

Letterhead of Satellite Television Rentals Ltd.

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Dear Madam,

The Broadcasting Bill.

I was lucky to find the Administration's response to my comments on the proposed Broadcasting Bill on the Internet.

Having read the part that interests me, I was horrified to read the contents of paragraph 11 in the response paper.

What has happened is that the Administration is pinning its hopes that Clause 7 will effectively deal with the importation of digital satellite television receivers that are Licenced and Copyrighted for use in countries other than Hong Kong. It simply ain't going to work because there is a loophole here.

Broadly, Clause 7 states that it becomes an offence to import these items "**in the course of trade or business**" etc. Items imported legally in the course of trade are subject to Trade Declarations in the usual way and it would be possible to detect illegal imports if the statements in the Trade Declarations were the whole truth.

The way the "local" Chinese are bringing these digital satellite decoders into Hong Kong is in personal luggage through Chek Lap Kok airport. Approximately eight digital receivers can be carried in one suitcase and the current sale price for one digital decoder with mini satellite dish, electronics and installation is HK\$30,000 with \$3,000 for annual renewal of the smartcard. These digital decoders are in the main for the UBC pay satellite service which is Licenced and Copyrighted for use in Thailand **NOT** Hong Kong.

So you can see, one suitcase with eight decoders nets a nice \$240,000 for the importer and if he is running a non Limited Company it would be easy to hide these sales completely. In other words The Financial Secretary is being deprived of tax money he badly needs and nobody even knows that these items are here in connection with business.

Usually the company(s) that import these decoders illegally have two or three people on the “run” so three or four suitcases would net around \$1,000,000 worth of money which is nice if you can get it tax free and without detection!

Of course all this is very good until someone gets caught but trying to prove the person(s) doing it are doing so in connection with “trade or business” is going to be very difficult to prove because once the goods are sold and no sale record is kept they are virtually undetectable.

One thing that stands out to me is that the Administration has absolutely no knowledge of what is happening in the real world outside their offices.

The last sentence in paragraph 11 (of the response) is a disgrace. The Administration does not want to make it an offence to “use” illegally imported decoders into Hong Kong because the user may not be able to distinguish whether a decoder is authorised for use in Hong Kong. Well just look at illegally copied computer software, illegally copied brand name clothes, handbags, watches and you name it. Many of the people who buy these illegal products know they are illegal and don’t care two hoots about it. So what is the difference between all these things and illegally imported satellite decoders?? The Administration is trying to rub out my unsavory comments because they have probably landed in the “too difficult tray”.

By taking this approach the Administration is being grossly unfair to Thailand (for example). The digital decoders smuggled into Hong Kong for sale are Licensed and Copyrighted **for use in Thailand - not Hong Kong**. I wish to reiterate the word Copyrighted because this is the flavour of the time and the Government goes at lengths to promote its support for it and take action against offenders for infringements.

Clause 7 needs to be amended slightly so that “course of trade or business” closes the loophole I have described happening at Chek Lap Kok. A law draftsman will have to sort this out.

My other comment is that Clause 7 only deals with “imports”, it does not deal with exports. I wish to state again that STAR TV digital satellite receivers that are **“Licenced and Copyrighted” for use in Hong Kong** have a public domain price of \$3,500. These decoders are being smuggled over the border into Shenzhen and command a street sale price of \$7,000! The Copyright area for these items is HONG KONG not Shenzhen!

Once again Licencing and Copyright is being infringed and the profits accrued are almost certainly not being split so that a share goes to the Financial Secretary.

I will reiterate again that Clause 7 needs to be amended to cover exports of digital decoders.

In the event that nobody listens to me I will simply keep all this paperwork for the future because the day will come (after the Bill is passed) when this issue of Licensing and Copyright will pop up and I will proudly offer it to the Press and illustrate how LegCo and the Administration did not listen to people who knew what

they were talking about before the Bill was made law. This is not an implied threat, it is simply the way I think things will turn out in the future.

Finally, if the Government feels that Clause 7 (as it stands) is sufficiently capable to deal with digital satellite decoders that have **already** been smuggled into Hong Kong and sold for exorbitant sums then I am going to document every household I come across with a satellite dish focussed on the Thaicom satellite which provides the encrypted television service and invite the Government to take investigative action and initiate prosecution. A public test of this nature will undoubtedly show whether or not good law has been made.

In passing I feel it would be fair to declare that I am a retired Hong Kong police officer (28 years) and I have turned my satellite television hobby into a business. I therefore have a good local knowledge, I know how Government works, and I have an excellent overview of what is happening in the satellite television industry in Hong Kong.

In essence, the person who authored the paragraph 11 response does not have a clue of what he or she is writing about!

I note that Hong Kong Cable also shares my concern about “in the course of trade or business” in their submission.

Yours sincerely,

David Weaver,
Managing Director.