999 Policy Address, under the policy objective entitled "A key Tourist Destination", the Secretary for Economic Services (SES) stated that "Tourism continues to be one of our largest earners of foreign exchange and the industry directly or indirectly employs some 330 000 workers, representing about 10% of our total workforce." There is, therefore, no dispute that travel agents and "inbound" tour operators/guides are making valuable contributions to the local economy. (para. 6.1). The point at issue is how to maximize their contributions through an effective regulatory system that seeks to enhance consumer protection in respect of the clientele they serve.

8.2 It is further noted that in the policy objective of ESB, SES stressed that it was important for the Administration and the tourism trade to continue to work together to maintain the momentum in the recovery of the tourism industry which was hard hit in the 1998 regional financial turmoil. Such remarks, perhaps, very vividly epitomised the degree of importance with which the Administration should attach to the need of having a continued partnership between the Administration and the trade in further developing inbound tourism.

8.3 Through this investigation, this Office has heard the voices from the tourism industry in Hong Kong advocating the introduction of a statutory regulatory mechanism for inbound travel agents (Notes: paras. 6.2,

6.4, 6.6, 6.7(c) and 6.11(b)). This should be complemented by the introduction of a certification scheme for tour guides, having regard to the views expressed about them in paras. 6.4, 6.6(c), 6.7, 6.8(d), 6.9, 6.10, 6.11(f) and 7.4(a)(vi).

**8.4** The effective operation of a self-regulatory licensing system for local outbound travel agents relies upon the co-operation of all parties concerned. The findings of this investigation have indicated that the existing system of regulation of local outbound travel agents, operated by RTA in conjunction with TIC, has proved to be effective overall as a means of protecting the interests of outbound travellers. Regrettably, no similar system exists in respect of local inbound travel agents, some of whom operate largely free of any supervisory control.

## **CONCLUSION**

**8.5** Having noted the roles and functions of ESB and related trade organisations (Chapter 2), the existing mechanism for regulating local travel agents, (Chapter 3), the reported incidents on inbound tourism, (Chapter 4), the various initiatives and improvement measures introduced by the relevant bureaux and trade organisations for control and regulation of local travel agents (Chapter 3 and 5), the concerns of the community and views expressed by trade organisations (Chapter 6), and the overall observation (Chapter 7) pertaining to this investigation, The Ombudsman's conclusion in relation to this investigation is detailed as follows-

- (a) Currently only inbound travel agents, who are members of TIC, are subject to the self-regulation of the TIC. Deficiencies are inherent in such a system in that some 150 to 200 travel agents for inbound tours can operate without any supervisory control. These non-TIC inbound travel agents are not obliged to follow the directives or the Code issued by TIC (paras. 7.4(a)(iii) to (iv)). Non-compliance regarding the standard of operation inevitably results in variation in

the standard of services provided by inbound travel agents, tour operators and tour guides. There is therefore a disparity between the level of consumer protection in respect of travellers travelling from and to Hong Kong.

- (b) The regulation and control of local outbound travel agents are governed by TAO, which is a part of TIB's policy portfolio on consumer protection. However, tourism, including regulatory control of local inbound travel agents, falls within ESB's policy responsibilities. As matters currently stand, these two policy bureaux are responsible for regulating different aspects of the business activities of local travel agents. This Office believes that it is necessary for the Administration to consider whether it would be desirable to rationalize the existing division of policy portfolios of ESB and TIB. (para. 7.4(d)(iv))
  
- (c) ESB formed a WG in June 1999 to advise the Administration specifically on the issue of strengthening regulation of inbound travel agents (paras. 5.5 to 5.7) which is a step in the right direction. Nevertheless, we note that only one formal meeting had so far been held on its inception in June, although separate meetings had been held with various major trade organisations. There is a shared view among the trade organisations (para. 8.3) that the Administration should consider the need for introducing a proper control mechanism for inbound travel agents in order to facilitate the development of the local inbound tourism. The Administration should capitalize on the trade's willingness to accept a regulator regime for inbound travel agents by expediting action in this respect.
  
- (d) As mentioned in para. 3.28 above, HKTA operates a membership system, which provides a regulatory framework for its members.

However, HKTA's membership system operates in a different context in that it is more a promoter than a regulator of the local tourist industry.

8.7 In summary, it can be seen from the above conclusion as well as the observations contained in Chapter 7 that there is room for improvement in the field of inbound tourism.

## **RECOMMENDATIONS**

8.8 Having regard to the above conclusion and the need for the introduction of improvement measures as identified, The Ombudsman has made the following 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. (paras. 7.2, 7.4(a)(vi), 7.4(c)(ii) and 8.3)
- (b) To consider implementation, where practicable, of the recommendations contained in the various study reports commissioned, for example, by the HKTA etc. (paras. 6.5 and 6.9)
- (c) To determine whether to introduce a licensing scheme for tour guides or the need for other alternative measures for enhancing their service standards. (paras. 6.6(c), 6.9, 7.4(e)(i), 8.3 and 8.5(a))
- (d) To consider drawing up a more comprehensive consumer protection framework to sanction unscrupulous retailers and other tourist services providers. (paras. 2.19 to 2.23, 4.9 and 7.4(b)(ii)(d))
- (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. (paras. 6.4, 7.4(b)(iv), 7.4(d)(iv) and 8.5(b))

#### **Ordinance**

- (f) To consider extending the scope of the existing Travel Agents Ordinance to cover inbound travel agents. (paras. 7.4(d)(i), (ii) and (iii))

#### **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. (paras. 7.4(d)(ii), (iii))

#### **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 such as China National Travel Administration (CNTA), with a view to, for example, identifying a need to providing clearer guidelines to deal with similar incidents involving "stranded" travellers in the future. (paras. 4.3, 6.11(a),

7.4(c)(i)(b))

- (j) To consider the policy implications involved with regard to possible implementation of the options (a) and (c) referred to in para. 5.6 above (paras. 7.4(d)(iii) and (iv))

**8.9** The comments from ESB on this investigation report, and the final remarks of this Office in response to the comments will be discussed in the next chapter.

#### **CONCLUDING NOTE**

**8.10** 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.

# 9

## **FINAL REMARKS**

### **COMMENTS RECEIVED**

9.1 The concerned bureaux and relevant organisations/bodies have been invited to comment on this DIR. On the whole, with the exception of the following, no specific objections were raised to our observations and recommendations in the DIR. Where appropriate, textual amendments have been incorporated into this IR. Comments on specific issues of concern are reproduced and commented on below -

### **ECONOMIC SERVICES BUREAU**

9.2 By way of comments, the Commissioner for Tourism stated, inter alia, "the report seems to take as a basic assumption that regulation is a good thing, and absence of regulation is *ipso facto* a bad thing (and, by implication, a sign of maladministration). Although it has concluded that in the circumstances of the present case, some form of regulation of inbound agents with statutory backing is the best way forward, it does not necessarily follow that this would be so in all circumstances. This is an important distinction. The report reaches certain conclusions and makes recommendations for follow-up action, which in many cases the Administration has already been in the process of implementing. For example, the switch of policy responsibility for outbound tourism from TIB to ESB has already been announced and will take effect on 1 July. The bid for a slot to introduce legislation to regulate inbound operators has already been lodged. It is not clear what is gained by recommending these things now be done.

9.3 ESB has undertaken several rounds of informal consultation with industry associations, and key inbound operators after a kick-off meeting of a special working group held in June 1999. In February 2000, the

Government commissioned a consultant to undertake a regulatory impact assessment (RIA) on the proposed regulation of inbound travel agents. The main purpose of this study was to assess the impact of the proposed regulatory regime on various stakeholders. To collect views and feedback from major stakeholders, the consultant carried out 20 interviews with relevant Government departments, trade organisations and industry players and organised 4 workshops for 50 travel agents including those which are involved in inbound business.

**9.4** According to the findings of the RIA, a majority of industry players support the introduction of a licensing scheme for inbound travel agents but not licensing of tour guides which they consider unnecessary because the guides are not the root of the problem. The trade supports the proposal to complement the licensing of inbound agents with some form of industry self regulation through TIC and a quality assurance scheme for tour guides to protect Hong Kong's image as a tourist-friendly destination.

**9.5** We intend to amend the Travel Agents Ordinance to introduce a regulatory regime for inbound travel agents and are now working on the proposed amendments. It aims to introduce the amendment bill into LegCo in early 2001 and has submitted a bid for a legislative slot for the purpose. Once the inbound agents are regulated, they will be required to employ suitably qualified tour guides to serve our visitors and such requirement will be stipulated in the form of a code of conduct to be issued by TIC.

**9.6** The several unpleasant incidents which happened during the Lunar New Year in 1999 mainly involved tourist groups from the Mainland getting stranded in Hong Kong on their trips from or back to the Mainland. It is its understanding that financial disputes and miscommunication between the Mainland and local receiving agents were the main causes of the incidents. The Tourism Commission (TC) has been maintaining close liaison with the China National Tourism Administration (CNTA) and TIC to prevent recurrence of similar incidents.

**9.7** While we have been engaged in devising a regulatory regime with legislative backing to improve control over inbound travel agents, we also considered it necessary to introduce a contingency plan for the last

Lunar New Year. Thus, the Tourism Commission and TIC earlier wrote to CNTA to seek their help in tightening the conduct of their outbound agents. In January 2000, ESB convened a meeting with Government departments and organisations which would likely be involved in the process to brief them on the contingency plan and secure their assistance in reporting to the Tourism Commission and TIC whenever tourist groups were found to be stranded. Under the plan, TIC would make immediate arrangements to take care of tour groups such as arranging transport and accommodation. The Tourism Commission also issued a guideline on handling inbound tours during the Lunar New Year and an emergency contact list to the relevant parties for their dissemination. It was encouraging that the Mainland tours were in general well received during the last Lunar New Year and the situation is now under control.

**9.8** In April 2000, the Secretary for Economic Services led a delegation to Beijing and had a regular review meeting on the Hong Kong Group Tour Scheme with CNTA. To ensure the quality of service rendered by receiving agents in Hong Kong and facilitate follow up action in case of emergency, the meeting reached consensus among other things that all Mainland outbound tour operators should have a Hong Kong ground receiving agent which must be a member of TIC. TIC fully supports the agreement. ESB will continue to maintain close contact with CNTA and other relevant bodies to protect the interest of Mainland and foreign visitors.

