

# 你需要知曉的一些改革奧秘

## Some secrets you need to know about reform

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(編按：今年四月，政府公佈了一份諮詢文件，裡面有四個關於旅遊業監管架構的改革方案；各方案的撮要已在本刊上期刊登。議會廣泛徵詢業界的意見後，已向政府提交建議書，旨在提出更可行的改革方法。建議書已於七月十五日發給全體會員(通告C1343)及傳媒。本刊以下將分析政府的改革方案和議會的建議，務求讀者更瞭解這件約二十年來業界的頭等大事。)

(Editor's note: In April 2011, the Government released a consultation paper with four reform options on how the regulatory framework of the industry should be reformed. A summary of the reform options was published in the last issue of The Voice. After widely consulting the trade, the TIC submitted its proposal to the Government with a view to putting forth a more feasible approach to reform. The proposal was sent to all members (Circular C1343) and the media on 15 July 2011. In the following, The Voice tries to give an analysis of the Government's reform options and the TIC's proposal so that our readers will better grasp this biggest issue of the industry for the past two decades or so.)

### 現成偏差

十年前的這個月，兩架客機撞進紐約市世界貿易中心的雙子塔。不到兩小時，兩座摩天大樓就整座坍塌下來，數以億計的人當時藉著現場直播目睹此事。在其後的一年裡，美國人不乘飛機，改坐汽車，這本來沒有甚麼好奇怪的，只是他們不知道，即使把恐怖襲擊的風險計算在內，飛機也遠比汽車安全得多。因此之故，美國在九一一恐襲後的一年間，車禍的死亡人數比九一一恐襲前及恐襲一年後的年均人數多出約一千六百人。

當人嘗試估計某事有多常見時，往往會從記憶中回想類似的事情，然後以能否輕易想起這類事情來加以估計。能夠輕易想起，固然可能因為事情頻繁發生，但也可能因為事情給人鮮明的印象。因此，未經訓練的人往往把印象鮮明但非常罕有的事情，誤以為經常發生。這類謬誤十分普遍，以致社會心理學家給它定名為：「現成偏差」(availability bias)。

讀者想發現這種偏差在起作用的話，簡單得很，只要有內地團體旅客被導遊及旅行社虧待，然後再看看報章的標題，這就是了。業者行為極其不當的事故雖然罕見，但因為傳媒大肆報導，那些批評的人於是就把眼光幾乎全都集中於此，而看不到絕大多數內地團隊都滿意香港遊的行程。



### Availability bias

Ten years ago to the month, two passenger planes crashed into the twin towers of the World Trade Center in New York City. In less than two hours, the entire skyscrapers collapsed as hundreds of millions of people were watching it broadcast live. Quite naturally, the Americans shunned flying and turned to the roads in the following year, without realising that air travel, even if the risk of terror attacks is factored in, is still much safer than travel by road. As a result, there were about 1,600 more fatalities in road accidents in America during the year after 9/11 than the average annual fatality figure both before it and one year after it.

When people try to estimate how frequent an event occurs, they often base their estimation on how easy they can recall similar events from memory. Whereas ease of recall may be a result of high frequency, it may also arise from vividness of the events. Thus untrained people often mistake some vivid, yet highly infrequent, events as frequent ones. This kind of mistake is so common that social psychologists have given it a name: the availability bias.

Readers will have no difficulty finding this bias at work by

在過去三年，本地旅行社每年平均接待一百九十二萬名內地團體旅客，即八萬個旅行團，而成立的違規個案每年平均有四十三點三宗。換言之，本地旅行社每接待四萬四千三百名內地團體旅客，即一千八百五十個旅行團，才有一個成立的違規個案。大家對於內地入境市場目前狀況的觀感，顯然與上述統計所揭示的真實情況並不相符。

## 政府的改革方案

大概是因為上述觀感吧，對於行之經年的雙軌監管制度，過去兩年要求改革的呼聲從未斷絕，這可說是「現成偏差」近乎必然的結果，因為有幾宗業者違反議會規則的個案既叫人側目，又被傳媒大幅報導。政府為了撫順輿情，於是拿出了四個改革方案，以作最終決定的基礎。

