

# Legal problems of Chinese travelling at an unreasonable low price

## Abstract

Based on the definition and cause of formation of low-price travel, this paper finds out the defects of current laws and regulations in our country in dealing with this kind of phenomenon, and combines with the international rules, and proposes legal solutions to the unreasonable low-cost travel, which is a long-term unhealthy problem, from the perspective of the three major tourism entities □

- I. Through the development of Consumer Protection Law, Tourism Law, Guide Management Measures and other tourism-related laws, which are more authoritative and have more clear definition and stronger operability, to regulate the behavior of tourism practitioners and eliminate the chain of interests between tour operators and tour guides.
- II. To guide tourism consumers to establish correct consumption concepts and safeguard rights awareness through legal means and government services, for example, tourism-related departments can set up tourism service network platform and issue tourism service alerts. At the same time, China should make special provisions to protect the rights and interests of tourism consumers in the relevant laws and regulations on tourism, making full use of the coordination among laws such as the Consumer Protection Law, Tourism Law and Contract law, making clear in the law the channels of tourism complaints, litigation and relevant responsible departments, ensuring that the door is wide open for the protection of rights, and through expanding channels for the protection of rights to reduce the cost of rights protection and strengthen the protection of consumer rights in tourism.
- III. To establish and improve a modern tourism legal system based on the basic tourism law and supplemented by various tourism laws and regulations, considering the national conditions of China. At the same time, we should strengthen the provisions on legal relations in tourism in other laws, making good coordination among legal departments such as the Consumer Protection Law, Criminal Law, Tourism Law, and Contract law, so as to form multiple joint efforts and enhance comprehensive law enforcement, and ultimately to improve the government's legal supervision.

**Keywords:** low-cost tourism, tourism practitioners, tourism consumers, tourism law

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Jiang Na,<sup>1</sup> Kang Linlin<sup>2</sup>

<sup>1</sup>LLM candidate of Beijing Normal University, China

<sup>2</sup>Law Professor of Beijing Normal University, China

**Correspondence:** JIANG Na, Law Professor of Beijing Normal University, China, Email na.jiang@bnu.edu.cn

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## Introduction

In recent years, Chinese tourism market is developing rapidly. But at the same time, a series of low-cost tour unfair competition has also increased which has been accompanied by the contradictions and conflicts in forced or disguised forced trading among travel participants. Thus unreasonable low-cost tourism market has become a major obstacle to a healthy and orderly development track. In fact, in response to such tourism chaos, the Ministry of Culture and Tourism has repeatedly carried out special rectification actions for the order of the tourism market, and conducted numerous interviews and bulletins about low-cost tours; the newly revised "People's Republic of China Tourism Law" was implemented in 2016; The new regulation on the management of Tourist Guides was promulgated in 2018, which increased the penalty for serious illegal acts in the field of tourism. However, under such efforts, the phenomenon of compulsory purchase caused by unreasonable low-price travel is still repeated. In December 2017, in Xuexiang, Heilongjiang Province, a low-cost tour guide beat several tourists a day for failing to pay tourists' fees.

In July 2018, Beijing's one-day tour special line was reported to force tourists to get up in the early morning and not to go to bed

along the way, forcing them to listen to Feng Shui Superstition in order to induce shopping. In view of this, this article intends to travel from the unreasonable low-cost tour this phenomenon, taking the first case of Yunnan tourist guide into the criminal case-as an example, with four parts of analysis and research. In the first part, the paper points out that the phenomenon of low-price tour is still common in China, based on the study of the first criminal case of tourist guide in Yunnan—Liyun case. Then it introduces the current research status of low-cost tour problem at domestic and abroad, the research significance and the research methods used in this paper. In the second part, the paper defines the low-price tour by analyzing the examples and the scholars' works, and points out the reasons of the low-price tour and the problems exposed in the phenomenon. The third part introduces the international rules about the legal system of tourism and the legal experience of some countries in order to find the experience which is worth learning for our country. In the fourth part, from the perspective of tourism operators, tourism consumers, market regulators and legislators three main subjects, the paper puts forward the legal countermeasures to deal with the phenomenon of low-cost tourism in China, so as to achieve effective legal means to regulate the phenomenon of low-cost tourism and ensure the healthy and sustainable development of Chinese tourism.