**9.9** In 1999-2000, the Government allocated \$3.5 million to the Hong Kong Tourist Association (HKTA) to implement the Quality Tourism Services Scheme (QTS) as part of on-going efforts to enhance service standards of the Hong Kong tourism industry. It is noted that all participating companies are assessed by an assessment panel before they are granted a QTS decal. The scheme will assist visitors (and, indeed, local residents) to identify quality service providers and will encourage service providers to exercise self-regulation. The HKTA will publicise the scheme in its overseas promotion activities so that our visitors will know where to shop.

**9.10** The HKTA and the Consumer Council (CC) have been working closely on publication of consumer protection measures to visitors and will continue to cooperate in handling visitor complaints.

**9.11** The Financial Secretary announced in his

2000-01 Budget that the policy responsibility for outbound tourism and consumer protection would be transferred from the TIB to the ESB with effect from 1 July 2000. ESB states that it looks forward to working with CC to further strengthen protection of consumers".

#### **TRADE AND INDUSTRY BUREAU**

**9.12** The Secretary for Trade and Industry states that "I am pleased to note that the findings of your investigation indicate that the existing system of regulation of outbound travel agents has been effective overall as a means of protecting the interests of outbound travellers. In this regard, I am very glad that the efforts put in the regulatory work over the years have been recognised".

**9.13** He further adds that "I wish to take the opportunity to inform you that as part of the Administration's plan to restructure the TIB and the Departments under its purview, the policy responsibilities for consumer protection, competition policy and regulation of outbound travel agents will be transferred to ESB. Subject to the approval of the Financial Committee on 9 June 2000, the proposed organisational changes will take effect from 1 July 2000". He points out that "at present, inbound travel does not fall under the purview of TIB and hence TIB should not be involved in the communication process with concerned parties regarding provision of clearer guidelines to deal with 'stranded travellers'".

#### **TRAVEL INDUSTRY COUNCIL**

**9.14** In response to para. 6.4 of the DIR, TIC considers that "an effective self-regulatory framework can be devised for inbound agents similar to the existing one for outbound travel agents. To enhance the quality of outbound tours, TIC has introduced a certification system for outbound tour escorts in 1999. TIC believes that regulation of inbound tour-coordinators should likewise be part and parcel of the regulatory structure for inbound travel agents, and the most effective and cost-effective means will be to set up a certification system within the industry."

## HONG KONG TOURIST ASSOCIATION

9.15 In response to para. 6.5 of the DIR, HKTA considers that "the major focus of the Strategic Organisation Review of the HKTA is on the future strategic direction for the HKTA. Most issues covered in the report do not have bearings to the study covered by The Ombudsman. To set out the main findings of HKTA's Strategic Organisation Review in full in The Ombudsman's report only serves to confuse the audience. HKTA suggests that only the relevant part that concerns the subject of inbound travel agents licensing, i.e. para. (i) on page 3.8 needs to be retained. All other paragraphs concerning HKTA's Strategic Organisation Review on page 37 and 38 should be removed. The recommendations of HKTA's Strategic Organisation Review have been closely studied by HKTA's Board of Management and are being implemented as appropriate. HKTA considers that it should not be necessary for The Ombudsman to comment on the implementation of the Review in The Ombudsman's Report".

### FINAL REMARKS

9.16 This Office notes the comments from the concerned parties and wishes only to respond to the main issues as follows -

(a) With regard to ESB's comment stated in para. 9.2 and 9.3 above:

(i) We do not assume that "regulation is a good thing, and absence of regulation is *ipso facto* a bad thing (and, by implication, a sign of maladministration)". Our investigation has identified an anomaly in the present regulatory framework in respect of travel agents operating outbound and inbound tours. This anomaly is the result of two policy bureaux being responsible for regulating different aspects of the business activities of local travel

agents. In the absence of a policy to regulate travel agents for inbound tours, regulation is achieved in respect of travel agents who are TIC members. However, this left 150 to 200 non-TIC travel agents for inbound tours without any supervisory control, thereby resulting in the complaints that had given rise to this investigation. In the light of our findings, we recommend that ESB should consider, among other things, the need for introducing a regulatory mechanism, with legislative backing, if necessary, for inbound travel agents. Our recommendation aims at the removal of the anomaly identified above, and not regulation for regulation's sake as ESB had suggested. In fact, we find ESB's comment puzzling as it then went on to spell out the Administration's plans to bring inbound travel agents within the regulatory framework, thereby recognizing the need for supervisory control.

- (ii) ESB's asserted that "It is not clear what is gained by recommending these things now be done". We wish to point out that since the DI was declared on 20 July 1999, we sought information/comments from ESB. The last substantive reply from ESB was dated 25 October 1999. This was followed the supply of fragmented supplementary information until 20 April 2000. Apart from informing this Office that TIC would assume supervision over inbound travel agents, ESB had not provided this Office with any information on improvement measures being contemplated or introduced. It was not until ESB provided its comments on the DIR that it declared that a number of recommendations contained in the DIR tallied with ESB's own measures introduced very recently. If we had



been made aware of ESB's plans in the course of our investigation, we would certainly have acknowledged ESB's efforts whether or not these improvement measures were prompted by our investigation. This was not the case.

(iii) According to ESB, the Administration is still in the progress of implementing the recommendations contained in the DIR. This Office believes that the recommendations proposed will help the Administration focus on perceived weakness in the current set-up. This Office urges expeditious efforts and adoption of a realistic timetable for the full implementation of the recommendations.

(b) We are interested to learn of the findings in the regulatory impact assessment (RIA) report on the proposed regulation of inbound travel agents by a consultant commissioned by the Government in February 2000 (see ESB's comments at para. 9.3 to 9.5 above). We regret that ESB did not see fit to inform this Office of this consultancy study. This omission is particularly glaring in the light of ESB's assertion at para. 9.16(a)(ii) above.

(c) Due consideration has been given to HKTA's comment in para. 9.15. We note that certain aspects of the findings of the DIR do have a direct and indeed relevant bearing on this DI. To quote an example, the Report's finding related to the aspects concerning the need for establishing more comprehensive consumer protection legislation as a priority area is indeed relevant to our investigation. Accordingly, we have retained those relevant aspects in para.6.5 of the IR.

**9.17** From the latest information available, this Office wishes to add the following -

(a) The important contribution to the local economy by the tourist industry is widely recognized. The Administration is seeking to buttress Hong Kong's position as a tourism hub by promoting this city as the Events Capital of Asia and a world-class destination for both leisure and business visitors. The construction of a theme park on Lantau and a series of other promotional activities are a few examples of efforts on re-vitalising the tourism industry. As the Hong Kong scales these new heights, it has to rely on a significant increase in inbound tours. Safeguarding the interests of inbound tourist will assume increasing importance in the years ahead. This Office believes that the recommendation for the regulation of inbound travel agents should be considered in the context of the future development of Hong Kong as a leisure and business centre, and not just in the light of the number of inbound tour complaints so far received.

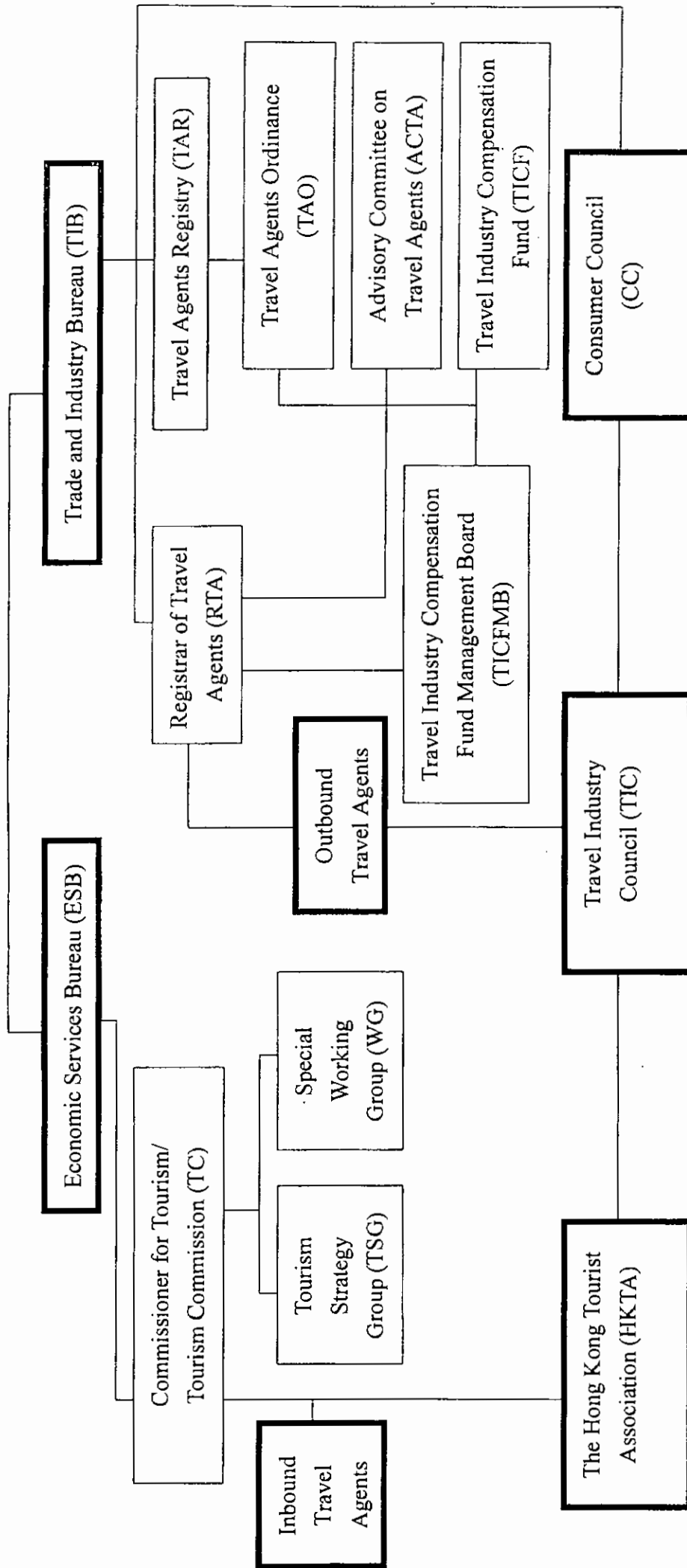
(b) The recent establishment of the Inbound Travel Association by a group of inbound travel operators comprising both TIC and non-TIC members is a further indication of the recognition by the industry of a need to organize themselves. This equips operators with the ability to act in the collective interest of the industry where necessary.

