

**LETTERHEAD OF GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG**

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31 August 1998

Mrs Sharon Tong
Clerk to Panel
Security Panel
Legislative Council
8 Jackson Road
Central
Hong Kong

Dear Mrs Tong,

LegCo Panel on Security
Crimes related to the Telecommunications Industry

Thank you for your letter of 3 August 1998.

Police information reveals that indeed there were cases of fraud and illegal release of subscribers' personal information in the telecommunications industry. The more common fraud offences involve using false personal information to obtain subscription to mobile phones and to use the phones illegally to make, for example, IDD calls. There have also been cases of illegal release of customers' personal information by staff members of telecommunication companies who received monetary rewards for such acts. However, the Police and the Telecommunications Authority (TA) do not keep specific statistics on these types of malpractices.

We have adequate provisions in our legislation to fight against such malpractices. Depending on the circumstances of individual cases, the following legislation may be relevant:

- (a) Under s.73 of the Crimes Ordinance (Cap 200), it is an offence for a person who uses an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine. The maximum penalty is imprisonment for 14 years on conviction on indictment. Under s. 75(2) of the same Ordinance, a person who, without lawful authority or excuse, has in his custody or under his control an instrument which is, and which he knows or believes to be false, also commits an offence. The maximum penalty is 3 years' imprisonment on conviction on indictment.

- (b) Under s. 24(d) of the Telecommunications Ordinance (Cap 106), it is an offence if a staff member of a telecommunication company, other than in pursuance of his duty or as directed by a court, copies any message or discloses any message to other than the person to whom the message is addressed. The offender is liable on summary conviction to a fine of \$20,000 and to imprisonment for 2 years.

- (c) Under the licensing regime administered by the TA for the Public Radiocommunication Service Licence and Fixed Telecommunication Network Services Licence under s.2 of the Telecommunications Regulations of Cap 106, licensing conditions are imposed. One condition obliges the licensees to safeguard the customers' personal information. Any such breaches that have been brought to the attention of the TA would be subject to penalty. Under s. 36(c) of Cap 106, offenders will be subject to a maximum penalty of \$20,000 for the first occasion, \$50,000 for the second and \$100,000 for any subsequent occasion.

Separately, the Personal Data (Privacy) Ordinance (Cap 486) also contains provisions that safeguard against improper disclosure of personal data. In this connection, we understand that you have requested the Privacy Commissioner of Personal Data who administers this Ordinance to

provide you direct with information on the improper handling of personal data in the telecommunications industry.

We would like to assure Members of the Panel that the Police, the TA and all relevant departments will closely monitor the situation and step up enforcement action where appropriate.

Yours sincerely,

(Raymond H C WONG)
for Secretary for Security