## Question raised

### The academic definition of the concept of low-cost tour

In 2004, the theoretical study of this kind of low-cost tour began gradually in China, and the academic researchers began to study it from the perspective of Economics, Management Science, Legal Science Angle of view and so on, and thoroughly analysis production reason, evolution mechanism and government countermeasures of this kind of phenomenon. The relevant research scattered in various academic journals, articles and master's degree thesis.<sup>1</sup> For the phenomenon of low-cost tour, domestic scholars generally adopt the term used in the "Analysis and Governance Measures about Zero-Tour Fee Phenomenon" written by Jia Yueqian. In the article, "Zero Negative-Tour Fee" refers to the fact that the local tour operators use the income that the tourists cost in the destination shopping, entertainment and other places to make up the cost of reception instead of charging reception fees from the tour group organizing. The forms of "Zero Negative-Tour Fee" can be divided into zero profit (local tour operators charge but no profit), the narrow sense of zero (local tour operators does not charge or only collect insufficient tour fees), negative tour fees (local tour operators pay tour fees).<sup>2</sup> This is the universally agreed-upon explanation of "Zero Negative-Tour Fee". But at present, there is no unified definition for this concept in Chinese Tourism Law. The relevant laws and regulations still use Low-Cost Tour the term to define this phenomenon instead of "Zero Negative-Tour Fee". Therefore, this article still uses the Low-Cost Tour. The word "zero" may also appear when quoting the scholar elaborations, but it should be understood that the two words mean the same thing.

### Academic research on the phenomenon of low-cost tour

On the causes of the phenomenon of low-cost tour, domestic scholars have made the following main points: the excessive threshold of funds for travel agencies, the existence of the gray profit chain of commission and Rebate for shopping, the preference of tourism consumers for low prices, LAX regulation of domestic tourism and the lack of related system and so on. But regarding this phenomenon's governance countermeasure, the domestic scholar also starts from these three angles: Some scholars propose to carry out the Public to the Public Commission System which may eliminate zero tour fees. However, Song Hanlin and other scholars pointed out that this practice was based on harming the interests of tourists and made the distorted system of rebate for shopping in the tourism industry public, focusing only on the form but avoiding the essence, which is a disguised connivance of the zero-tour fee business model. Its legality has been questioned by legal professionals. Fu Linfang, Song Hanlin and other scholars put forward the establishment of the right to claim compensation for waste of travel time, and strict joint and several liability and assistance liability to travel agencies, so as to realize the possibility of tourists 'local protection of their rights, which can effectively regulate zero-tour fee. Based on the analysis of tourist irrational consumption characteristics, Hou Zhiqiang and others put forward to take corresponding measures to cultivate scientific tourism consumption concept from three dimensions of tourist, tourism enterprises and government and society.

<sup>1</sup>Xia Lili: "domestic and foreign zero tour fee research review." *Tourism Research*. 2014;26.

<sup>2</sup>Jia Yueqian. Analysis and Measures of zero tour fare phenomenon. *Social scientist*. 2004;111.

In fact, the phenomenon of low-cost tour is not common abroad, and some countries do not even exist, so there is little foreign research on this theory. From this we can see that the current study of this phenomenon just stays on the surface, and not deep-digging the root of it. At the same time Chinese regulation research of Low-Cost Tour Law is still lacking, although some laws and regulations are beneficial to the phenomenon of low-cost tour in our country, but there are relatively few laws and regulations on early prevention. There is a great controversy on the countermeasures of governance, most of them are very temporary and short-term inhibition, lacking in comprehensiveness and linkage. Therefore, the government should actively seek advanced tourist laws and regulations and policies. Combining with Chinese tourism legislation practice, we could establish and improve the relevant laws and regulations. It is of great significance to ensure the healthy and sustainable development of the tourism industry, to protect consumers, to boost domestic demand and promote economic development.