**9.18** The Ombudsman would like to be kept informed by ESB of progress on the implementation of the recommendations, and any major relevant changes/reviews to be made in the wake of the impending restructuring of ESB's policy responsibilities for consumer protection, competition policy and regulation of outbound travel agents to be transferred from TIB. Lastly, apart from the glitches mentioned, The Ombudsman would like to express appreciation to the co-operation and assistance rendered by all parties concerned throughout the course of this direct investigation.

**Office of The Ombudsman**  
**Ref. OMB/WP/14/1 S.F. 57**  
**July 2000**

# ANNEXES

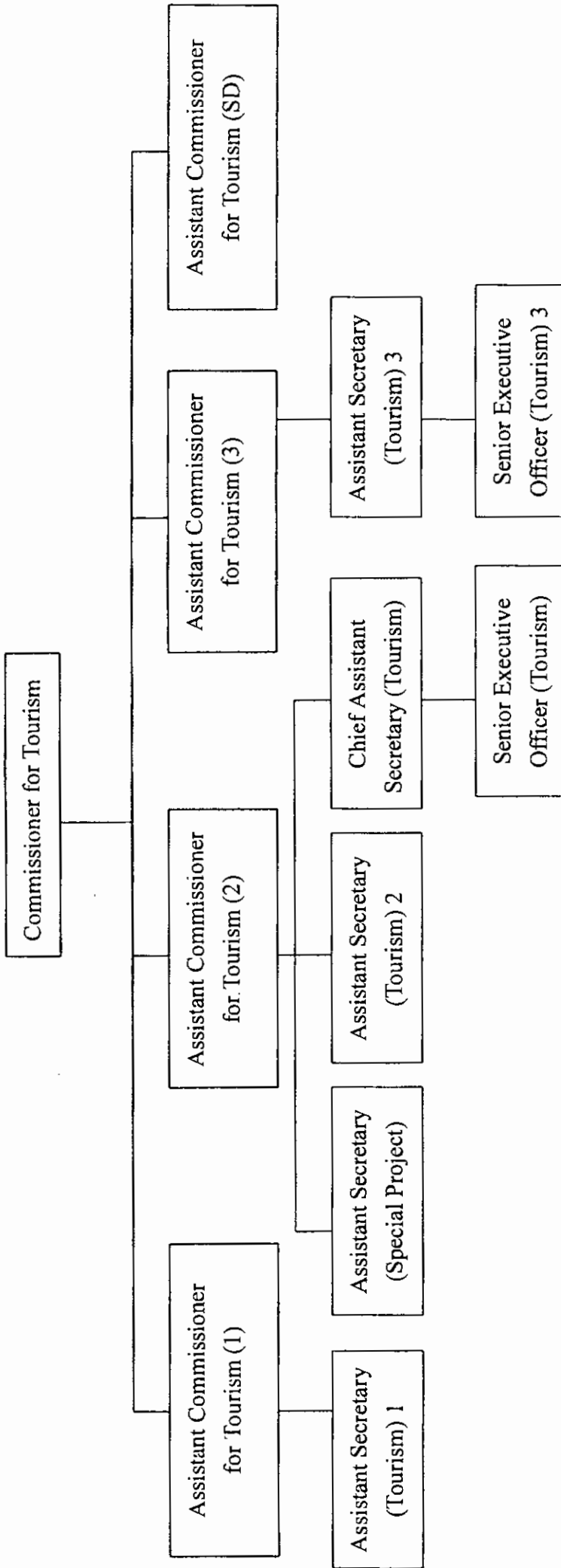
**Matrix of Bodies for Tourism Promotion / Regulation**



Notes:

- (i) Interfacing/working relationship amongst the concerned government bureaux and the travel-related bodies.
- (ii) According to ESB, TC has a direct working relationship with China National Tourism Administration (CNTA).
- (iii) Trade and Industry Bureau (TIB) is now renamed as Commerce and Industry Bureau (CIB) w.e.f. 1.7.2000.

Organisation Chart of the Tourism Commission



**Travel Agents Registry**  
**Establishment and Strength**

Post	Rank	Est.	Strength
RTA	PEO	1	0
	CEO	0	1
DRTA	SEO	1	1
AR1&2	EOI	2	2
AR3	EOII	1	1
CR1	CO	1	1
CR2-5	ACO	4	4
PS/RTA	PSII	1	1
PS/DRTA	PSII	1	1
CA	CA	1	1
OA	OA	1	1
		14	14

**Enforcement Statistics under the TAO**

Type \ Year	1995	1996	1997	1998	1999 (up to 20.12.99)
Approval of new licence	130	131	81	102	107
Expiry of licence	64	87	61	78	31
Revocation of licence	50	48	42	76	71
Renewal of licence	1695	1887	1921	1615	1019
Suspension of licence	0	1	0	0	2
Refusal to grant/renew licence	1	0	0	0	1
Re-instatement of suspended licence	0	0	0	0	1
Re-instatement of revoked licence	0	0	1	0	0
Action taken pertinent to Section 48 of TAO*	7	2	1	1	0

Note : All offences related to the operation of travel agents without a valid licence.

Punishment meted out as follows :

	1995	1996	1997	1998
Lowest fine	\$500	\$2,000	-	-
Highest fine	\$4,000	\$5,000	\$3,000	\$8,000

**Membership**  
**Advisory Committee on Travel Agents (ACTA)**

The ACTA is comprised of –

- (a) Chairman; and
- (b) 14 members including RTA, 3 TIC representatives and Deputy Secretary for Trade and Industry or The Principal Assistant Secretary for Trade and Industry



Memorandum of Understanding between  
the Travel Industry Compensation Fund Management Board  
and the Travel Industry Council of Hong Kong  
on the Payment and Collection of the Fund Levy  
Under the Travel Agents Ordinance (Cap. 218)

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This Memorandum of Understanding provides general guidelines on the relationship between the Travel Industry Compensation Fund Management Board and the Travel Industry Council of Hong Kong on the arrangements for the collection of levy for the purpose of payment into the Travel Industry Compensation Fund under the Travel Agents Ordinance (Cap. 218). The arrangements described in this Memorandum will take effect from the day on which the Memorandum is signed by both parties.

(1) Travel Industry Compensation Fund Management Board  
and Travel Industry Council of Hong Kong

The Memorandum is to be exchanged between :

- (a) the Travel Industry Compensation Fund Management Board, (the Board) established under section 32B of the Travel Agents Ordinance; and
- (b) the Travel Industry Council of Hong Kong (the TIC) registered under the Companies Ordinance (Cap. 32) and referred to in Part 1 Schedule 1 of the Travel Agents Ordinance.

(2) Status of the Board and the TIC and Powers of the Board

- (a) The Board is a statutory body established on 15 October 1993 under Section 32B of the Travel Agents Ordinance of Hong Kong ("TAO").
- (b) TIC is a company incorporated on 30 July 1988 as company limited by guarantee under the Companies Ordinance of Hong Kong (Chapter 32).
- (c) The Board was established, inter alia, to hold, manage and administer the Travel Industry Compensation Fund ("the Fund") established under Section 32C of the TAO to compensate outbound travellers for losses suffered by reason of default of any licensed travel agents in accordance with the rules made by the Board under Section 32G of the TAO.
- (d) In accordance with Sections 32H and 32I of the TAO, licensed travel agents shall be liable to contribute by way of levies to the Fund (i.e. Fund levy) and levies to TIC (i.e. Council levy).
- (e) Pursuant to Section 32F of the TAO, the Board is empowered, inter alia, to authorise TIC or any other person to require the payment of and to collect the Fund levy.

It is hereby agreed by the Board and TIC that :-

(3) Appointment

The Board hereby authorises TIC as the collector who shall collect the Fund levy in accordance with Section 32H of the TAO. Expenditure in connection with the collection of the Fund levy will be financed by the Council levy. Under unforeseen circumstances, where TIC purports to act as the agent of the Board in performing such acts which might result in expenditure or financial commitments to the Board, prior written approval from the Board shall be required.

(4) Duties of TIC

During the continuance of this Memorandum, TIC shall :-

- (a) by virtue of its knowledge and experience of the travel industry, supply detailed information and advice to the Board in fulfilling its statutory functions;
- (b) (i) establish and maintain Codes of Conduct governing the payment of Fund levy between its members inter se, between its members and TIC and between its members and the general public;
- (ii) provide full information and copies of the said Codes of Conduct mentioned in (4)(b)(i) above to the Board upon request;

- (c) demand and collect, on behalf of the Board, from licensed travel agents, the requisite contributions to the Fund in the form of the Fund levy as defined in Section 32A(2) of the TAO;
  - (d) use its best endeavours to police and enforce the payment and collection of the Fund levy;
  - (e) keep proper books of accounts and records and keep copies of all receipts and payment in respect of the Fund; and
  - (f) comply with the conditions concerning payment, collection of levies and administration of claims for compensations as set out in the Annex to this Memorandum.
- (5) Cessation of TIC's Appointment as an Authorised Collector
- (a) TIC shall give the Board a minimum of three months' notice if for whatever reason, it does not wish to act as the authorised collector of the Board.
  - (b) The Board shall give TIC a minimum of three months' notice if for whatever reason, it does not wish to continue to appoint TIC to act as the authorised collector of the Board. Under such circumstances and in the event that the employer's contribution towards the TIC Provident Fund is not adequate to meet with the statutory severance payments required to lay off employees involved in the collection of levies in accordance with the laws of Hong Kong, TIC may ask the Board to meet 70% of the outstanding expenses.

- (c) Upon the cessation of the appointment as the authorised collector, TIC shall :-
- (i) deliver to the Board all books and records in relation to the collection of the Fund levy and disciplinary actions including any fines taken by TIC against licensed travel agents for failures to comply with the levy scheme;
  - (ii) account to the Board for all funds held by TIC in trust for the Board; and
  - (iii) do all such other acts and things as necessary for the Board to perform its statutory functions.

