

Unauthorized Viewing of Subscription Television Programme

Purpose

As requested by the Chairman of the LegCo Panel on Commerce and Industry, this paper sets out the Administration's response to the issue of unauthorized viewing of subscription television programme raised in Cable TV's letter dated 13 July 2001 (Annex) to the President of the Legislative Council.

Background

Cable TV's Submission

2. Cable TV expresses concerns on domestic piracy of subscription television programme and calls on the Government to impose criminal liabilities on consumers for unauthorized viewing of pay television programmes. According to the Cable TV, the easy availability of unauthorized reception devices in Shenzhen and Hong Kong at low prices is the main cause for the proliferation of such piracy viewing.

Administration's Response

General

3. We are mindful of Cable TV's concerns on unauthorized viewing of its programme by using unauthorized decoders. We note Cable TV's proposal of adopting overseas legislative measures whereby fraudulent viewing of pay TV programme at consumer level is made a criminal offence. This proposal involves highly controversial issues which require careful consideration. We have an open mind on this proposal and will study the relevant overseas legislation and consult the public in the context of our review of the Copyright Ordinance to be conducted in summer/autumn this year.

4. Overseas experiences indicate that the problem of unauthorized viewing of cable programme can be tackled effectively by the use of

digital transmission and advanced encryption technology. Of the five domestic pay TV licensees, one is already transmitting its TV programme in digital format. The three new pay TV licensees will also employ digital technology. At present, Cable TV is the only pay TV operator employing analogue transmission technology. Cable TV has recently submitted a plan to the relevant authorities to move towards digital transmission. We welcome this development and believe that the problem will be reduced considerably.

Protection on subscription television programme – current legislation and related enforcement actions

5. The Copyright Ordinance (Cap. 528) contains provisions against sales of unauthorized decoders of cable programmes.

6. Under section 275 of Cap. 528, a cable programme service provider may take civil action against anyone who makes, imports, exports, sells or lets for hire a device, for example, a decoder, for receiving a cable programme without authorization.

7. Regarding broadcasting policy, the Government is keenly aware that protection of broadcasting copyright is an important aspect in pursuing the policy objective of enhancing Hong Kong's position as a regional broadcasting hub. Hence we have made it an offence under section 6 of the Broadcasting Ordinance for a person to import, export, manufacture, sell, offer for sale or let for hire an unauthorized decoder in the course of trade or business. The maximum penalty is a fine of \$1 million and 5 years' imprisonment. The Telecommunications Authority is empowered to enforce the above provision.

8. In response to the recent trend of the trading of unauthorized decoders, the Office of the Telecommunications Authority (OFTA) has been conducting regular inspections and joint operations with the Police. Recent operations have resulted in the seizure of 9 unauthorized decoders and 70 sets of suspected "fake" decoders. So far one person has been charged and more prosecutions are in the pipeline. The relevant law enforcement agencies will continue to step up actions by conducting more

regular inspections and joint operations with a view to combating such illegal activities.

9. Members are invited to note the above responses.

Commerce and Industry Bureau
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