

Administration's Response to Submission of Hong Kong Christian Service on "Audio Child Pornography"

In its supplementary information submitted on 24 May 2002 to the Bills Committee on the Prevention of Child Pornography Bill, Hong Kong Christian Service (HKCS) indicated that there would be difficulties in law enforcement if the Bill covered all kinds of audio child pornography. For instance, it will be very difficult to judge accurately whether a person is under the age of 16 by his voice only. Therefore, it is the act of conveying the idea of child pornography that the law should deal with. HKCS also suggested that child pornography should cover audio pornography of which the narrator is allegedly a child e.g. pornographic telephone hotlines claimed to be manned wholly or partly by children, pornographic Internet radio programmes claimed to be hosted wholly or partly by children and pornographic audio books or CD-ROMs claimed to be narrated by children.

Firstly, we agree that if the definition of child pornography is expanded to cover audio depiction, there will be tremendous difficulties in law enforcement. The chances of locating the children depicted in audio pornography would be slim. Also, it will be very difficult to judge whether a person is a child under the age of 16 by his voice only. This will also give rise to considerable grey areas.

As regards HKCS's suggestion of combating child pornography purporting to feature children as narrators, information and intelligence gathered by the Police show that no child pornography that takes only an audio form has been found in Hong Kong. It is also seldom heard of in other countries. Furthermore, among the overseas legislation we have studied, there is no provision prohibiting audio child pornography or child pornography purporting to feature children as narrators in most countries including Canada, the US, the UK and Australia. It is thus clear that at present the international community does not deem it necessary to introduce legislation to this end.

We have pointed out in the LegCo Briefs and other relevant papers that the Bill has to strike a balance between the protection of children against sexual exploitation and safeguarding the freedom of expression of the general public. Therefore, the Bill focuses on dealing with visual pornographic depiction instead of the ideology of the content or written or audio depiction. Otherwise, the Bill might be regarded as too harsh, its scope too broad, thus giving rise to grey areas; it might also unnecessarily and excessively infringe human rights including the right to freedom of expression.