(6) Notices

Any notice required to be given shall be in writing and may be served by being left at or sent by registered post or by a confirmed receipt communication to the registered office for the time being of the party on which it is to be served. Such notice shall be deemed to have been served at the time when it would ordinarily be received by the recipient.

(7) Insolvency

If TIC shall become insolvent or shall be placed in receivership or shall be wound up (whether voluntarily or involuntarily, save for the purpose of reconstruction or

amalgamation), this MOU shall terminate forthwith but without prejudice to the rights and remedies of any party against the other in respect thereof or in respect of any antecedent claim or breach relating thereto.

(8) Other Administrative Arrangements

- (a) Any dispute between the parties as to financial matters shall be resolved by decision of the Financial Secretary.
- (b) This memorandum shall be governed by and construed in accordance with the laws of Hong Kong whose courts shall have jurisdiction to hear and determine any action or cause in relation to this Memorandum.

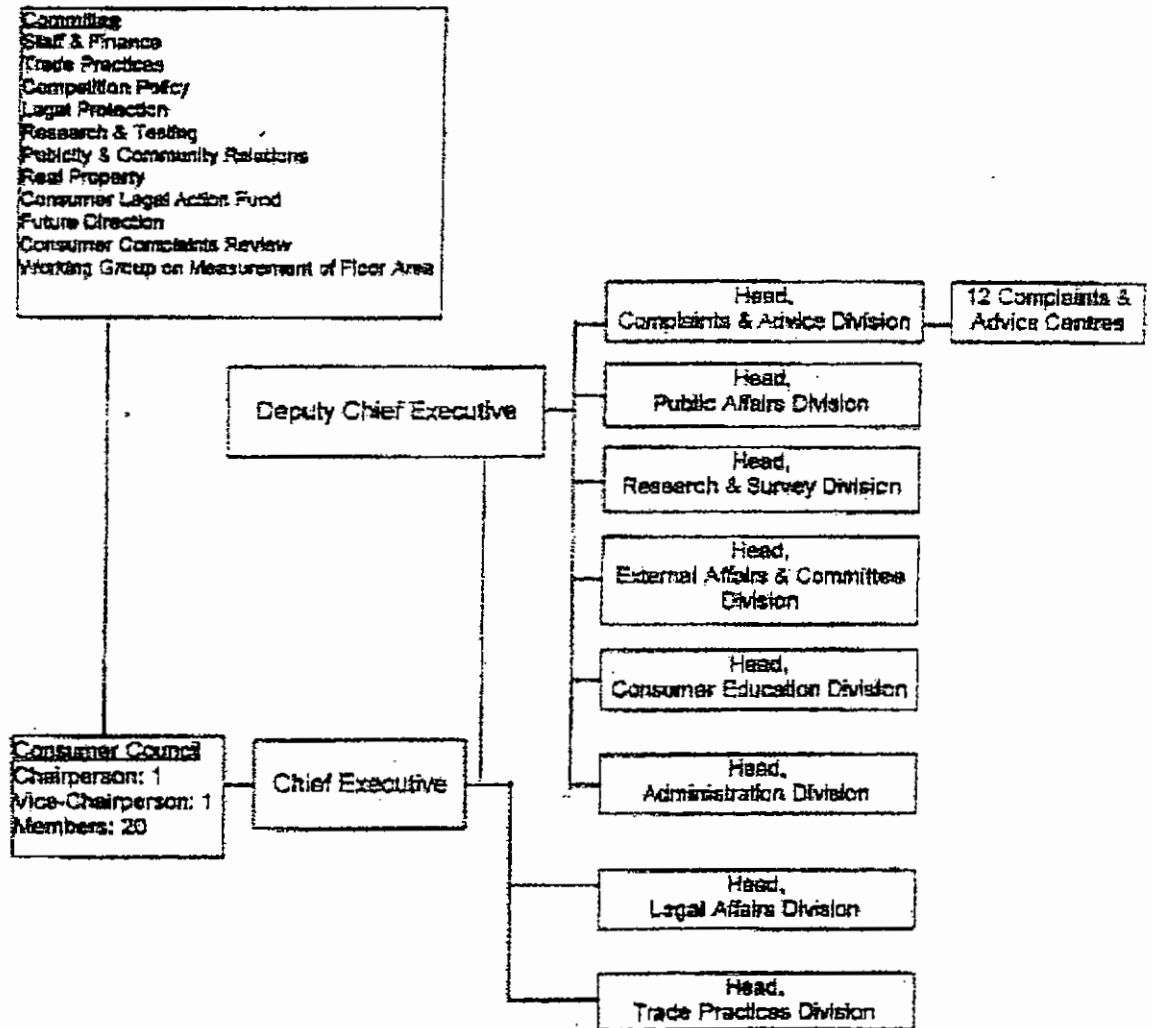
*\* This version, updated on 28 November 1998, has incorporated the following amendments made between the Board and the TIC :-*

- (i) Section 3 of the Annex to MOU pursuant to the Board resolution by circulation of TICF Paper No. 24/96-97 on 16 June 1997;*
- (ii) Section 1 of the MOU pursuant to the Board resolution on 16 July 1997; and*
- (iii) Sections (1)(b)(ii) and (iii) of the Annex to the MOU pursuant to the Board resolution on 16 July 1997.*
- (iv) Section (5)(a) of the Annex to the MOU pursuant to the Board resolution on 27 November 1998.*

The levy laid chop of the TICF

香港旅遊業議會 98 已繳徵費 03.02.99  
查詢熱線 149 LEVY PAID  
1520 TIC 0083  
0282 \*≡015 LIC NO  
TIC Hotline: 29698188 TIC

### Organisation of the Consumer Council's Office





消費者委員會



CONSUMER COUNCIL

香港之主要消費者保護法

~~其~~ Sale of Goods Ordinance (Cap. 26)

1. Commencement : 1st August, 1896.
2. Purpose :  
To codify the law relating to the sale of goods.

~~其~~ Maney Changers Ordinance (Cap. 34)

1. Commencement : 1st April, 1985.
2. Purpose :  
To provide for the disclosure by money changers of exchange rates on exchange transactions & for the obtaining of consent thereto.

~~其~~ Gas Safety Ordinance (Cap. 51)

1. Commencement : 1st April, 1991.
2. Purpose :  
To control, in the interests of safety, the importation, manufacture, storage, transport, supply and use of gas; and to provide for matters incidental thereto or connected therewith.

~~其~~ Weights and Measures Ordinance (Cap. 68)

1. Commencement : 1st January, 1989.
2. Purpose :  
To make provision with respect to units and standards of measurement and weighing or measuring equipment used for trade, to regulate trade transactions regarding goods supplied by weight or measure including pre-packed goods, and to provide for the administration of this Ordinance, offences and the forfeiture of weighing or measuring equipment and goods in the case of certain contraventions; and for connected proposes.

~~其~~ Control of Exemption Clauses Ordinance (Cap. 71)

1. Commencement : 1st December, 1990.
2. Purpose :  
To limit the extent to which civil liability for breach of contract, or for negligence or other breach of duty, can be avoided by means of contract terms and otherwise; and to restrict the enforceability of arbitration agreements.

✱ Public Health & Municipal Services Ordinance (Cap. 132)

1. **Commencement** : 11th November, 1960.
2. **Purpose** :  
To make provision for public health and municipal services.
3. **Subsidiary Legislation** :  
Some of the By-laws or Regulations which have direct relevance to the consumers of food and drugs are:
  - i. Calouring Matter in Food Regulations;
  - ii. Food Adulteration (Artificial Sweeteners) Regulations;
  - iii. Food Adulteration (Metallic Contamination) Regulations;
  - iv. Food and Drugs (Composition and Labelling) Regulations;
  - v. Frozen Confections By-laws;
  - vi. Harmful Substances in Food Regulations;
  - vii. Dried Milk Regulations;
  - viii. Food Business By-laws;
  - ix. Milk By-laws.

✱ Pesticides Ordinance (Cap. 133)

1. **Commencement**: 15th July 1977
2. **Purpose**:  
To provide for the registration and control of pesticides and for matters connected therewith.

✱ Pharmacy and Poisons Ordinance (Cap. 138)

1. **Commencement**: 1st January, 1970.
2. **Purpose**:  
To consolidate and amended the law relating to pharmacy and poisons.
3. **Subsidiary Legislation**:  
There are two pieces of major subsidiary legislation made under the Pharmacy & Poisons Ordinance.
  - i. Pharmacy & Poisons Regulations
  - ii. The Poison List Regulations. They provide restrictions on the sale of poisons, requirements of labelling, the disclosure of composition of medicines; and the classifications of poisons for the purpose of control.

✓ ✱ Consumer Council Ordinance (Cap. 216)

1. **Commencement**: 15th July, 1977.
2. **Purpose**:  
To incorporate the Consumer Council, to define its functions and powers, to negative personal liability of members and employees for the Council's or its committees' acts or omissions, and for the connected purposes.

✓ ~~✱~~ Travel Agents Ordinance (Cap. 218)

1. Commencement: 1st February, 1986.
2. Purpose:  
To provide for the control and regulation of travel agents providing travel services in respect of travel outside or outward from Hong Kong, the appointment of a Registrar of Travel Agents, the establishment of an Advisory Committee on Travel Agents, the licensing of travel agents, the establishment of a reserve fund and a Board to administer the fund, the imposition of levies on travel agents and for matters connected therewith or incidental thereto.

~~✱~~ Undesirable Medical Advertisements Ordinance (Cap. 231)

1. Commencement: 1st April, 1953.
2. Purpose:  
To restrict certain advertisements relating to medical matters.

~~✱~~ Small Claims Tribunal Ordinance (Cap. 338)

1. Commencement: 1st October, 1976.
2. Purpose:  
To establish a tribunal to be known as Small Claims Tribunal having limited civil jurisdiction, and to make provision for the jurisdiction, procedure and practice thereof, and for matters connected therewith.

~~✱~~ Pyramid Selling Prohibition Ordinance (Cap. 355)

1. Commencement: 1st September, 1980
2. Purpose:  
To prohibit the promotion of pyramid selling schemes and to provide for connected matters.

