

# 妥善監管機制非一蹴可就

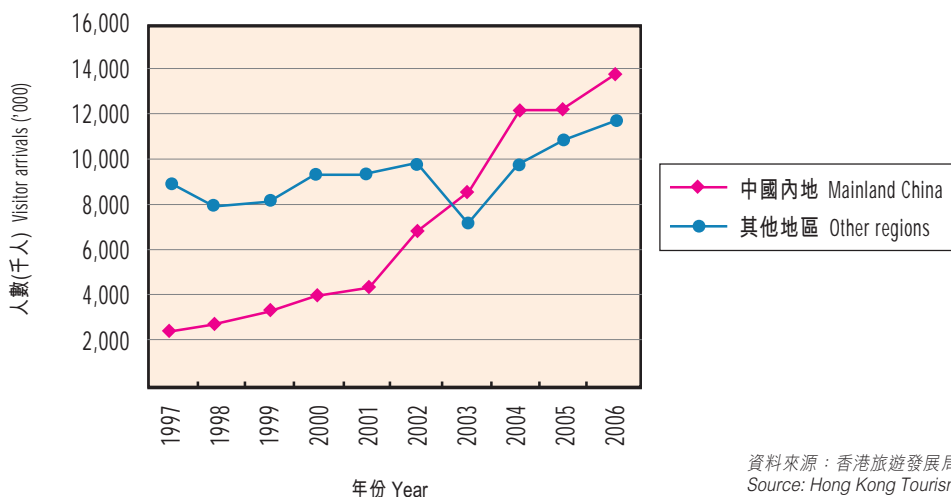
## An effective monitoring regime is not built in one day

本刊記者 Staff reporter

九九七年，香港回歸祖國，那一年共有一千一百三十萬名旅客來港。二零零六年，旅客總數達二千五百三十萬，比一九九七年增加了一點二倍。回歸那一年，來自內地的旅客只有二百四十萬，佔整體旅客的百分之二十一點二；去年，這個數字急增了四點七倍，變成一千三百六十萬，佔旅客總數的百分之五十三點八。由二零零三年起，超過一半旅客來自內地，也就是說，內地旅客比所有其他旅客加起來還要多(見圖)。

In 1997, 11.3 million visitors came to Hong Kong when the city was reunited with mainland China. In 2006, Hong Kong welcomed 25.3 million visitors, representing an increase of 120% over 1997. Between 1997 and 2006, the number of mainland visitors jumped from 2.4 million (21.2% of all visitors) to 13.6 million (53.8% of all), a huge surge of 470%. From 2003 onwards, of all visitors who came to Hong Kong, more than half were from mainland China, whose numbers exceeded the numbers of visitors from all other regions combined (see Figure).

圖：1997-2006 年中國內地與其他地區旅客的人數  
Figure: Visitor arrivals from mainland China and other regions, 1997-2006



### 對入境業的監管

內地旅客在短短幾年間增加了好幾倍，這固然為香港的旅遊業帶來莫大裨益，但同時也產生了不少監管上的問題。不說可能很多人都不知道，原來在二零零二年前，接待入境旅客的旅行社是完全不受監管的。政府在議會多番游說後，終於修訂了《旅行代理商條例》，規定入境旅行社必須和外遊旅行社一樣，同時接受旅行代理商註冊處和議會的雙重監管。

### Regulation of inbound industry

Although the fact that there were several times more mainland visitors last year than in 1997 is a real boon to Hong Kong tourism, the incidental problems concerning regulation are hardly desirable. It may be news to many that travel agents receiving visitors were not subject to any regulation before 2002. Having been repeatedly lobbied by the TIC, the Government finally amended the Travel Agents Ordinance to put inbound agents, like their outbound counterparts, under a two-tier regulatory regime administered by the Travel Agents Registry and the TIC.

