

**Residential Properties (First-hand Sales) Bill**  
**Response to Questions from the Legal Service Division dated 25 April 2012**  
**(Part II)**

Questions	Administration's Response
<p>(Paragraph 14)</p> <p><u>Clause 66</u></p> <p>Is there any difference between an act “that is likely to induce ...” (as in clause 66(1)(a)) and “with the view to inducing ...”? Please explain the mental element(s) involved in the 2 situations.</p>	<p>Clause 66(1)(a) of the Bill refers to a person who "disseminates ... information that is likely to induce another person to purchase any specified residential property". The question as to whether certain information "is likely to induce ..." involves an objective element. It is not necessary for the prosecution to prove that a person has been induced to purchase any specified residential property. Nor is it necessary for the prosecution to prove that the defendant intends that, or is reckless as to whether, the dissemination of information will induce another person to purchase any specified resident property.</p> <p>On the other hand, if clause 66 were to say "disseminates ... information with a view to inducing ...", it would be necessary for the prosecution to prove that the dissemination of information was carried out "with a view to inducing ...", i.e. the defendant intends that the dissemination of information would induce another person to purchase any specified residential property.</p>

Questions	Administration's Response
<p>(Paragraph 15)</p> <p><u>Clause 68</u></p> <p>Please explain (and illustrate with examples, if possible) what is meant by “publishing, circulating, distributing or otherwise disseminating materials or their contents... by any other means, whether... magnetically, optically, manually...” as provided in clause 68(4)(a)(vii).</p>	<p>We have made reference to section 298 of the Securities and Futures Ordinance (Cap. 571) in drafting clause 68 of the Bill. The intention of having clause 68(4)(a)(vii) is to provide a catch-all provision so that all kinds of “issuing materials”, regardless of its means, would be covered.</p>

Transport and Housing Bureau  
May 2012