✓ ~~✱~~ Trade Descriptions Ordinance (Cap. 362)

1. Commencement: 1st April, 1981.
2. Purpose:  
To prohibit false trade descriptions, false marks and misstatements in respect of goods provided in the course of trade; to confer power to require information or instruction relating to goods to be marked on or to accompany the goods or to be included in advertisements; to prohibit the unauthorized use of devices or emblems signifying an award by the Queen or the Governor; to restate the law relating to forgery of trade marks; and for purposes connected therewith.
3. Subsidiary Legislation:
  - i. The Trade Descriptions (Marking) (Gold and Gold Alloy) Order 1984 came into force on 1st January, 1985. The Order requires:
    - a. that articles of gold and gold alloy supplied in the course of trade or business shall bear a mark indicating the caratage or fineness of gold; and
    - b. that articles, when supplied, shall be accompanied by an invoice or

receipt containing the essential information about the suppliers and the articles.

- ii. The Trade Descriptions (Marking) (Platinum) Order 1988 came into operation on 1st April 1989. The order requires:
  - a. these regulations define the term "platinum" as used in the precious metal and jewellery trades. The use of the term is restricted to describing articles of a fineness per 1000 parts of alloy; and
  - b. the use of the word "platinum" in association with another word to describe a surface treatment of an article is permitted in a restricted manner.

#### ~~✱~~ Electricity Ordinance (Cap. 406)

1. Commencement: 15th November, 1991.
2. Purpose:

To repeal and replace the Electricity Supply Ordinance, to provide for the registration of electrical workers, contractors and generating facilities, to provide safety requirements for electricity supply, electrical wiring and products, and to provide powers for electricity suppliers and the Government respecting electrical accidents and enforcement of this Ordinance.
3. Subsidiary Legislation:

The Electrical Products (Safety) Regulation enacted in 1997 prescribes safety requirements for electrical products for household use and requires suppliers to ensure that their products comply with those prescribed safety requirements and requires the issue of a certificate of safety compliance for every model of electrical product and provides for the qualifications of a recognized certification body or manufacturer for registration as such.

#### ~~✱~~ Toys and Children's Products Safety Ordinance (Cap. 424)

1. Commencement: 1st July, 1993.
2. Purpose:

An Ordinance to provide for safety standards for children's toys and safety standards for specified chattels used in association with children, and to provide for other powers to enhance the safety of children.

#### ~~✱~~ Consumer Goods Safety Ordinance (Cap. 456)

1. Commencement: 20th Oct, 1995.
2. Purpose:

An Ordinance to impose a duty on manufacturers, importers and suppliers of certain consumer goods to ensure that the consumer goods they supply are safe and for incidental purposes.

**✱ Supply of Services (Implied Terms) Ordinance (Cap. 457 )**

1. Commencement: 21st Oct, 1994.
2. Purpose:  
An Ordinance to consolidate and amend the law with respect to the terms to be implied in contracts for the supply of services.

**✱ Unconscionable Contracts Ordinance (Cap. 458 )**

1. Commencement: 20th Oct, 1995.
2. Purpose:  
An Ordinance to empower courts to give relief in certain contracts found to be unconscionable.

**✱ Estate Agents Ordinance (Cap. 511 )**

1. Commencement:
  - a. parts I,II sections 41,54(1),56, 57,and the Schedule-8.8.1997
  - b. part III, except sections 15 and 16?sections 31,32,33,35,53,54(2),55(1)(c),(d),(h)(iv),(i),(j),(k),3(b),(d) and (6)-21.10.1998
  - c. sections 15,16,28[except subsection (9)(b)(vi)]?29,30[except subsection (4)],34,38[except subsection (3)],39,40,42,43,55(1)(a),(b),(e),(f), (g),(h)(i),(ii),(iii),(2),(3)(a)&(c),(4),(5)-1.1.1999
2. Purpose:  
An Ordinance to provide for the establishment of a body to be known in the English language as the Estate Agents Authority and in the Chinese language as "地產代理監管局" and to define its functions, for the licensing of estate agents and certain salespersons, the regulation of estate agency work and certain agency agreements, and for matters related or incidental to the foregoing.

(The consumer protection law listed should be ordered directly from:

*Information Services Department*

*Publications Sales Section*

*Room 402, 4/F, Murray Building*

*Garden Road, Hongkong*

*Telephone: 28428844-5 Fax: 25987482*



Main Menu



Consumer Advice Centres



Complaint and enquiry



Chinese



## CONSUMER COUNCIL

**Are you a tourist doing shopping in Hong Kong?  
Then you are a Hong Kong consumer, too.**

**The following advice may be of use when shopping in Hong Kong**

### (A) Price Comparison

(especially for electrical and photographic equipments)

As there is no price control practice nor legislation in Hong Kong, price is determined and agreed freely between you and the shop at the time of transaction. Don't expect to get your money back merely on the ground of overcharging.

*Tip: Call an Advice Centre of the Council for Agent's List Price. The market price is usually equivalent to the Agent's List Price discounted by 15-20%. Too low a price quote may be a trap for deceptive bait-and-switch tactics.*

### (B) Parallel Import Goods

Hong Kong is a free port and, importers are free to import goods from whatever sources. Consequently, shops are able to sell the most up-to-date models directly from the manufactory/country of origin. Some products may find their way into Hong Kong without going through the normal path of import by the authorized agents here. These parallel import goods or grey market goods might be quoted a lower price but without the sole agent's warranty. This is not illegal in Hong Kong.

*Tip: To avoid buying in a parallel import goods without the agent's warranty, always state clearly to the shop that you wish to buy a product which is guaranteed by the*

*Hong Kong Sole Agent. Such agreement must be made before you pay and written on the receipt.*

### (C) Return of Goods

Unlike some other countries, the Sales of Goods Ordinance in Hong Kong stipulates that goods are returnable for exchange only if they are defective. So, don't expect to exchange or return a product bought simply because you have change your mind after the purchase.

*Tip: Think and compare carefully before you make up your mind to buy.*

### (D) Bait-and-Switch Tactics

Bait-and-Switch tactics are not uncommon in Hong Kong. To avoid falling victim of such tactics, always check the product information and profile beforehand. Don't merely rely on the sales talks of the shops.

*Tip: Visit an Advice Centre of the Council or the Sole Agent showroom for product information. Once you decide to buy a model of your choice, don't shift to another one unless you are completely certain of the differences.*

**Be a smart consumer, always observe the following:-**

1. Approach the Consumer Council and the Sole Agent concerned for product information such as test reports, performance, price, after-sales service, etc. before you decide what and which to buy.
2. Having decided for a make of a certain product, remember not to change your decision even for a very low offer. It may be a trap for bait-and-switch.
3. Request the shopkeeper to put down what was promised during the transaction onto the receipt before you pay.
4. *Do not give your credit card to anybody before a transaction is concluded. Always sign on a voucher that is properly entered. An empty form might give rise to dispute. Don't forget to get back a copy of the voucher after signing.*
5. Once a credit card voucher has been signed, it simply means that the transaction is completed. The chance of cancellation is very slim.
6. Check all details of the purchase, and ensure that they are all written into the receipt. Until they are correct, otherwise, do not pay for it.
7. Inspect the goods and make sure that it is the same as what you agree to buy.
8. *In case of any dispute, don't stay at the shop and argue. Get back the receipt (anything that can ascertain your dealing with the shop, but a piece of name card bearing the shop's name will not help) and approach either the Police or the Consumer Council as soon as possible.*

*Please call our Consumer Hotline at 2929-2222 for assistance.*

## Addresses & Telephones of Consumer Advice Centres

### Hong Kong Region

1. Consumer Council Advice Centre  
22/F, K. Wah Centre  
191 Java Road  
North Point  
Tel 2922-4111  
Fax 2856-3611
2. Eastern Consumer Advice Centre  
Level One, New Jade Garden  
233 Chai Wan Road  
Tel 2921-5022  
Fax 2556-9365
3. Southern Consumer Advice Centre  
G/F, Shop 25, Mei Fung Court  
Aberdeen Centre  
Tel 2921-1033  
Fax 2552-5377
4. Central & Western Consumer Advice Centre  
G/F, Harbour Building  
38 Pier Road  
Central  
Tel 2921-6228  
Fax 2581-1455

### Kowloon Region

1. Wong Tai Sin Consumer Advice Centre  
G/F, Wong Tai Sin District Office  
San Po Kong Government Offices Building  
King Fook Street  
Tel 2927-6062  
Fax 2323-9496
2. Shamshuipo Consumer Advice Centre  
6/F, West Coast International Building  
290 Un Chau Street  
Shamshuipo  
Tel 2928-7022  
Fax 2708-2713
3. Kowloon City Consumer Advice Centre  
Unit 1706-13, 17/F, One Harbourfront  
18-22 Tak Fung Street  
Hung Hom  
Tel 2926-4011  
Fax 2761-9545
4. Kwun Tong Consumer Advice Centre  
G/F, Kwun Tong Government Offices Building  
Tung Yan Street  
Tel 2927-3060  
Fax 2344-3292

5. Tsimshatsui Consumer Advice Centre  
Shop 126, 1/F, Tung Ying Building  
100 Nathan Road, Tsimshatsui  
Tel 2926-1088  
Fax 2721-1580

### New Territories Region

1. Tsuen Wan Consumer Advice Centre  
G/F, Princess Alexandra Community Centre  
60 Tai Ho Road  
Tsuen Wan  
Tel 2920-3138  
Fax 2413-7042
2. Tuen Mun Consumer Advice Centre  
2/F, Tuen Mun Government Offices Building  
1 Tuen Hei Road  
Tuen Mun  
Tel 2920-6028  
Fax 2452-1762
3. Yuen Long Consumer Advice Centre  
G/F, Government District Offices Building  
269 Castle Peak Road  
Yuen Long  
Tel 2920-7033  
Fax 2474-7971
4. Tai Po Consumer Advice Centre  
G/F, Tai Po Government Offices Building  
1 Ting Kok Road  
Tai Po  
Tel 2929-3300  
Fax 2658-2069
5. Kwai Chung & Tsing Yi Consumer Advice Centre  
Kwai Chung District Office  
2/F, Kwai Hing Government Offices  
166-174 Hing Fong Road  
Kwai Chung  
Tel 2920-2066  
Fax 2428-8950
6. Shatin Consumer Advice Centre  
1/F, City-Link Plaza  
Shatin  
Tel 2929-4099  
Fax 2695-1964
7. Northern Consumer Advice Centre  
North District Office  
G/F, Government Offices Building  
3 Pik Fung Road  
Fanling  
Tel 2929-2222  
Fax 2677-9255



