



## HONG KONG BAR ASSOCIATION

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20<sup>th</sup> November 2003

Mrs. Percy Ma  
Clerk to Panel  
Legislative Council Building  
8 Jackson Road, Central  
Hong Kong

Dear Mrs. Ma,

### Subcommittee on the draft Criminal Jurisdiction Ordinance (Amendment of Section 2(2)) Order 2002

Thank you for your letter dated 14th October, 2003.

The Hong Kong Bar Association has no objection in principle to the proposed amendment to the Order. However, what this proposal exposes is the somewhat inadequate collection of legislation which criminalises misuse of computers in Hong Kong. This inadequacy is powerfully demonstrated by the legislation from other jurisdictions that you very kindly supplied with your letter. We believe that there is an urgent need to undertake a fundamental review of the Hong Kong legislation in this field.

We understand that there was an inter-departmental working party charged with the task of reviewing the legislation. We can find no record of any consultation of or participation in this process by the Hong Kong Bar Association.

### 香港大律師公會

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It is very difficult to justify the disparate legislation that we have at present. There appears to be no unifying or underlying policy behind our legislation. One provision (section 27 A of the Telecommunications Ordinance) is merely a summary offence penalising a breach of that section with a fine only. For a region which prides itself in a high degree of computer use this is hardly acceptable. The current legislation is clearly inadequate to fight the scourge of spam e-mail.

If had there is to be such a review of the legislation penalising misuse of computers, there would be great merit including extra territorial provisions specifically tailored legislation rather than trying to shoe-horn these provisions into the Criminal Jurisdiction Ordinance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Edward Chan', written in a cursive style.

Edward Chan, SC  
Chairman

AB/al