### A case study of forced consumption caused by unreasonably low-cost tour in China

The first case in Yunnan where a tour guide was sentenced for dealing under duress was a typical case: On December 13th to 15th in 2017 Li Yun, a Kunming-based tour guide, offered guided tours in Jinghong, Yunnan Province. During the tour, he took tourists to shops where they could spend money, because the tourists did not buy jade and bought less than 2,000 yuan worth of tea, Li Yun lambasted tourists for "cheating for eating and drinking" and chased them off the bus, claiming "don't think you can just videotape your guide and complain," he said. In addition to this, in order to force tourists to spend money, such measures as verbal abuse, threats, not issuing room cards to visitors who do not participate in the consumption, and driving tourists with whom they have an argument to change vehicles, are used. Eight tourists were forced to buy goods and consume self-financed items such as Dai Xiu. The amount of the forced transaction is 15156 Yuan. The video was reported by more than 60 media websites, forums and WeChat public accounts from Dec. 17, 2017 to Dec. 29, 2017. The video was read more than 17,000 times by citizens, with more than 680 related posts, more than 8,250 reposts and 6,200 comments, resulting in a bad social impact and causing the relevant departments to attach great importance. Yunnan tourism authorities, after investigation on file, transferred the case to the Public Security Bureau, after the Jinghong City People's Procuratorate filed a public prosecution, the People's Court of Jinghong held a public hearing at first instance on June 6, 2018. The court considered that the defendant Li Yun's act had violated the provisions of Article Two hundred and twenty-six (1), (2), Article sixty-seven (3), and Article forty-seven of the Criminal Law of the People's Republic of China, and constituted a crime of forcible transaction. The defendant, Li Yun, was sentenced to six months in prison and fined of 2,000 yuan.

### Application of the concept of low-cost tour

In this case, the victim paid more than seven hundred yuan for a tour of two people in Yunnan. It is well known that the fee is even not enough for out-of-town tickets to Kunming. So, travel agencies and tour guides will increase attractions, self-funded projects, guide the tourist to shop to carry on the price fraud to the tourist and other form to obtain the high rebate. According to the general consensus of the low-cost tour by the academic community: Local tour operators do not charge or charge reception fees lower than the cost price and through the consumption that the tourists spend in the destination shopping or

other items to make up the tour fee and get a profit. The phenomenon mentioned above is clearly this type of tourism management.

## The formation of the phenomenon of low-priced Swimming

### The common interest of tourism practitioner

In recent years, Yunnan, with its unique natural scenery and ethnic customs, has become a tourist destination for many tourists. Statistics show that Yunnan province received 567 million domestic tourists in 2017, up 33.3 percent year-on-year.<sup>3</sup> The expansion of demand has naturally attracted more practitioners. Taking Xishuangbanna, where the Li Yun case took place, as an example, up to January 2018, there were 60 or 70 travel agencies of different sizes in a single state of Xishuangbanna,<sup>4</sup> a testament to the intensity of competition in the industry, and because of the serious homogenization of tourism products, the competition between travel agencies is intensified. In order to attract more customers, travel agencies make more use of consumers' low-price preferences to fight price wars. Small travel agencies such as Kunming Yundi International Travel Agency in Li Yun's case will participate in market competition through unreasonably low prices. Hence the phenomenon that tourists mentioned above can take part in a two-person tour of Yunnan with a tour fee of 700 Yuan arises. However, due to the lack of necessary industry norms and punishment mechanism, travel agencies will often arrange more shopping in the course of tourism in order to make up the loss of profits and strive for maximum profit. Therefore, even if the tourism law expressly prohibits travel agencies from organizing tourist activities at unreasonably low prices, luring tourists and obtaining unfair benefits such as rebates by arranging shopping or paying separately for travel items, many travel agencies still break the law.