四個改革方案分為兩類：(一)保留現行的雙軌制，議會將繼續是監管的核心，但須作程度不同的改革(方案一、二)；(二)以單軌制取代現行制度，由一個政府主導的單位負責所有監管工作，這個單位可以是法定機構或政府部門(方案三、四)。限於篇幅，以下只會分析方案二、三。

現行的監管制度是雙軌制，其一是自律監管組織，即議會，其二是政府部門，即旅行代理商註冊處。自律監管有不少好處，包括能迅速應付緊急事故和危機，以及靈活處理業界事務，而所以如此，則多虧負責自律監管的組織與業者非常接近。議會在這方面也沒有不同。可是，近年議會備受重責，既斥其與業者過於接近，又以其有欠公正，無法處理業者違規的個案。事實上，議會與業者接近，才能對業界瞭如指掌，而既已設置可保公正的機制，則接近業者正是執行自律監管的長處。簡言之，外間產生了議會偏袒業界的錯誤觀感，而議會變成了這種錯誤觀感的受害者。

議會有五十六名職員，旅行代理商註冊處則有十六名公務員。任誰只要隨便一看這兩個數字，就應可立時知曉兩個監管單位中的哪一個才是監管骨幹，哪一個才要承受大部份壓力。旅遊

**simply glancing newspaper headlines whenever some mainland group visitors were short-changed by their tourist guides and travel agents.** Those critics, however, were almost always mesmerised by rare instances of gross misconduct by traders, as they were wildly reported by the media, and overlooked the overwhelming number of mainland tour groups which enjoyed their trips in Hong Kong.

During the past three years, an average of 1,920,000 mainland group visitors, or 80,000 tour groups, were received by local agents in a year, and the average annual number of substantiated violation cases was 43.3. In other words, **there was only one substantiated violation case per 44,300 mainland group visitors, or 1,850 tour groups, received by local agents. The perception of the present state of affairs of the inbound mainland market is, obviously, at odds with the genuine situation as revealed by the statistics.**

## Government's reform options

Probably because of this perception, the call for an overhaul of the long-established two-tier regulatory regime has never stopped during the past two years, an almost inevitable result of the availability bias arising from a few glaring and widely covered violations of rules of the TIC by traders. In response to this call, the Government has put four reform options on the table, which will form the basis of a final decision.

The four reform options fall into two categories: (1) the retention of the current two-tier regime, with varying degrees of reform to be imposed on the TIC, which will remain at the centre of regulation (Options 1 and 2); and (2) the substitution of a one-tier regime for the existing one, with a government-dominated body, a statutory body or a government department, doing all the regulatory work (Options 3 and 4). Because of limited space, only Options 2 and 3 will be analysed below.

The current regulatory framework has two tiers: the TIC, a self-regulatory organisation, and the Travel Agents Registry (TAR), a government department. **Among the many merits of self-regulation are quick responses to emergencies and crises and flexibility in handling trade issues, thanks to the self-regulatory body's close distance between itself and the trade.** The TIC is no different in this respect. It, however, has been severely pounded in recent years for being too close to the trade and therefore lacking the impartiality necessary to handle violations by the trade. **Such closeness, in fact, allows the TIC to know the trade inside out and, with built-in mechanisms in place to ensure impartiality, contributes to the very strength of it in enforcing self-regulation. In short, the TIC has become the victim of misconception that it is biased towards the trade.**

The TIC has a staff of 56 and the TAR has 16 civil servants. Anyone who takes even a casual glance at these two numbers will instantly figure out which of these two regulators is mainly responsible for, and hence tak-

業包含外遊和入境旅行社、領隊和導遊、為入境團體旅客提供服務的登記店舖，這些業者的操守全部由議會監管，而註冊處只需要向旅行社發牌而已。雙軌監管的職責沒有均衡分配，這點應當無須再加闡述吧。