## 消費者委員會

你會在香港旅遊期間購物嗎？  
那麼，你也是一個香港的消費者了。

下面列出一些在香港購物時需留意的細節

### 1. 比較貨品價錢

香港並沒有管制貨品價格的法例或措施，貨品的價錢是於交易時由買賣雙方自由議訂。因此，你不能在購物後以價錢過高為理由而要求退貨及取回貨價。

提示：在購物前可向總代理查詢貨品訂價，一般貨品的市價約為總代理訂價的八折至八五折，標價過低可能是「利誘陷阱」的騙人手法。

### 2. 「水貨」

香港是一個自由港，入口商可從多個途徑進口貨品。因此，香港的店舖能夠從製造商或原產地進口及出售最新的產品。有些產品並非透過香港特約經銷商（總代理）入口，而是由其他途徑輸入香港。這些貨品稱為「水貨」，「水貨」一般的售價較低但卻沒有總代理的銷售後服務的保證。在香港售賣「水貨」並不是犯法。（一般而言「水貨」亦非冒牌或假冒的商品）

提示：為避免購進沒有香港總代理保養的「水貨」，你必須於付款前向店員要求並須清楚地於單據上列明你所購買之產品是由本港總代理所保養者。

### 3. 退貨

跟其他國家不同，香港的售賣貨品條例列明出售後的貨品只可在「沒有可銷售的品質」時才可要求更換。因此，你不可能於購物後因改變主意而希望換貨或退款。

注意：於購物前細心考慮及比較才作決定。

### 4. 「利誘陷阱」

香港有一些商店經常使用「利誘陷阱」的方法去欺騙消費者，要避免受騙，必須於購物前查閱產品資料，不應只單方面聽取售貨員的介紹。

提示：往消費者委員會的諮詢中心或總代理陳列室查閱產品資料。當你決定購買某一產品後，切勿隨便改變主意，除非你完全清楚各種產品的分別。

作為一個精明消費者，你必須注意下列事項：

- (一) 在購物前前往消費者委員會的諮詢中心或總代理查詢有關產品的資料如產品測試報告、效能表現、價格、銷售後服務等。
- (二) 於決定購買某一貨品後，切記不要被低價吸引而改變主意，避免跌入「利誘陷阱」。
- (三) 付款前要求店員將交易時的口頭承諾清楚地寫在收據上。
- (四) 在交易完成前切勿將信用咭交給店員，於簽單前核對資料是否正確。不要簽署空白的單據或表格，否則可能會引起不必要的糾紛，切記於簽單後取回副本。
- (五) 當你簽署信用咭的單據時，往往表示該項交易已完成。事後欲取消是項交易的機會是十分低微的。
- (六) 核對購物的各項資料並確保該等資料已經寫在收據上。如果單據與所購入之貨品的資料有異時，切勿付款。
- (七) 收貨時檢查清楚該貨品是否你所購買的物品。
- (八) 當遇上糾紛，不要留在店舖與店員理論。取回收據（或任何足以證明你在該店進行交易的資料，只憑一張印有店舖名稱的名片並不足以證明該項交易，倘若要作投訴時，亦幫助不大），盡快報警或往消費者委員會要求協助。

倘你需要本會協助，歡迎你致電 2929-2222 與我們聯絡。



## 消費者委員會諮詢中心

### 香港區

中西區 / 離島諮詢中心  
中環統一碼頭道 38 號  
海港政府大樓地下

電話 2921 6228  
傳真 2581 1455

東區諮詢中心  
柴灣道 233 號  
新翠花園第一層

電話 2921 5022  
傳真 2556 9365

北角諮詢中心  
北角渣華道 191 號  
嘉華國際中心 22 樓

電話 2922 4111  
傳真 2856 3611

香港仔諮詢中心  
香港仔中心美豐閣商場  
南區民政事務處內

電話 2921 1033  
傳真 2552 5377

### 新界區

葵涌 / 青衣諮詢中心  
葵涌興芳路 166 至 174 號  
葵興政府合署二樓民政事務處內

電話 2920 2066  
傳真 2428 8950

北區諮詢中心  
粉嶺璧峰路 3 號  
政府合署地下民政事務處內

電話 2929 2222  
傳真 2677 9255

沙田諮詢中心  
沙田連城廣場一字樓

電話 2929 4099  
傳真 2695 1964

大埔諮詢中心  
大埔汀角道 1 號  
大埔政府合署地下

電話 2929 3300  
傳真 2658 2069

### 九龍區

九龍城諮詢中心  
紅磡德豐街 18-22 號  
海濱廣場 1 座 17 樓  
1706-13 室九龍城民政事務處內

電話 2926 4011  
傳真 2761 9545

觀塘諮詢中心  
觀塘同仁街 6 號政府合署地下  
觀塘民政事務處內

電話 2927 3060  
傳真 2344 3292

深水埗諮詢中心  
深水埗元洲街 290 號  
西岸國際大廈 6 字樓民政事務處內

電話 2928 7022  
傳真 2708 2713

尖沙咀諮詢中心  
九龍彌敦道 100 號  
東英大廈一樓 126 室

電話 2926 1088  
傳真 2721 1580

黃大仙諮詢中心  
新蒲崗景福街政府合署地下  
黃大仙民政事務處內

電話 2927 6062  
傳真 2323 9496

荃灣諮詢中心  
荃灣大河道 60 號  
雅麗珊社區服務中心地下

電話 2920 3138  
傳真 2413 7042

屯門諮詢中心  
屯門屯喜路 1 號  
屯門政府合署二樓民政事務處內

電話 2920 6028  
傳真 2452 1762

元朗諮詢中心  
元朗青山道 269 號  
元朗民政事務處大廈地下

電話 2920 7033  
傳真 2474 7971



## 消費者委員会

香港でお買い物をなさる観光客の皆様も

香港の消費者とみなされます。

以下は香港でのお買い物に役立つアドバイスです。

### (A) 価格の比較

(特に電気電子機器、カメラを含む撮影機器をお求めの場合)

香港には標準販売価格統制の習慣や価格に関する法律が存在せず、販売価格はあくまでも売り手と買い手の間の交渉によってその都度決定されます。他の店より高い値段だったからという理由で返金を期待することはできません。

アドバイス: 消費者委員会アドバイスセンターで総代理店のリストをお求めください。小売店での販売価格は総代理店の標準販売価格リストから15%~20%割引いた価格が一般的です。あまりに安い場合は、本物を見せて偽物を渡すという詐欺行為のわなかかもしれませんのでご注意ください。

### (B) 並行輸入商品

香港は自由港であり、輸入業者はどこからでも製品を輸入することができます。そのため、小売店では製造業者/製造地から直接輸入した最新モデルの商品を販売することができます。香港の指定代理店を通さずに香港に輸入された平行輸入商品(いわゆるグレーマーケット商品)は香港では違法ではありません。そのような商品はより低価格で市場に出回っていますが、総代理店の保証はつきません。

アドバイス: 保証のない並行輸入商品避けたい場合は、お支払の前に必ず「香港総代理店の保証書つきの商品を買いたい」とはっきり言いましょう。

### (C) 返品

「商品販売法」という香港の法律には「商品は欠陥品のみ(正常な製品と)交換するために返品できる」と明記されているので、一旦購入してしまった製品を気が変わったからというだけの理由で返品したり、交換することは期待できません。

アドバイス: 購入を決定する前に様々な製品を比較してみてください、十分に考慮しましょう。

### (D) 本物を見せて偽物を渡すという詐欺行為

残念ながら、香港では本物を見せて偽物を渡すという詐欺行為は珍しいことではありません。そのような詐欺行為の犠牲者にならないためには、買い物の前に製品情報や製品の外観を前もって調べておき、販売員のセールストークのみに頼らないようにしましょう。

アドバイス: 消費者委員会アドバイスセンターもしくは総代理店のショールームを訪れ、製品情報をチェックしておきましょう。また、一旦あるモデルを選んでから店に行った場合は、他のモデルの方が優れていると確信した場合を除き、他のモデルに変えることは避けましょう。

以下に常に注意して、賢いお買い物を楽しみましょう。

1. どのモデルを購入するかを決定する前に、実験結果、性能、価格、アフターサービスその他の製品情報に関して消費者委員会もしくは総代理店に問い合わせをおきましょう。

2. 一旦買いたいモデルを選んだ後は、より安いからという理由でその他のモデルに変えることは避けましょう。本物を見せて偽物を渡すという詐欺行為のわなかかもしれないからです。

3. 支払の前に、交渉の際に約束されたすべての事項をレシートに記入するよう店に要求しましょう。

4. クレジットカードは交渉が終わるまで誰にも渡さないでください。また、サインをするときにはクレジットカードの伝票に正しい価格が記入されているかどうかを必ず確かめましょう。価格欄が空白の伝票にはサインしないでく

ださい。また、カスタマー用の伝票を必ずもらってください。

5. 一旦クレジットカード伝票にサインすると取引は成立したことになり、キャンセルできるチャンスは非常に小さいといえます。

6. 付属部品その他の詳細が領収書に記入されているかどうかを確認してください。すべての詳細が正しく記入されないかぎり、支払は行なわないようにしてください。

7. 包装の前に製品を手にとりて調べ、約束通りの製品であることを確かめましょう。

8. 店と論争になった場合は、レシート(もしくはその店との交渉の経過を示した書類、店のカードだけでは役に立ちません)を持って即座に店を出て警察もしくは消費者委員会に行きましょう。

ヘルプが必要な場合は消費者ホットライン(英語)2929-2222までお電話ください。

## 消費者委員会アドバイスセンターの住所と電話番号

## 香港島地区

1. Consumer Council Advice Centre  
22/F, K. Wah Centre  
191 Java Road  
North Point  
Tel 2922-4111  
Fax 2856-3611
2. Eastern Consumer Advice Centre  
Level One, New Jade Garden  
233 Chai Wan Road  
Tel 2921-5022  
Fax 2556-9365
3. Southern Consumer Advice Centre  
G/F, Shop 25, Mei Fung Court  
Aberdeen Centre  
Tel 2921-1033  
Fax 2552-5377
4. Central & Western Consumer Advice Centre  
G/F, Harbour Building  
38 Pier Road  
Central  
Tel 2921-6228  
Fax 2581-1455

