

# 業者利益與旅客利益

## Interests of traders vs interests of travellers

本刊記者 Staff reporter

在去年非典型肺炎爆發期間，議會曾經發出兩個指引，容許在不同期間出發的旅客保留團費至九月底。近日某個屬會的一些會員在一個公開場合指責議會總幹事權力過度膨脹，率爾發出指引，令他們損失慘重。那些會員甚至說總幹事的薪金由會員支付，理應先顧全會員的利益，而不是一味維護旅客。

雖然理事會得悉事件後，已經去信該屬會加以澄清，不過，從那些會員的言論看來，他們似乎未能區分議會理事會和辦事處的權責，以及誤解了議會的運作、經費及職能等問題。

### 理事會與辦事處

《議會組織章程細則》第 44(1)條清楚表明，理事會的責任是全權監督議會的運作，而第 44(3)條則訂明，所有作業守則、規條的頒佈、增加或修改必須經理事會批准。此外，第 54(3)條規定，議會發出的指引必須經理事會投票通過。

事實上，議會制定的所有措施與規例，都必須經理事會審議及投票通過才能定案，所以理事會全體理事都必須為議會的每一項措施與規例集體負責。總幹事は議會的職員，並沒有制定任何政策的權力，他的職責僅限於協助理事會釐定政策，以及執行理事會所定出的政策而已。當他在執行有關工作時，必須嚴格遵從理事會的決定，並須直接向理事會負責。在非典型肺炎爆發期間，理事會合共召開三次緊急會議，並投票通過發出第一百一十六號及第一百一十七號指引。那兩個指引究竟應不應該發出，當然可以討論，但責難總幹事「發出」指引，卻與事實不符。

During the SARS outbreak last year, the TIC issued two directives, allowing travellers to retain their tour fares until the end of September. Some member agents of an Association Member recently accused on a public occasion the Executive Director (ED) of having too much power and hastily issuing the two directives, which made them lose a good deal of money. Those members even went so far as to claim that since the ED's salary is paid by members, he should put the interests of members before those of travellers.

Although the Board has already written to the Association Member concerned to clarify the issue, judging from those members' remarks, it seems that not only are they unable to distinguish the powers and responsibilities of the Board from those of the Executive Office, but they also cannot grasp the operation, income and duties of the TIC.

### The Board and the Executive Office

According to Article 44(1) of the TIC Articles of Association, the Board is fully responsible for the administration of the TIC; and Article 44(3) states that the promulgation of any codes of conduct and rules and any additions to or modifications of any such code of conduct and rule require the approval of the Board. Article 54(3) stipulates that any directives issued by the TIC must be passed by vote by the Board.

In fact, all policies and rules of the TIC must have been scrutinised and voted through by the Board, and as such the Board is collectively responsible for each policy and rule promulgated. An employee of the TIC, the ED has no power to formulate any policy and his duties are limited to assisting the Board in formulating policies and implementing those policies approved by the Board. When he is carrying out his duties, he has to strictly follow the decisions of the Board and is directly accountable to the Board. During the SARS outbreak, the Board held three emergency meetings and decided to issue Directive Nos. 116 and 117 by vote. Whereas it is a matter for debate as to whether the two directives should be issued, the accusation that the ED "issued" them is simply contrary to fact.


議會自一九九零年起就成為公共機構，因此，議會的所有職員都是公職人員，需要遵守《防止賄賂條例》的有關規定。此外，議會一直由理事會集體領導兼集體負責，多年來已經發展出一套行之有效的制衡機制，任何人都不可能擅權獨斷。

## 誰是僱主？

所謂薪金，是指在僱傭關係中，僱主支付給僱員、用以換取僱員為其工作的報酬。僱主不但可以決定僱員薪金(收入)的多寡，也可以決定僱員薪金的增減。議會的收入主要來自印花徵費、訓練課程及會員會費。按上述對薪金的定義，僱主可以決定僱員的薪金，但會員可不可以自行決定繳交多少印花徵費？可不可以自行決定繳交多少議會會費？答案當然是否定的，因此，會員不是議會的僱主，而會員和議會之間也不存在僱傭關係。那種以為會員支付薪金給議會職員的看法完全不能成立。

旅行代理商註冊主任何靈光先生曾經撰文表示，根據《旅行代理商條例》第 32H 和 32I 條，旅行社有法律責任分別向旅遊業賠償基金及議會繳付印花徵費，而繳付給議會的徵費用以「資助其行政工作和推行業界的自我規管工作」(詳見本刊二零零三年第二期(賠償基金有甚麼用途?))。議會是《旅行代理商條例》中規定的「認可機構」，而議會的會籍更是旅行社申請牌照的必要條件。政府之所以賦予議會這樣的特殊地位，正是要議會推行行業自律監管，規管外遊和入境旅行社，保障旅客。

## 增強消費者信心

議會各項保障消費者的措施，無不以增強消費者購買旅遊服務的信心和意欲為大前提，長遠而言對業界有百利而無一害。希望會員明白，業者利益和消費者利益不一定互相衝突，因為消費者越是得到保障，就越對業者有信心，越放心購買旅遊服務，那麼業者的進賬也自然越多。業者倘若能從大處着眼，高瞻遠矚，相信必定會認同議會的工作和貢獻。 

The TIC has been a public body since 1990, and therefore all of its staff are public servants, subject to the regulations of the Prevention of Bribery Ordinance. Apart from that, as the TIC has always been under the collective leadership of the Board, which assumes collective responsibility of the TIC, a system of checks and balances has been developed over the years, thus making it impossible for anyone to have a monopoly of power.

## Who's the employer?

Salary means, in an employer-employee relationship, the money paid by the employer to the employees in return for the work done by the latter. The employer can decide not only the amount of salary (income) an employee receives, but also whether to raise or reduce it. The income of the TIC comes mainly from three sources: levy, training courses and member subscriptions. From the above definition of salary, employers can decide the salary of their employees. However, can members decide the amount of levy or their subscriptions payable to the TIC? The answer is an obvious no. Therefore, members are not the employer of the TIC and there is no employer-employee relationship between members and the TIC. Such claims that members pay for the salary of TIC staff are totally unsubstantiated.

In an article by Registrar of Travel Agents Mr Eric Ho, he asserts that travel agents are liable to contribute levy to the Travel Industry Compensation Fund and the TIC according to sections 32H and 32I of the Travel Agents Ordinance (TAO) respectively, and that the levy paid to the TIC is to help it “finance its administration and implementation of the trade’s self-regulatory efforts” (see “What is the Compensation Fund for?”, in No. 2/2003). Under the TAO, the TIC is specified as an “approved organisation” and TIC membership is a prerequisite for the Travel Agent’s Licence. The reason why the Government has given such a special status to the TIC is to allow it to implement self-regulation of the industry, monitor outbound and inbound travel agents, and protect travellers.

## Confidence of travellers

Measures implemented by the TIC to protect travellers have but one goal: to enhance the confidence and desire of travellers to buy travel services, which in the long run can only be beneficial to the industry. It is hoped members can understand that the interests of traders and those of travellers need not be in conflict. The more protection travellers have, the more relaxed and comfortable they will become when buying from members, and thus the more money members will be able to earn from travellers. If traders can take a broad and long-term view, there is no doubt they will approve of the work and contribution of the TIC. 