In addition, the composition of the existing tour guide's salary is unreasonable. Basic salary is linked to workload, and the tour guide's work load has three main indicators: How many tour groups you take and how many people and how much per capita consumption are in each tour. In this way, the income of tour guides is closely related to the consumption of tourists. For example, in the case of Liyun shopping points are often given to tour guides 40%-50% return point, sometimes even up to 80%. Due to the low barriers to entry guide industry and the lack of professional training, many tour guides have low professional quality, which is not difficult to understand the guide will take risks to inducing and even forcing tourists to shop during the tour. It is dissemination of false information, low-cost touts, change the itinerary, forced shopping or consumption making rebates and so on that the whole common interest chain drive, travel agency operator, tour guide and other travel practitioners still have illegal operation in such high pressure, destroying travel market ethos.

### Tourists lack of rational consumption and awareness of rights

The rampant spread of low-cost tourism to a large extent is caused by tourists themselves seeking cheap irrational consumption. Facing with all kinds of tourism products, tourism consumers tend to have the mentality of pursuit of quality and low price. Just like Ms. Cao, the victim in the Li Yun case, there was some skepticism about the

low fees, but in the end she was still attracted by words such as "free tour" and "ultra-low price", and inadvertently jumped into the "trap" of travel agencies. In addition, due to insufficient publicity of tourism laws and regulations, tourists lack the consciousness of using the law to protect their own rights and interests. Even if there is no lack of the awareness of the right to defend, but because of the difficulty of obtaining evidence, the law and the relief channel tourists can choose are narrow, and the lawsuit procedure is excessively tedious, which cause many tourists have to swallow the bitter pill in silence.

### The absence of legal supervision for tourism market

As tourism product is a kind of comprehensive experience product, it is difficult to use specific quantitative indicators to measure. The government cannot accurately control the market failure caused by low-price competition through macro-control. Therefore, at present, our country makes more use of administrative means, instead of legal means to supervise the tourism market.

### The lack of authority and operability of laws and regulations

In 2013, China issued the "People's Republic of China Tourism Law," but because of the industry involved in tourism, many former administrative regulations and local ordinances still play an important role. The comprehensive regulatory role of the tourism law is very limited. In addition, by the restriction of legislative technique, there are many vague language expressions in Chinese tourism law. For example, the tourism law explicitly prohibits unreasonable low-price tours, but "cost price", "unreasonable low price", these concepts are difficult to identify. It is almost impossible to ask the Tourism Departments to verify the Tourism Services cost one by one, or even to investigate for evidence. The cost of travel services can vary by season and other factors. There is no a fixed standard. What's more, there are numerous kinds of tourism products and law enforcers have no ability to verify one by one.<sup>5</sup> Coupled with regional differences, the travel agencies have different concessions, resulting in the inconsistent standards for "Unreasonableness". All of these reasons make it difficult to take legal action to supervise when travel agents are selling products at unreasonably low prices.

### Incomplete and unsystematic legal framework

For many problems of the tourism market are only superficial general provisions, which cannot dig into its root causes and effective solution. Many practical problems also need to rely on the relevant provisions of other special law. But these laws and regulations lack special provisions on illegal acts against tourism. For example, many of the rights and interests of the consumer can only be claimed based on the General "Consumer Protection Act". A considerable part of the relevant special rights and interests such as the right to claim time, the right to stay and mental damage compensation claims such as the lack of direct legal basis. Thus, the legitimate rights and interests of tourists cannot be properly protected. In addition, to the price control scattered in the price law, the anti-monopoly law, and the anti-unfair competition law, the application and coordination between them have great controversy. Overall, the current low-cost tour of the entity legal norms is mostly from the "periphery" to make indirect adjustment. In fact, unfair competition and consumer rights violations in the travel

<sup>3</sup>Data sources: Yunnan Tourism Bureau, China Business Industry Research Institute

<sup>4</sup>Data sources: Xishuangbanna Dai Autonomous Prefecture

<sup>5</sup>Hou Zuoqian. Theory and practice of tourism legislation. *Law Press*. 2014;139.

and tourism industry are quite different from the general illegal acts in the aspects of expression, influence scope, form of responsibility, etc. There is a great deal of inappropriateness in the scope. Therefore, the lack of a complete system of legal norms of tourism cannot be fundamentally resolved the problem of low-cost tour.

