

[DRAFT]

Meeting of ITB Panel of LegCo on 19 Feb. 2008

Statement of Director General of Telecommunications on Regulation of Radio Broadcasting

The Telecommunications Authority (“TA”) is responsible for the management of radio spectrum in Hong Kong. Under Section 32G of the Telecommunications Ordinance (“the Ordinance”), the TA is required to promote the efficient use of radio spectrum as a public resource of Hong Kong.

Under section 8(1)(a) of the Ordinance, no person in Hong Kong shall establish or maintain any means of telecommunications (which includes radio apparatus) except under licence. In order to prevent interference caused by improper use of radio apparatus, the licence would specify the conditions of use as well as the emission characteristics that the radio apparatus must comply with. The emission characteristics normally include operating frequencies, bandwidth, the type and orientation of the antenna and transmission power. Any person who contravenes section 8(1) shall be liable to a fine of up to \$100,000 and to imprisonment for up to 5 years on conviction on indictment.

In addition, section 23 of the Ordinance provides that any person who knowing or having reason to believe that a means of telecommunications is being maintained in contravention of the Ordinance, transmits or receives any message by such means of telecommunications or performs any service incidental to the transmission or reception of any such message or delivers any message for transmission by such means of telecommunications or takes delivery of any message sent thereby shall be guilty of an offence. Such person is liable to a fine of up to \$50,000 on summary conviction.

The Office of the Telecommunications Authority (“OFTA”) is responsible for the enforcement of the provisions of sections 8(1)(a) and 23 of the Ordinance. OFTA will investigate and collect evidence related to the relevant illegal activities, including the suspected use of unlicensed radio apparatus for sound broadcasting. If OFTA considers that the evidence obtained justifies further consideration, OFTA will consult the

Department of Justice on the viability of initiating prosecution.

From 2003 to 2007, OFTA has investigated 538 cases under section 8(1)(a) of the Ordinance which resulted in 515 prosecuted cases.

Before a prosecution for an offence of participation in unlicensed broadcasting activities under section 23 of the Ordinance can be instituted, there must be evidence to establish that a means of telecommunications was maintained without a licence, a message was transmitted using that means of telecommunications, the identity of the party who participated in transmitting the message and that the party so identified had knowledge, or had reason to believe, that a message was being transmitted by such illegal means of telecommunications.

Enforcement of sections 8(1) and 23 of the Ordinance is only a small portion of the TA's work in managing radio spectrum. In 2007, pursuant to the power provided by section 35 of the Ordinance, we undertook 2700 investigations on frequency interference complaints related to public safety, aeronautical services, search and rescue, marine services and public telecommunications services and reception of broadcasting. Around 1200 of these pertained to broadcasting services. In the same year, OFTA also launched 108 raiding operations against illegal use of radio apparatus, sales of illegal radio apparatus, and roadblock operations jointly with Police.

OFTA will continue to enforce the law vigorously to ensure effective management of radio spectrum.