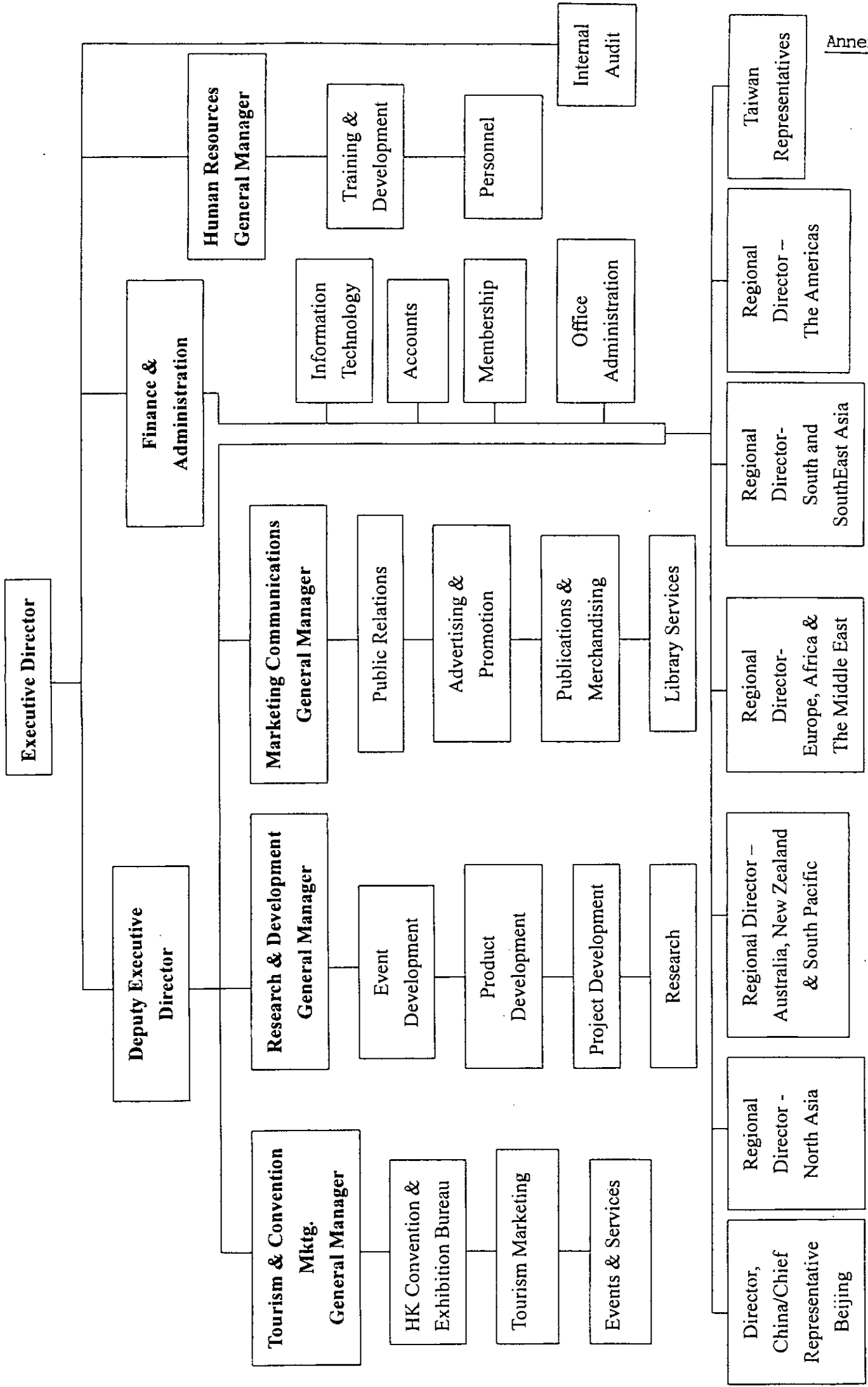
## 九龍地区

1. Wong Tai Sin Consumer Advice Centre  
G/F, Wong Tai Sin District Office  
San Po Kong Government Offices Building  
King Fook Street  
Tel 2927-6062  
Fax 2323-9496
2. Shamshuipo Consumer Advice Centre  
6/F, West Coast International Building  
290 Un Chau Street  
Shamshuipo  
Tel 2928-7022  
Fax 2708-2713
3. Kowloon City Consumer Advice Centre  
Unit 1706-13, 17/F, One Harbourfront  
18-22 Tak Fung Street  
Hungghom  
Tel 2926-4011  
Fax 2761-9545
4. Kwun Tong Consumer Advice Centre  
G/F, Kwun Tong Government Offices Building  
Tung Yan Street  
Tel 2927-3060  
Fax 2344-3292

5. Tsimshatsui Consumer Advice Centre  
Shop 126, 1/F, Tung Ying Building  
100 Nathan Road, Tsimshatsui  
Tel 2926-1088  
Fax 2721-1580

## 新界地区

1. Tsuen Wan Consumer Advice Centre  
G/F, Princess Alexandra Community Centre  
60 Tai Ho Road  
Tsuen Wan  
Tel 2920-3138  
Fax 2413-7042
2. Tuen Mun Consumer Advice Centre  
2/F, Tuen Mun Government Offices Building  
1 Tuen Hei Road  
Tuen Mun  
Tel 2920-6028  
Fax 2452-1762
3. Yuen Long Consumer Advice Centre  
G/F, Government District Offices Building  
269 Castle Peak Road  
Yuen Long  
Tel 2920-7033  
Fax 2474-7971
4. Tai Po Consumer Advice Centre  
G/F, Tai Po Government Offices Building  
1 Ting Kok Road  
Tai Po  
Tel 2929-3300  
Fax 2658-2069
5. Kwai Chung & Tsing Yi Consumer Advice Centre  
Kwai Chung District Office  
2/F, Kwai Hing Government Offices  
166-174 Hing Fong Road  
Kwai Chung  
Tel 2920-2066  
Fax 2428-8950
6. Shatin Consumer Advice Centre  
1/F, City-Link Plaza  
Shatin  
Tel 2929-4099  
Fax 2695-1964
7. Northern Consumer Advice Centre  
North District Office  
G/F, Government Offices Building  
3 Pik Fung Road  
Fanling  
Tel 2929-2222  
Fax 2677-9255



List of Association Members of TIC

1. Hong Kong Association of Travel Agents Limited (HATA)  
(香港旅行社協會有限公司)
2. The Federation of Hong Kong Chinese Travel Agents Limited (FHCTA)  
(香港華商旅遊協會有限公司)
3. International Chinese Tourist Association Limited (ICTA)  
(國際華商觀光協會有限公司)
4. Society of IATA Passenger Agents Limited (SIPA)  
(國際航空協會審訂旅行社商會有限公司)
5. Hongkong Taiwan Tourist Operators Association Limited (TTOA)  
(港台旅行社同業商會有限公司)
6. Hong Kong Association of China Travel Organisers Limited (HACTO)  
(香港中國旅遊協會有限公司)
7. Hong Kong Outbound Tour Operators' Association Limited (OTOA)  
(香港外遊旅行團代理商協會有限公司)
8. Hongkong Japanese Tour Operators Association Limited (HJTOA)  
(香港日本人旅客手配業社協會有限公司)

- (v) its criteria for membership is such that any of its members who wish to become members of TIC will automatically meet or better the criteria for membership of the appropriate class in TIC laid down from time to time by TIC.
- (vi) its articles of association must be approved by the Board of TIC and must contain all such matters as the Board shall from time to time direct including, but not limited to the following:-
- (aa) none of the articles shall be changed in any way save with the prior written consent of the Board of TIC and in accordance with that consent;
- (bb) its chairman or its representative who is appointed in accordance with Article 47(2)(a) hereof on the Board of TIC shall at all times be an Ordinary Member of TIC. For this purpose the Chief Executive of the Ordinary Member who is registered with TIC and who is deemed to be the Member of TIC, pursuant to Article 49 hereof, or an executive director of the Ordinary Member who has the authority of the chief executive to become the chairman of the Association Member and who is registered with TIC as aforesaid instead of the chief executive, shall be deemed to be the Ordinary Member;
- (cc) a person whose application for membership of the association is refused or rejected or a member who is expelled or suspended from membership of the association shall have the right to appeal to the Appeal Board of TIC and such person or the association shall, provided the matter falls within Article 12 of the Articles of TIC have the right to appeal to the Registrar;
- (dd) the association, its council and its members shall all be bound by the decision of the Appeal Board or of the Registrar;
- (ee) the chairman of the association or its representative who is appointed in accordance with Article 47(2)(a) hereof shall automatically vacate his office if he shall for any reason, including removal, vacate the office of a member of the Board of TIC in accordance with Article 56 hereof;
- (ff) any person who is not a member of TIC shall be ineligible to become a member of the Executive Committee of an Association Member;
- (gg) The Chairman, Deputy Chairman, Honorary Secretary or

## QUALIFICATIONS AND RESTRICTIONS

### Association Members

4. (1) Association Members shall be
- (a) the subscribers to these Articles and those Associations Admitted After Incorporation; and any of the aforesaid which meet or have undertaken to the satisfaction of the Board to meet the criteria laid down in paragraph (1)(b)(v) and (vi) of this Article 4; and
- (b) any other New Association which meets the following criteria:-
- (i) it is a company which is incorporated in Hong Kong;
- (ii) its membership is restricted to travel agents, tour operators and retail passenger agents;
- (iii) its primary objectives must:-
- (aa) be, in the opinion of the Board, for the benefit of the travel industry;
- (bb) cover an area for which, in the opinion of the Board, there is a specific need and neither such need nor such objectives are already covered either individually or collectively by the Association Members;
- (iv) it has not less than 100 Ordinary Members of TIC. Should the membership of any Association Member after becoming an Association Member fall to below 50 Ordinary Members of TIC, the Board may consider expelling or revoking the Association Member's membership provided however, the Board or its authorized representative shall give two months prior notice to the Registrar prior to such expelling or revoking of the Association Member's membership;

Honorary Treasurer of an Association Member shall not at any time also be the Chairman, Deputy Chairman, Honorary Secretary or Honorary Treasurer of another Association Member.