《旅行代理商(修訂)條例》於二零零二年十一月生效，由那時起，議會就正式負起監管入境旅行社的重任。雖然議會監管外遊業的成績斐然，但入境業與外遊業迥然不同，要創立一套既能有效監管但又不會扼殺競爭的機制，絕非易事，必須不斷努力嘗試才可望有成。

香港的外遊業儘管競爭激烈，但在完善的監管機制下，業者和旅客都可以共享利益；有些論者看到這種情況，也就難免覺得入境業的監管機制仍頗有不足之處。殊不知外遊業現行的雙重監管機制，是在原先政府單獨監管的機制施行了三年但以失敗告終後，才開始推行的。外遊業的現行機制實行了差不多二十年，其間屢經議會和當局的調整和改進，才有今天這個不比任何先進國家的監管制度遜色的機制。因此，對入境業的監管機制來說，急風暴雨般的變革未必就能保證成功，相反，跬步千里式的改良或許才能臻至佳境。

## 要解決的各種問題

自從着手監管入境旅行社以來，議會過去幾年間當然施行了不少措施，但由於最近這兩三個月出了新情況，所以議會又再推出一連串措施，務求抓住各個節骨眼，希望能解決現存的種種問題。但在介紹這些新措施前，不妨先檢視一下當前的情況，並澄清一些關鍵的要點，這或許對於把握有關問題的核心不無小助。

首先必須清楚的，是入境業的主要問題在於內地市場，而內地市場的主要問題則在於購物。由於議會只獲法例授權監管入境旅行社，而接待內地團體旅客的入境旅行社一般都會安排他們前往指定的店鋪購物，因此，議會面對的最大問題，就是怎樣保障內地團體旅客的購物權益。

中國近年的經濟持續欣欣向榮，內地居民出外旅遊的興致因而越來越高，但業者的經營手法仍有很多不規範的地方，致使內地居民外遊時往往得不到應有的保障。比如說，有不少內地的組團社先以極低廉的團費招徠，然後不付接待費就要求香港的接待社提供接待服務，於是產生了

From November 2002 when the Travel Agents (Amendment) Ordinance came into force, the TIC began to monitor inbound agents. The inbound and outbound industries being poles apart, success in regulating the outbound industry by the TIC does not mean that it would be easy to devise a regulatory mechanism which can guarantee effective regulation and encourage competition at the same time. Trials and errors must therefore be allowed.

With an outbound industry which is pro-trader and pro-traveller despite fierce competition, some critics may consider the inbound monitoring regime to be piling in comparison with the much more successful outbound one. They, however, overlook the fact that the existing two-tier outbound regime was put in place after the initial one-tier regime administered by the Government alone had failed to deliver for three years. One of the best in the world, the existing outbound regime is the achievement of close to 20 years of countless adjustments and improvements made by the TIC and the authorities. As far as the inbound regime is concerned, therefore, evolution, rather than revolution, is what stands the highest chance of success.

## Problems to be redressed

It goes without saying that many measures have been implemented by the TIC since it began to monitor inbound agents several years ago. Given the new situation of the past two to three months, a series of measures are introduced to tackle the very roots of the many current problems. But before those measures are described, a quick review of the situation and a clarification of some critical points are perhaps needed in order to get to the core of those problems.

The first thing to make clear is that the major problem haunting the inbound industry lies in the mainland market, and the major problem haunting the mainland market lies in shopping. Since the TIC has only been empowered by law to monitor inbound agents, and most inbound agents take mainland group visitors to the shops they choose, the biggest problem confronting the TIC is how the shopping rights of mainland group visitors can be protected.