## Posterity of the law

Chinese tourism industry has developed rapidly in recent years, but due to the lack of experience in regulating low-cost tourism as well as the short of the importance attached to tourism, laws and regulations are not updated in time and are not suitable for the new situation. The Tourism Law, enacted in 2013, to some extent makes up for the lack of legislation, but China's Tourism Basic Law has only been amended once in 2016, and the regulations on the administration of tourist guides, which came into effect in 1999, remained in force until 2018 in the new "tour guide management measures" to be adjusted. Laws and regulations are not updated in a timely manner, causing that many new situations and new problems cannot be complied with. For example, in the past two years, with the development of Tourism E-commerce, low cost tour increasingly rages with e-commerce platform, such as group purchase, bargain price etc. The current law and regulations on such illegal use of e-commerce platform phenomenon lack of relevant provisions. In addition, in recent years low-cost prevails in the "HK & Macao tour", "Southeast Asia tour" and other outbound tourism. However, Chinese relevant laws and regulations do not specifically regulate outbound travel. This shows relative to the current endless variety of low-cost tourism phenomenon, China's tourism-related law has been stretched to the limit. The absence and blank in legal management on the health of the development of tourism are very detrimental.

## Status quo of foreign tourism legal system and international rules

With the rapid development of world tourism economy, governments and international organizations attach great importance to the development of Tourism, formulating a large number of regulations governing the development of the tourism in the context of economic globalization. Today, in order to make China's tourism development keep pace with the time and enhance international influence and competitiveness, it is necessary to absorb the advanced experience and international general rules of foreign tourism legal system.

### International rules

The Tourism Bill of Rights (hereinafter referred to as the bill) is a normative document, adopted in the sixth General Assembly of the World Tourism Organization in 1985. It summarized the principles of the legal system of tourism and the rights and obligations of tourists by concise provisions. Among them, the principles mainly include the principle of ensuring tourism development, the principle of protecting, cultivating and developing tourism resources, the principle of tourism freedom and non-discrimination in tourism management, the principle of protecting the legitimate rights and interests of tourists, the principle of transparency, etc.<sup>6</sup> The other articles are mainly the general provisions on the rights and interests and obligations of tourists. China formally joined the World Tourism Organization, becoming its 106th full member on 5 October, 1983. The core rules of the act should be incorporated into national tourism legislation. From the perspective of the realistic development of

<sup>6</sup>Travel Bill Of Rights.

tourism, the integration of China's tourism legislation into the international tourism rules is not only the need to follow the spirit of the "act", but also the need for tourism commitments after China's accession to the WTO. "The basic principles of WTO—transparency, non-discrimination, impartiality and non-administrative intervention are absolutely essential to a modern economic system".<sup>7</sup> As a service industry in the economic system, tourism also must follow the above-mentioned basic principles, which requires China's tourism stand should be reflected in the law.

