

外遊業快將迎來全面競爭

Outbound industry soon to enter total competition

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由二零一七年三月起，所有對團費及旅行團贈品的規限將全部撤除。

From March 2017, the restrictions on tour fares and tour-related gifts will all be lifted.

監管失效易生弊病

自由競爭、放寬監管甚或全不監管對消費者和經濟效率必然有利，這一想法很多人長久奉為圭臬，以致即使在二零零八年環球金融危機之後，不少反對意見依然不為人重視。

但其實在二零一一年，金融危機調查委員會向美國總統及國會提交的報告中，就已明確指出金融海嘯的起因之一是監管失效：「我們的結論是，金融監管與監察處處失效，這已證明了會摧毀國家金融市場的穩定。」顯而易見，對競爭放手不管未必對社會真正有利。

競爭與監管不宜偏廢

過去將近三十年，議會一直持守的信念之一，就是競爭與監管同樣重要，不可偏廢。因此，議會向來都會因應市場的情況而制定各種規例，目的就是希望在妥善監管的環境下，可以促進競爭，使行業不斷發展，同時令消費者受惠。

然而，時代變了。經過十多年的討論，香港終於在二零一二年有了本身的競爭法，即《競爭條例》，並且已在二零一五年十二月全面實施。於是，議會必須因應社會的訴求，改變上述的信念：早在四年前《競爭條例》通過時，議會就已立刻徵詢法律意見，著手研究各種指引與安排是否需要修訂或撤銷了。

自從去年撤銷或修訂了五個指引，並且放寬了「領隊證」的一項申請條件後，議會只要克服最後一關，即對團費以及隨團送贈物品的規限，就會完成促進競爭的工作了。下表列出了議會為配合《競爭條例》而實行的各種措施：

Failures in regulation engender problems

Free competition, deregulation or even non-regulation must be beneficial to consumers and economic efficiency – a belief so staunchly held by so many people for so long a time that many dissenting views expressed after the global financial crisis in 2008 have continued to be brushed aside.

As a matter of fact, the report submitted in 2011 by the Financial Crisis Inquiry Commission to the US President and Congress clearly considers failures in regulation to be one of the causes of the global financial tsunami: “We conclude widespread failures in financial regulation and supervision proved devastating to the stability of the nation’s financial markets.” It is, then, obvious that competition without regulation may not necessarily be truly beneficial to society.

Competition must go with regulation

One of the convictions held by the TIC for close to 30 years is that competition and regulation, being equally important, must not be pitted against each other. The TIC therefore has laid down various rules and regulations in response to the market situations, with the objectives of promoting competition in a properly regulated environment, thus facilitating the development of the industry and benefiting the consumers at the same time.

Nevertheless, times have changed. After more than a dozen years of discussion, Hong Kong finally had its own competition law in 2012, the Competition Ordinance, which took full effect in December 2015. As a result, the TIC has to alter the conviction just mentioned to accommodate the aspirations of society: **as soon as the Competition Ordinance was passed four years ago, it sought legal advice and began to study whether any directives and practices should be revoked or amended.**

After revoking or amending five directives and relaxing one of the application requirements for the Tour Escort Pass, the TIC has one last hurdle to overcome, namely the restrictions on package tour fares and gifts offered with package tours, before its work to promote competition is completed. The table below lists the various measures adopted by the TIC to facilitate the Competition Ordinance:

議會為促進競爭而實行的措施

Measures adopted by the TIC to promote competition

規例 Rules	修訂 Amendments	生效日期(年-月-日) Effective date (Y-M-D)
第112、140、219號指引 Directive Nos. 112, 140 and 219 (已撤銷 revoked)	撤銷各種機票服務的建議服務費 Revocation of recommended service fees for various ticketing services	2015-9-1
第223號指引 Directive No. 223 (已取代第203號指引 Directive No. 203 replaced)	准許會員自行訂定因迫不得已的理由而取消旅行團的條款 Allowing members to lay down provisions for cancelling package tours for reasons beyond control	2015-6-1
第224號指引 Directive No. 224 (已取代第215號指引 Directive No. 215 replaced)	准許會員自行訂定旅行團服務費 Allowing members to set package tour service charges	2015-6-1
「領隊證」的一項申請條件 An application requirement for Tour Escort Pass	增加認可的訓練課程證書 Recognition of more certificates of training courses	2015-9-1
第81號指引 Directive No. 81 (將撤銷 to be revoked)	撤銷對聯合推廣旅行團團費的限制 Revocation of restrictions on the prices of package tours in joint promotions	2017-3-1
第209號指引 Directive No. 209 (將撤銷 to be revoked)	撤銷對隨旅行團送贈的物品或優惠的限制 Revocation of restrictions on the gifts or concessions offered with package tours	2017-3-1
第228號指引 Directive No. 228 (將取代第217號指引 Directive No. 217 to be replaced)	無須登記旅行團團費的下限 Revocation of the requirement to register lower limits of package tour fares	2017-3-1

撤除對團費及贈品的限制

議會一直都希望會員的旅行團以品質和服務比拼，同時又不想會員單靠低廉價格及各種贈品以作旅行團的招徠，所以不准會員以低於成本的價錢發售旅行團，並且限制旅行團可以送贈的物品或優惠。

可是，近年來在香港以外註冊的網上旅行社以及航空公司和酒店的網站，紛紛以極便宜的價錢售賣旅遊產品，加上會員受到議會規例的限制，因而在競爭中處於下風。此外，旅行團的參加者眾多，而且消費力都很不錯，其他行業的業者雖然渴望與會員推出聯合推廣活動，但礙於現行的規例，所以經常難以成事。

理事會在十一月的會議上，決定撤銷第八十一與二百零九號指引，並以第二百二十八號指引取代第二百一十七號指引，務求會員可與上述的新對手有力一拼，同時可憑藉其他行業的助力以提高本身產品的吸引力。此外，有關決定將由明年三月一日起生效，使會員有充足時間應付這一巨變。議會雖然撤除了有關團費及贈品等方面的限制，但仍有其他規例維護旅客的利益，絕不會只求促進競爭而不顧監管。✎

No more restrictions on tour fares and gifts

The TIC has prohibited members from selling package tours below their costs and imposed restrictions on the gifts or concessions offered with package tours in the hope that their package tours can compete on quality and service, and that they do not rely solely on low prices and various gifts to promote their package tours.

Nevertheless, **many online travel agents registered outside Hong Kong and the websites of airlines and hotels have entered the fray in recent years to sell travel products at very low prices, thus putting members, which are bound by rules of the TIC, at a disadvantage in their fight with rivals.** Apart from that, traders of other industries, knowing that the large number of tour participants have rather high spending power, are eager to offer joint promotions with members, but often meet with difficulties in bringing their projects to fruition because of the existing rules.

At its meeting in November, the Board decided to revoke Directive Nos. 81 and 209 and replace Directive No. 217 with Directive No. 228 in order to enable members to have a fighting chance to defeat those new rivals and to let other industries help raise the attractiveness of their products. And to allow members to have ample time to prepare for this sea change, the Board also decided that the revocations and replacement will not take effect until 1 March next year. **Despite the lifting of restrictions on tour fares and tour-related gifts, the TIC still has other regulations in place to protect the interests of travellers, and will never promote competition at the expense of regulation.** ✎