為求解決上述錯誤觀感，政府的方案二有三項措施：一是議會理事會的獨立理事要多於業界理事，二是議會的紀律委員會要只由業外人士組成(目前業外人士佔多數)，三是議會的規則都要經政府批准。至於處理職責不均的方法，是把上訴個案交由一個獨立委員會聆訊(目前上訴個案由議會處理)，而委員會將由註冊處支援。

假如說方案二只能部份消除上述錯誤觀感，那麼方案三應算是一勞永逸的解決辦法，因為這個方案提出成立獨立的法定機構，全盤接管所有監管事務。可是，對於議會既瞭解業界事務又能將之迅速處理的優點，諮詢文件並沒有闡釋這個新機構何以能更勝一籌。方案三真要實行的話，各方相關人士或許就要企盼人類心理中的「現成偏差」會消失不見，不然就是由新機構頒行的規則規例不會再有業者公然觸犯了。

## 議會提出的建議

關於即將推行的改革，本文至今找出了四項值得關注之處。第一，不善用累積了二十年以上的監管學問和知識，而要一切從頭做起，這樣做委實異常冒進。第二，假如保留現行制度這一更穩妥的方法得以採用，那麼有關議會的錯誤觀感就得解決。第三，兩個監管單位在職責上的分工要較為平衡。第四，由於「現成偏差」的緣故，內地旅行團的整體接待服務往往被誤以為低於應有水平。議會的建議書正是從這四方面入手。

議會及註冊處從事監管工作在二十年以上，成立新的法定機構取兩者而代之，誰都不敢說必定會失敗。不幸的是，誰也不能保證必定會成功。既然旅遊業對香港經濟十分重要，而對現行制度大改特改又風險甚高，那麼更可取的改革方法，自然是保留雙軌制，並推行實質的改進措施。基於此，議會相信現行制度應予保留。

議會的理事現有四成以上來自業外，這個

ing the brunt of, the task of regulating the travel industry, which comprises outbound and inbound travel agents, tour escorts and tourist guides, and registered shops serving inbound group visitors. Whereas the TIC needs to monitor the practices of all these traders, the TAR is required to issue licences for travel agents only. An imbalance of duties between the two tiers of regulation needs no further elaboration.

To address the misconception just mentioned, the Government's Option 2 has three measures: there will be more independent than trade directors on the Board of the TIC; its disciplinary committees, now having a majority of non-traders, will be made up of non-traders only; and all of its rules will have to be approved by the Government. As for the method to tackle the imbalance of duties, appeal cases, now handled by the TIC, will be handled by an independent committee supported by the TAR.

If it may be said that Option 2 is merely able to partially erase the misconception, then Option 3 should be deemed a once-and-for-all solution since an independent statutory body will be established to take over all regulation-related matters. With the consultation paper giving no details about how this body could possibly outperform the TIC in terms of understanding of, and agility in handling, trade issues should it be brought into being, the various stakeholders might perhaps need to pray for either the disappearance of the availability bias from the human psyche, or the vanishing of flagrant breaches of future rules and regulations to be laid down by the new body.

## TIC's proposal

**Four areas of concern about the imminent reform have so far been identified. First, trying to build everything from scratch without utilising the expertise and knowledge of regulation accumulated through more than two decades of work would be extraordinarily audacious indeed. Second, if the more reliable approach of retaining the existing regime is to be adopted, the misconception about the TIC should be tackled. Third, there should be a more balanced division of duties between the two regulators. Fourth, the overall quality of reception service offered to mainland group visitors has often been mistaken as substandard because of the availability bias.** The following will detail how the TIC takes on these areas in its proposal.