## Lessons from the Japanese tourism legal system

After World War II, Japan's infrastructure and tourism services suffered severe damage as a result of the long war. Therefore, the pre-1950 tourism laws and regulations focused on restoring normal order and rectifying environmental facilities and social customs. After more than a decade of development, Japan's tourism industry was ripe for all aspects of conditions. In 1963, the Basic Law of Tourism was promulgated, marking a new stage in the development of tourism in Japan. In 1963, the Basic Law of Tourism was promulgated, marking a new stage in the development of tourism in Japan. And then for the sake of meeting the needs of the development of tourism, the Basic Law was revised several times in 1984 and 1999. In 2003, in order to change the serious imbalance of Japan's international tourism, Japan began to implement the National Tourism Strategy, and formulate The Action Plan for Building a Country through Tourism. In 2007, Japan abolished the "Basic Law on tourism" and re-enacted the "Basic Law on promoting the founding of a nation through tourism". According to incomplete statistics, up to now, there have been nearly 80 laws and regulations about tourism in Japan, forming a system of tourism laws and regulations based on the Basic Law on tourism and supplemented by special laws on tourism. Tourism laws and regulations cover a wide range of industries and fields. In addition, many Japanese tourism laws are followed by enforcement rules and orders, such as the "Travel Agency Law", accompanied by "Travel Agency Law Enforcement Order" and "Travel Agency Law Enforcement Rules"; The "Hotel Law" is accompanied by "Hotel Law Enforcement Order" and "hotel law trial rules". The operability of the law will be further strengthened through corresponding decrees and enforcement rules.

Japan's tourism legislation does not give a specific definition and restrictions on low-cost tourism. The operating mode is not absolutely prohibited below the cost, but the restrictions on low-cost tourism are very strict. Such operations are considered illegal only if they constitute malicious abuse of market position. The biggest difference between Japan and China is that Japan has strict entry threshold of travel agency, professional tourism team, the perfect security deposit system and the prominent supervisory role of the Trade Association. All this shows that Japan's supervision of travel agencies focuses on preventing them from the source, rather than after the emergence of unfair competition. Japan also proposed the "Journey Guarantee" system, which sets out in detail all kinds of safety problems that may occur during the journey, and formulates the standard of compensation due and regulatory body. Japan's legal construction of tourism, on the one hand, focus on the maturity and stability of the law, on the other hand, according to the change of social practice, the laws will be revised in time. In contrast, the legislation in China is not in place; the amendment is not timely, and the legislation technology is rough. Therefore, we should learn from Japan's tourism legislation these advanced technology and ideas to improve our tourism legislation.

<sup>7</sup>Daily newspaper: WTO COLUMN.

## Lessons learned from the experience of other countries or regions in the legal system of Tourism

Similar to Like our national conditions, Mexico is also a rapidly developing country in recent years. The natural advantages of rich and abundant tourism resources have become an important driving force for the country's tourism development. Although the economic base is poor, but Mexico is not experiencing a large-scale phenomenon of unreasonably low cost tour. Therefore, Mexico's tourism rule of law experience is also worthy of China's study. "Mexico Tourism Law" was set out in Mexico the last century war-torn period during social transformation. This law takes into account many unstable factors, so it is very comprehensive and specific, from the traveling plan to the violation punishment, and has great significance for the future of the tourism industry. The eight chapters expose the commercial bribery nature of low-cost groups and the ferocity of the legal crackdown on counterfeits.<sup>8</sup> In addition, Mexico has set up three special departments to focus on tourism. As the government administration, these three departments make the laws flexibly in accordance with the national policy shift. And according to the different functions, they engage in business, marketing, post-service, and so on separately, and greatly tap the potential of tourism in Mexico's tourism development.

The security of tourism development funds also relatively avoids the negative tourism effect such as "loss of money to buy groups," "whopping price" and so on. This shows that Mexico's comprehensive specific legal norms have a great referential value on China's fight against unreasonable low-cost Tourism. As a highly developed area of the tourism, European Union has more experience in consumer protection. The European Union's Council of the European Communities jointly enacted a law in 1990 aimed at harmonizing the pricing arrangements of member states Directive on Package Travel, Package Holidays and Package Tour. The purpose is to monitor the duties and obligations of the travel agency as detailed in the bylaws and emphasize the duties of the government. The agreement imposes more restrictions on travel agencies to protect the legitimate rights and interests of consumers to the fullest extent. It shows that highly professional, targeted, low-cost legislation of a single mode sometimes can also be a good solution to the certain category. Although due to the complex historical background and social formation, there are great differences between countries or regions. The tourism legal system is also unique, but after studying the tourism legislation and international rules of the above countries, we should realize the weaknesses and shortcomings of China's tourism legal system. Therefore, the establishment of a perfect and standardized tourism law system, which can effectively curb low-cost tour and enhance the level of China's tourism development, has no time to be delayed.

