

現行雙軌機制應予保留

Existing two-tier regime should stay

本刊記者 Staff reporter

—— 零零九年六月二十二日，立法會經濟發展事務委員會按原定安排召開會議。那天要審議的議題之一，是減低外遊印花費至百分之零點一五的建議及其他相關事宜。當時環球金融危機和人類豬流感使旅行社飽受衝擊，委員會為了儘快減輕旅行社的財務負擔，於是贊成減低印花費的建議，但由於有些成員關注到議會在現行的雙軌規管機制下所擔當的角色，委員會因此決定另外召開會議，詳細討論與議會有關的事情。

檢討議會的運作

那個另外召開的會議於二零零九年七月十六日舉行，議會大為重視，準備了一份文件，詳述議會成為自律監管機構二十多年以來，種種職能、監管方式以及各方面的情況。大約有二十家機構(包括議會和消費者委員會)和旅行社，都派出代表在會上發言。經過反覆討論後，委員會通過了動議，促請政府檢討議會的多方面情況，以及現行的規管機制。

那項動議通過後，議會深切體會到本身任重道遠，監管工作必須精益求精，才能達到各方人士的期望和要求。於是，就在政府忙於檢討時，議會已實施或快將實施一連串措施，務求早日改進未盡完善的地方。

在議會等待政府的檢討結果時就已推行的眾多新措施中，下述措施旨在為委員會引入新思維、提高透明度、評核議會的整體表現，或可算是較能直探根本而大有可能效果長久的：任何人都不能擔任同一個委員會的委員超過六年，理事和非理事都一樣；而與會員關係最密切的幾個委員會，自薦人士加入的比率由先前最多百分之二十變成最少百分之二十。理事會和各委員會(紀律委員會除外)的議程和會議紀錄都上載議會

On 22 June 2009, the Panel on Economic Development of the Legislative Council met according to schedule, and one of the topics for discussion was the proposal to reduce the outbound levy to 0.15% and other related issues. To allow a quick financial relief for travel agents to be in place amid grave impacts of the global financial crisis and human swine flu, the Panel agreed to the levy-reduction proposal, but decided to hold another meeting to deal fully with matters related to the TIC as some of its members were concerned about the role played by the TIC under the current two-tier regulatory regime.

Review of operation of TIC

That meeting, held on 16 July 2009, attracted much attention from the TIC, which prepared a detailed submission on its functions, methods of regulation and various aspects since it was turned into a self-regulatory body more than 20 years ago. About 20 organisations, including the TIC and the Consumer Council, and travel agents sent their representatives to speak at the meeting. After prolonged discussion, the Panel passed a motion to urge the Government to conduct a review of various aspects of the TIC and the existing regulatory regime.

The passing of the motion made the TIC deeply aware of the importance of its duties and the necessity of continuous improvement in its regulatory work in order to meet the expectations and demands of various parties. As a result, **a whole series of measures were put in place or about to be put in place to address the areas that needed improvement as quickly as possible while the Government was busy conducting the review.**

Among the many measures introduced by the TIC while it was awaiting the Government's verdict of the review to come out, the following ones aimed at bringing in new blood into committees, enhancing transparency and assessing the overall performance of the TIC are perhaps more fundamental and most likely to have lasting effects. No one can serve on the same committee for more than six years, directors and non-directors alike; and the committees most relevant to members must have at least 20%, previously at most 20%, of their seats filled by members who nominate themselves. The agendas and minutes of Board and committee meetings, except those of the disciplinary committees, are posted on the TIC website for members' perusal. A professional audit firm will be commissioned to conduct a value-for-money audit on core areas of the TIC.

網站，供會員細閱。議會還會委託專業會計師行，對議會關鍵的環節做衡工量值審計。

應沿用現行機制


政府於二零一零年五月中公佈了對議會運作所做的檢討報告，當中對議會所實施的監管措施有持平的評價。比如說，報告重點提到議會如何確保有關紀律及上訴的個案得以公正處理：三個紀律委員會及上訴委員會都是業外人士比業者多，而且都由獨立的業外人士主持會議。

現行的雙軌規管機制由旅行代理商註冊處發牌給旅行社，議會則施行自律監管，對於這個機制，政府的看法是應該「沿用」。報告中列舉的理由包括：「現時議會作為具規管職能的行業團體，既掌握行業知識，又能迅速制訂作業守則及指引，因此由議會推動業界發展和規管不斷轉變的營商手法，最為恰當」；「在處理涉及香港外遊及來港旅行團的緊急事故上，議會的協調角色及能力尤其突出」等等。

報告還提及一些比政府已採納的方案要急進得多的例子，即把議會改為法定組織，由政府取代議會的規管角色，或把註冊處和議會合併等等。這些方案政府全部都不接納，箇中原因既有財政上的，也有方案本身的缺點等等。

二零一零年五月二十四日，委員會審議政府的檢討報告，會上商務及經濟發展局長劉吳惠蘭女士除了綜述現行自律機制的優點外，還強調政府已對議會的工作加強了監管，以及提醒委員會成員別貿然把行之有效而廣受認可的機制推翻。

結語

現行的雙軌規管機制已運作了二十二年，在這期間外遊業和入境業雖然都經歷過興衰起伏，但整體上都能不斷蓬勃發展。因此，與其把心血和精力放在先摧毀、後重建整個監管架構之上，何不著手把它改進，使它完善呢？

Existing regime should continue

In the Government's review report on the operation of the TIC released in mid-May 2010, fair assessment of the regulatory measures put in place by the TIC is given. For example, how impartiality is ensured by the TIC in the handling of disciplinary and appeal cases is highlighted: meetings of the three disciplinary committees and the Appeal Board, all consisting of more non-trade members than trade members, are chaired by independent non-traders.

As for the existing two-tier regulatory regime, with the Travel Agents Registry (TAR) licensing travel agents and the TIC self-regulating them, the Government's view is that it "should continue".

Reasons cited in the report include "the TIC in its present form (i.e. a trade body with regulatory functions) is best placed to foster trade development on the one hand and regulate the ever-changing trade practices on the other, as it can combine trade knowledge with swiftness in formulating codes of practice and directives"; "the TIC's coordinating role and capability are particularly prominent in the handling of emergencies involving Hong Kong's outbound and inbound tour groups" and many others.

The report also deals with some drastic options other than the one adopted by the Government, such as converting the TIC into a statutory body, the Government taking over the regulatory role of the TIC, or merging the TAR with the TIC. They are all ruled out by the Government for such reasons as the financial implications of the change and the inherent shortcomings in the other options.

When the Panel discussed the Government's review report on 24 May 2010, the Secretary for Commerce and Economic Development Mrs Rita Lau, apart from recapping the merits of the current self-regulatory regime, highlighted the Government's enhanced efforts to monitor the work of the TIC and cautioned against any hasty attempt to revoke the long-established and widely accepted regime.

Concluding remarks

During the 22 years when the current two-tier regulatory regime has been in place, the outbound and inbound industries have sustained prosperity on the whole despite ups and downs along the way. Why not, then, channel effort and energy into tweaking and improving the whole structure of regulation, rather than destroying and rebuilding it? 