No one could say for certain that setting up a new statutory body to take over all the regulatory work having been carried out by the TIC and the TAR for over two decades would definitely fail. Unfortunately, no one could vouch for its success either. **Given the importance of the industry to Hong Kong's economy and the high risk involved in any drastic overhaul of the existing framework, a more desirable approach to reform, naturally, is to retain it and then make meaningful improvements on it, hence the TIC's belief that the current regime should be kept.**

Although the TIC now has over 40% of its directors coming from



比例雖然與其他自律監管組織相比一點都不低，卻一直易於成為很多人攻擊的目標。因此，議會的建議書提出把理事會內的業外人士變成多數，方法是增加四名獨立理事(由十二人增至十六人)，並且設立一個由政府官員出任的當然理事席位，而直選業界理事及屬會代表的人數則分別維持八人不變。主席一職現在必須由業界理事中選出，日後則改為由獨立理事和業界理事中選出。此外，議會所有規則都必須事先得政府批准。如此一來，上述第二項問題可望解決。

旅行社、領隊、導遊、登記店舖的違規和上訴個案，現在由業外人士佔多數的紀律委員會和上訴委員會分別處理。這樣安排本來應能保證公平聆訊，然而錯誤觀感卻不幸再次主宰一切。議會因此提議成立兩個由註冊處支援的獨立委員會，處理所有違規和上訴個案。議會因為掌握了無與倫比的業界知識和監管學問，將負責調查涉嫌違規個案，並且在兩個委員會前陳述證據。議會還會繼續處理外遊和入境旅客的投訴，以及為業界制訂規則。這樣不僅可以使個案的處理更加公正，還能令議會和註冊處的分工有較佳平衡。

至於「現成偏差」的問題，倘若由權威的機關訂出客觀的量度標準，應可防止或者至少減輕其作用。因此，議會建議政府設立一套衡量法則，藉著統計數據來客觀評定監管單位的成效。

最後，需要說說導遊和領隊的監管。由於現行法例規定只有旅行社才可接待入境團和組辦外遊團，所以為旅行團提供服務的導遊和領隊都必須由旅行社委派。因此，由一個機構同時監管旅行社、導遊、領隊，有其實際需要。雖然那個機構現在正是議會，但既然有些導遊和領隊表示想由政府監管，議會在建議書中唯有不明言理所當然之事，改為提出由政府探索是否還有其他可行方法。✎



outside the trade, hardly a low proportion compared with other self-regulatory bodies, such a composition has long been an easy target of many critics. The TIC's proposal, therefore, seeks to turn non-trade representation on the Board into the majority by having four more independent directors (from 12 to 16) and a govern-

ment official as ex-officio director while the numbers of directly elected trade directors and Association Member representatives both remain at eight. And the Chairman will be elected from among all independent and trade directors, contrary to the existing practice of reserving the post for trade directors. Apart from that, prior government approval for all of the TIC's rules will be necessary. In such a way, it is hoped that the second area of concern will be addressed.

All the disciplinary committees and the Appeal Board of the TIC, which handle violation cases by travel agents, tour escorts, tourist guides and registered shops and appeals from them respectively, currently comprise a majority of non-trade members. Although this arrangement should be good enough to guarantee impartiality, misconception, unfortunately, reigns again. The TIC therefore proposes to set up two independent committees, to be supported by the TAR, to handle all violation cases and appeals. With its unrivalled trade knowledge and expertise in regulation, the TIC will be responsible for investigating suspected violations and arguing cases before the independent committees. It will also continue to handle complaints filed by outbound travellers and inbound visitors, and formulate rules for the trade. As a result, not only will fairness in the handling of cases be further enhanced, the TIC and the TAR will also have a better balance of duties.

As for the availability bias, it could be prevented, or at least minimised, if some objective plumb line is installed by an authoritative institution. It is therefore proposed that the Government should establish an assessment mechanism, which makes use of statistical measurements to objectively evaluate the effectiveness of the tasks carried out by the regulators.

Finally, a few words about the regulation of tourist guides and tour escorts. **Since only travel agents are, under the law, allowed to receive inbound tour groups and organise outbound package tours, any tourist guides and tour escorts who serve such tours have to be assigned by travel agents. As such, there is a practical need for one body to regulate the practices of agents, guides and escorts at the same time.** That one body is the TIC now. Given that some guides and escorts have expressed a wish to be regulated by the Government, the TIC refrains from stating the obvious in its proposal and, instead, proposes that the Government should try to explore some other viable possibilities. ✎