## Suggestions on the legal countermeasures for China's response to the low-price tour

Based on the analysis of the causes of low-cost tour in China and the summary of the international rules and foreign tourism laws and regulations, we can see that the tourism development of legal regulation is mostly from the regulation of the behavior of tourism practitioners, strengthen the protection of tourism consumer rights and the improvement of government's legal supervision, so this article also proposes the legal countermeasures against the phenomenon of low-cost tourism in China from the three main bodies of the tourism industry.

<sup>8</sup>Yang Zhenhong. An analysis of the legitimacy of punitive damages in tourism law. *Northern Jurisprudence Press*. 2014.

## To standardize the behavior of tourism practitioners to remove the chain of interests

Based on the analysis above, we can learn that there exists a common chain of interest in China's "low-price tourism" such as spreading false information, soliciting tourists at low prices, changing itineraries, compulsory shopping or consumption, and seeking rebates. In order to regulate the market order, the sharp edge of the law must be brought out of the scabbard and cut off at a stroke the chain of interests. At first, we need a clear low-cost regulation to ensure the application of the law. Judging from the experience of countries and regions with developed tourism markets, selling tourism products at unreasonably low prices mainly violates the competition order and infringes the rights and interests of consumers. Therefore, the law against unfair competition and the law on the protection of consumers' rights and interests, which regulate the order of market competition and the protection of consumers' rights and interests, should be given priority, and the price law should be used with caution so as to avoid the return to the administrative control of prices. In addition, the unreasonable low price cannot do general mechanical provisions, but to do a good job for classification according to law, to avoid suppression of reasonable price competition.

In addition, the system of tourist guide remuneration should be reformed in the new "Administrative Measures for Tourist Guides", so that commissions are subject to supervision and the proportion of commissions is adjusted reasonably, and the equality between the main parties in the settlement of commissions is realized to ensure that the tour guides receive a salary commensurate with their work. Only in this way, the tour guides rely on shopping malls and self-financed items to survive the rebate status can be improved. In addition, we will actively promote the criminalization of tourism violations, and those who violate the criminal law will be dealt with in strict accordance with criminal legal procedures, not limited to simple fines, delisting and other administrative penalties. For example, in this case, the travel agency where the tour guide is located, in addition to the administrative punishment of revoking the business license of the travel agency, will be blacklisted by the tourism industry and will be banned from the tourist market for life. Such a combination of guidance, travel agency operators, guides and other practitioners between the interests of the chain will be interrupted. They naturally have scruples and keep the bottom line of business and professional ethics so that the atmosphere of the tourism market can be corrected.

## To strengthen rational guidance for tourism consumers and protection of their rights

In the process of controlling low-cost tourism, we should continue to mobilize the news media and guide the work of the administrative organ. In April 2012, for example, the China National Tourism Administration website released travel advisory for "can't afford to be hurt' travel coupons" to remind the vast number of tourists to beware of tourism traps. This kind of travel advisory, on the one hand, is to guide tourism consumers to establish the right concept of consumption, on the other hand, through the strengthening of the travel consumer's legal propaganda and education, to let them know their rights and interests, and when their rights are infringed, they can stand up for his rights. In addition, apart from perfecting the relevant provisions of the "Consumer Protection Law", to protect the rights and interests of tourists as an important national principle of the International Convention on tourism should also be more embodied

in our country's tourism law. Special Provisions shall be made in the relevant laws and regulations on the protection of the rights and interests of tourism consumers. Our country should improve its procedures and processing deadlines and the responsibilities of complaints-receiving departments.