In recent years, mainland residents' appetite for outbound travel has spiralled upwards with the economy of mainland China. The practices of the mainland outbound industry, however, have lagged far behind in terms of regulation, short-changing mainland travellers when they are on their outbound trips. For example, plenty of mainland tour operators have tried to lure customers by means of exceptionally low tour fares, and then

所謂的「零團費」問題——正確的名稱或許該是「零接待費」問題才對。

香港的接待社既然無法按正當的途徑賺取接待費，於是只好把參加了零接待費旅行團的旅客帶去指定的店鋪購物，從而賺取回扣。接待社沒有接待費，也就不願向導遊支付團費，而導遊沒有出團費，也就同樣要靠店鋪來賺取回扣。那些店鋪由於要繳付高額的回扣給接待社和導遊，於是不得不抬高價錢，以次充好，有些更不惜鋌而走險，以冒牌貨充名牌貨。在這種情況下，也就無怪乎內地團體旅客挨宰了。

## 議會近日的連串措施

零接待費問題並非僅只出現於香港，近的如日本、台灣、泰國、馬來西亞，遠的如澳洲、法國等地方，都同受零團費之苦。所謂正本清源，這個問題既然源自內地，也就只能從內地入手，才可望徹底解決。儘管如此，議會仍在過去三個月推行了一連串措施，期望從提供接待服務的各個環節着眼，嘗試解決這個問題。

目前內地的組團社招收旅客後，很多時並不是直接和香港的接待社交易，而是把團隊轉交深圳的中介社，再由中介社和接待社接洽。可是，有很多中介社都不是獲准經營香港遊業務的旅行社，出了事之後負責人往往一走了之，於是造成了難以追究責任的困境。為了堵塞這個監管漏洞，議會規定會員所接待的內地團，必須由已獲國家旅遊局批准在內地經營相關業務的旅行社組辦(見第 159 號指引)。

議會從過往的一些投訴中發現，有些內地組團社所承諾向旅客提供的服務，竟然和它們要求香港接待社提供的服務並不相同。結果，香港的接待社雖然按服務協議提供了接待服務，但旅客卻因為這些並不是組團社所承諾的服務，因而大感不滿。有鑒於此，議會規定會員必須向議會登記它們與內地組團社所簽訂的團隊確認書(見第 168 號指引)。這樣一來，日後要是若有甚麼投訴，就可以釐清責任誰屬的問題了。另一方面，為了確保內地團體旅客清楚知道

require Hong Kong's receiving agents to provide reception services for free. This situation has given rise to the so-called zero-fare problem, which should perhaps be more properly renamed the zero-reception-fee problem.

Hong Kong's receiving agents, unable to earn their reception fee through proper means, are forced to take tour participants of zero-reception-fee tours to their chosen shops in order to earn a commission. With no reception fee, the receiving agents refrain from paying any tour-guiding fee to tourist guides, who are also forced to rely on a commission from those shops. With a big amount of commission to pay to receiving agents and tourist guides, those shops are also forced to jack up the prices of their goods, dress up tacky things as great ones and, in more extreme cases, sell fakes as if they were genuine brands. Small wonder, in such a situation, that mainland group visitors are almost doomed to be cheated.

## Recent measures by TIC

Hong Kong is not the only place plagued by the zero-reception-fee problem. Other places also threatened by the plague include short-haul destinations such as Japan, Taiwan, Thailand and Malaysia, and long-haul ones such as Australia and France. Since the problem stems from mainland China, it has to be tackled at its root if a lasting solution is to be found. Nevertheless, the TIC has introduced a series of measures during the past three months in an attempt to resolve it by taking aim at every party that provides reception services.

At present, mainland tour operators seldom deal directly with Hong Kong's receiving agents after taking the bookings of tour participants. The tours are often handed over to intermediary agents in Shenzhen, which deal with the receiving agents. Since many intermediary agents are not permitted to operate tours to Hong Kong, their bosses often run away whenever there are any incidents, which means hardly anyone would be held responsible. To plug this regulatory loophole, the TIC has stipulated that mainland tours received by its members must be operated by mainland agents authorised by the China National Tourism Administration (see Directive No. 159).