#### Ordinary Members

(2) An Ordinary Member shall be a limited company which meets the criteria laid down in sub-paragraphs (a) - (h) hereof unless and to the extent that such criteria is waived pursuant to Article 3 (4):-

- (a) it is a company which has been incorporated in Hong Kong or is an overseas company which is registered as such with the Companies Registry in Hong Kong pursuant to Part XI of the Ordinance;
- (b) its only business shall be travel-related and tourism;
- (c) it is a member of an Association Member;
- (d) it has a paid-up capital of not less than HK\$300,000 plus a further HK\$150,000 for each branch office from which it conducts its travel-related and tourism business; and it shall be given 2 years as from notice to be given to increase its paid-up capital to not less than HK\$500,000 plus a further HK\$250,000 for each branch office. In relation to any application for Ordinary Membership made on or after 12th May 1994, the applicant shall have a paid-up capital of not less than HK\$500,000 plus a further HK\$250,000 for each branch office from which it conducts its travel-related and tourism business;
- (e) its financial position is considered by the Board to be sound;
- (f) it employs at each premises from which it conducts its travel-related and tourism business at least:-
  - (i) a manager who has within 5 years prior to any point in time during his employment had at least two continuous years' relevant practical experience; and
  - (ii) one other member of staff who is employed full time in the operation of such business.
- (g) it conducts its travel-related and tourism business within separate and independent commercial premises/buildings which are easily identified as being used solely for the travel-related and tourism business and which are approved by the Membership Committee of TIC. The agent's premises must not be an "office within an office" i.e. an office located within the agent's parent/affiliate/holding company's or another company's office

premises. Exception may be granted to:-

- (i) a branch office of a member agency inside a licensed hotel.
- (ii) a branch office operated inside a department store provided that
  - the area is well-defined and partitioned off for the exclusive use of the agent, and
  - the agent and the department store is not owned by the same proprietor company; and
- (h) its controllers, directors, principal shareholders, secretary or officers or any person employed or concerned in the management of its travel-related and tourism business and each of them are respectable and honest businessmen and are otherwise Fit and Proper Persons.

#### Affiliate Members

(3) An Affiliate Member shall be a person who meets the criteria laid down in sub-paragraphs (a) - (i) hereof unless and to the extent that such criteria is waived pursuant to Article 3 (4).

- (a) He is either
  - (i) a sole proprietorship or partnership or
  - (ii) a limited company which has been incorporated in Hong Kong or is an overseas company which is registered as such with the Companies Registry in Hong Kong pursuant to Part XI of the Ordinance and whose only business shall be travel-related and tourism.
- (b) He is a member of an Association Member;
- (c) In the case of a company, it has an issued paid-up capital of not less than HK\$50,000 and it shall be given 2 years as from notice to be given to increase its paid-up capital to HK\$150,000. In the case of an application for membership made after 13th August 1992, the applicant shall have an issued paid up capital of HK\$150,000. In the case of a sole proprietorship or partnership, he has obtained and lodged with TIC a bond, guarantee or other form of security acceptable to the Board in the sum of HK\$50,000 and he shall be required to increase the said sum to \$150,000 two years as from notice to be given. In the case of an application for membership made after 13th August 1992, the sum shall be HK\$150,000 or such other amount as the Board may from time to time decide in favour of TIC. Any moneys which are paid under such bond, guarantee or other form of

security as aforesaid shall be paid to TIC which shall pay the same to such Affiliate Members' Trustee in Bankruptcy or, if such Affiliate Member is not adjudged bankrupt within 3 months of the date on which TIC issues a demand for payment under such bond, guarantee or other form of security, into the TIC Bonding Fund.

- (d) His financial position is considered by the Board to be sound.
- (c) He shall not have any branch office.
- (f) He employs at the premises from which he conducts his travel-related and tourism business at least:
- (i) a manager who has within 5 years prior to any point in time during his employment had at least two consecutive years' relevant practical experience; and
  - (ii) one other member of staff who is employed full time in the operation of such business.
- (g) He conducts his travel-related and tourism business within separate and independent commercial premises/buildings which are easily identified as being used solely for the travel-related and tourism business and which are approved by the Membership Committee of TIC. The agent's premises must not be an "office within an office" i.e. an office located within the agent's parent/affiliate/holding company's or another company's office premises.
- (h) His partners or any person employed or concerned in the management of his travel-related and tourism business and each of them are respectable and honest businessmen and are otherwise Fit and Proper Persons.
- (i) He is a respectable and honest businessman and is otherwise a Fit and Proper Person.
- (4) None of the criteria laid down in each of Articles 4(1), (2) and (3) shall be altered except with the approval of the Financial Secretary.
- (5) An Affiliate Member shall:-
- (a) not register, or organise or operate a tour;
  - (b) be ineligible to be an Elected Director or an Association Member's Chairman or representative or otherwise to serve on the Board;
  - (c) be subject to such other restrictions as the Board may impose from time to time in its absolute discretion.



Details of the tactics used by retail sector

**Overcharging**

Overcharging is situation where the price of goods purchased does not match with its value. Overcharging is difficult to establish in Hong Kong because of the lack of statutory definition for overcharging or what and how is to be considered as "fair prices". Hong Kong has a free market system whereby prices of goods are not controlled, but are subject to mutual agreement between the buyer and the seller. Therefore, legally there is no such thing as "overcharging".

For goods that have a recommended retail price, usually such price is supplied by the sole agent of the goods concerned, both the Consumer Council and the HKTA will use that price as a yardstick to assess whether a case on overcharging has been established or not. However, even overcharging is established it is entirely at the discretion of the respondent company to refund to the complainant the balance between the recommended retail price and the overcharged purchased price.

It is much more difficult to establish overcharging for goods that do not have any recommended retail price. Examples of such kinds of goods are Chinese herbs and medicine, health/tonic food, and jewelry items. In this situation, expert opinions and advice on the price of the goods are needed. Again if the shops in question refuse to refund, the only redress the complainant may consider is to file the case to court for judgement.

Overcharging tactics can be found mostly in complaint cases lodged against camera / video shops, jewelry shops and shops that sell Chinese herbs / medicine and health /tonic food.

### Misrepresentation/Bait and Switch Tactics

Misrepresentation involves the provision of inaccurate or misleading information by the shop's salesman, which as a result leads to the purchase of the goods concerned.

While Bait and Switch tactics are the "sales talk" of the salesman who tries to persuade customer to believe that the original chosen item was not as good as the one introduced by the salesman. Misrepresentation and bait and switch are the most common tactics used by unscrupulous camera and video shops in Hong Kong. On the other hand, unscrupulous Chinese medicine shops would provide unclear unit price, such as quoting the price for a catty which should be the price for a tael, for Chinese herbs / medicine.

Details relating to the use of misrepresentation and bait and switch tactics by unscrupulous camera and video shops are as follows: -

- Make customer believe that certain goods are in stock and available at a very attractive price. (Bait tactics)
- Ask customer to sign the credit slip and then make the customer wait while the goods is brought from another store.
- During that time the salesman would try to convince the customer to believe that the goods just purchased is of poor quality and that customer should buy another model which is usually of higher price (Switch tactics). However, the model suggested by the salesman is actually inferior to the original model the customer intends to purchase or is an outdated model.
- Customer would also find the final purchased model could be bought at other shops for much less than the price he/she has paid.

Details relating to the use of misrepresentation by unscrupulous Chinese herbs / medicine and health / tonic food shops are as follows: -

- Salesman of the shop would quote a certain price for certain goods to customer without stating clearly the price per unit, or provide customer incorrect information, which lead the customer to believe that the price quoted is the unit price for a catty which should be for a tael instead.
- When the customer agreed to buy, the salesman would, on one hand, ask for his/her credit card while, on the other hand, slice the merchandise or grind the goods into powder.
- When the customer realizes that the amount he is asked to pay is much higher than he has been told, he would protest against the price. The salesman would argue that the price previously quoted is based on the price per tael (not catty) and they could not refund because the merchandise is already sliced or ground.
- Later, the customer would find that the price he has paid is much higher than the market price for the goods purchased.

Misrepresentation in jewelry shop also involves the provision of inaccurate and misleading information by the salesman: -

- Salesman would make customer believe that the gem or gem-set jewelry, which the customer has chosen, is of very good quality.
- Although the gold content is specified on the sales receipt (as required under the Trade Descriptions Ordinance); the quality of the gem or gem-set jewelry is usually not included in the receipt.
- Later, customer may find that the quality of the gem as described to him is incorrect or inaccurate.
- The customer would then lodge a complaint against the jewelry shop for misrepresenting the quality of the gem item. However, as the quality of the gem is not specified, it is quite impossible to establish case of misrepresentation.

### Intimidation

Intimidation is also a tactics which has been used in Camera / Video Supplies shops as well as shops selling Chinese Herbs / Medicine and Health / Tonic Food. Sometimes when the salesman finds that the "Bait and Switch" tactics do not work and the customers insist to refund or refuse to purchase the goods recommended and pay the amount asked by the shops, they would use intimidation to force the customers to make purchase. Under the existing law, customer who has been intimidated should report the matter immediately to the Police as a prima facie case of criminal offence has been established. However, tourists are usually afraid and choose not to report the incident to the Police.

### Conclusion

Under the existing law, customers are unlikely to get any redress or refund for complaint cases resulting from overcharging, misrepresentation, bait and switch and intimidation tactics.

The following suggestions are recommended for consideration or to be incorporated into the legislature as appropriate:

- 1) A clear description of the merchandise and its price (per unit especially in the case of Chinese medicine, health/tonic food) for all the merchandise carried by the shops.

- 2) A clear refund policy. If there is a refund policy, shop needs to state clearly the terms and conditions under which the customer can get back the appropriate refund. If there is no refund policy, shop also needs to state clearly in prominent area.
- 3) Sales receipt needs to be clearly itemized with price for each item stated.
- 4) Sales receipt issued by jewelry shop should specify the quality of the gems.  
In case of diamond, needs to specify the 4Cs (Colour, Clarity, Cut and Carat) if the diamond weighs over 0.50 carat.  
In case of jade, needs to specify the country of origin and the grading whether it belongs to grade "A" or grade "B".
- 5) Require legislation to effectively deal with misrepresentation, whether written or verbal.