It is also necessary to clarify the legal effect of the complaint. In addition, in view of the questions of narrow channels for protection of rights, cumbersome and high cost of legal proceedings, we should make full use of the cooperation of Consumers Protection of rights and Interests Law, Tourism Law, Contract Law and other laws ensure that the door is open to safeguard rights. Meanwhile, network channel should be attached more importance. Tourism management department can vigorously mobilize the media and public opinion's force to expose illegal enterprises that damage the legitimate rights and interests of tourism consumers. In addition, special tourism litigation procedures should be established in relevant tourism laws and regulations to establish efficient summary Procedures such as the establishment of specialized tourism dispute tribunals or specialized tourism dispute arbitration court to deal with these more controversial cases. In this way, it can not only reduce the cost of protecting rights of consumers, but also save litigation resources.

### **To establish and improve an up-to-date legal system for tourism**

In the legislative model, the international community has previously taken Japan and the United States as example to detailed to show that their legislative model is based on the Basic Law. The other legislative model is represented by Spain by a series of single-line laws or other relevant laws constituting the tourism Law system. The most remarkable characteristic of this legislative model is there is no basic tourism law in the legal system of tourism, but the introduction of many specific regulations on the main behavior of various subjects of the tourism market. Considering our national conditions, we should choose to draw on the advantages of the two. On the one hand, we should introduce the "tourism bill of rights" and perfect the Basic Law of tourism, relying on the Basic Law of Tourism and supplementing various supporting regulations and regulations. That is to say, the content is prescribed by law.

The rules are to be interpreted, and the specific practice is to be prescribed by the decree of execution, which is to be further, strengthened the operability of law. At the same time, the tourism law should be brought into full play by establishing a complete management system to give full play to the true role of tourism regulations and promote the effectiveness of the implementation of tourism laws and regulations. On the other hand, we should strengthen the provisions on tourism legal relations in other laws, making cooperation between the legal departments of consumer rights protection, criminal law, tourism law, contract law, etc. The coordination between legal departments will form a joint force of various parties to enhance comprehensive law enforcement efforts. In this way, it can increase the crackdown

on illegal travel crimes and increase the illegal cost of practitioners; it can also improve the protection system of consumer rights and interests and reduce the cost of safeguarding rights. At the same time, it can coordinate the legal departments of the stability and timeliness of legislation and timely discover the deficiencies in legislation to use professional knowledge to make up for legal deficiencies. Only in this way can the tourism market and the industry chaos be rectified and will tourist's rights be safeguarded.

### **Conclusion**

Based on the case of Li Yun case who was the first tourist guide sentenced in Yunnan, this paper defines the academic concept of low-cost tour, and then analyzes the cause of its formation. It is concluded that the key reason for the unreasonable low-cost tour phenomenon is the three main bodies of tourism, which is also the biggest innovation of this article. Because in the past, the legal study of the relevant cases was based on the three aspects of legislation, judicature and law enforcement, and its nature was to study only one subject, namely, the government's action. Through analysis and comparison, the author finds out three main reasons, which are that tourism practitioners are driven by common interests that consumers lack the consciousness of rational consumption and protection of rights and that government's legal supervision is not in place, in combination with overseas experience in the legal system of tourism, in the fourth part of this paper.

### **Suggestions on the legal countermeasures for China's response to the low-price tour**

Detailed suggestions are put forward. In a nutshell, that is: For the tourism practitioners, we should eliminate the common interest chain among them, such as spreading false information, soliciting tourists at low prices, changing itineraries, compulsive shopping or consumption, and making rebates to regulate their market behaviors; As for consumers, they should cultivate rational consumption consciousness and active right-defending consciousness through government guidance; for the government, they should establish and improve the tourism legal system, which is on the basis of the Basic Law of Tourism, supplemented by various rules and regulations and combined with other department laws, so as to harmonize their advantages and complement each other. Only in this way can we really promote the reform of tourism market and drive travel agencies to abandon the business model of zero-fare group tours and to realize the normal and healthy development of the tourism market.

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### **Conflicts of interest**

The author declares that there are no conflicts of interest.