It has come to the TIC's attention, through its handling of complaints, that the services promised by some mainland tour operators were not what they required Hong Kong's receiving agents to provide, thus making the tour participants deeply dissatisfied since the services provided by the receiving agents in accordance with the service agreements were not what had been promised. In view of that, the TIC has required

接待社所提供的服務，議會又規定會員必須在團隊抵港後向旅客派發行程表(見第 167 號指引)。

為免接待內地團隊的導遊把購物回扣當作主要收入，議會規定會員必須支付團費給他們(見第 162 號指引)。此外，為了保障那些導遊，議會並且規定會員不得要求他們墊付大額款項，也不得拖欠他們所墊付的款項(見第 163 號指引)。

為了加強對團體旅客所光顧的店鋪的監管，議會推出了「入境旅行團(登記店鋪)購物退款保障計劃」，以取代由二零零二年實行的「十四天百分百退款保證計劃」。新計劃已於二零零七年六月十五日生效，會員和以前一樣，只可以帶旅客前往已向議會登記的店鋪購物，不同的是，**登記店鋪必須承諾向內地旅客提供六個月全數退款保障，以及向海外旅客提供十四天全數退款保障。**違反承諾的登記店鋪依然會被記分，累積分數一達到三十分，就會被撤銷登記。此外，登記店鋪必須在營業時間內容許公眾人士進入，以便當局和議會巡查。登記店鋪的名稱、地址、因違反承諾而被記的分數等資料更會張貼在議會網站。還有就是**登記店鋪只要在同一個地點經營，即使更改了名稱甚至轉了手，所有累積的分數都會保留，以防店鋪逃避責任**(見第 164 號指引)。

## 結語

議會是香港的自律監管機構，即使竭盡所能，也只能對香港的接待社、導遊、登記店鋪施行監管措施。要令內地團體旅客在香港購物時得到較佳保障，正如前文所說，正本清源的措施只能求諸內地當局。議會一向都和內地當局保持密切聯繫，如果內地當局需要議會加以配合，議會定必衷誠合作，務求每年幾百萬內地團體旅客都會得到妥善的購物保障。 

its members to register the tour confirmation agreements signed by them and the mainland tour operators (see Directive No. 168), so that which party should be held responsible will be clear in case of complaints. The TIC has also required its members to distribute itineraries to mainland group visitors once they arrive in Hong Kong, so that they know what the itinerary arrangements are (see Directive No. 167).

TIC members have also been required to pay a tour-guiding fee to tourist guides who receive mainland tour groups in order to make them rely less on shopping commission as their major income (see Directive No. 162), and not to ask those guides to advance large sums of money or delay repaying them the money advanced (see Directive No. 163).

Aimed at enhancing regulation on shops patronised by group visitors, the Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers are launched to replace the 14-Day, 100% Refund Guarantee Scheme implemented since 2002. The new Scheme has already taken effect since 15 June 2007, which, similar to its predecessor, stipulates that members can only take visitors to shops already registered with the TIC, and which, different from the previous Scheme, requires those registered shops to pledge to offer six-month, full refund protection to mainland visitors and 14-day, full refund protection to overseas visitors. Registered shops having breached their pledges will also be given certain demerits, and even deregistered once they have accumulated 30 demerits. Apart from that, registered shops have to allow the public to enter their premises during business hours to facilitate inspections by the authorities and the TIC. Such information as their names, addresses and the number of demerits imposed will be posted on the TIC website. And so long as they operate at the same location, all the demerits accumulated will be retained even if their name, or even ownership, is changed in order to pre-empt any shirking of responsibility (see Directive No. 164).

## Concluding remarks

As a self-regulatory body in Hong Kong, what the TIC can do is no more than taking measures to monitor receiving agents, tourist guides and registered shops in Hong Kong. Measures to ensure greater protection for the shopping rights of mainland group visitors, as argued in the above, can only come from the mainland authorities, with which the TIC has always been in close contact. Active cooperation with the mainland authorities, if sought, will certainly be forthcoming in order that several millions of mainland group visitors will be provided with proper protection when they shop in Hong Kong. 