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17 May, 2002

Ms Christine Chu
The Law Society of Hong Kong
3/F Wing On House
71 Des Voeux Road Central
Hong Kong

via Mr Michael Scott, SASG(GLP)

Dear Ms Chu,

Evidence (Miscellaneous Amendments) Bill 2002
Part II : Use of Live Television Link in Criminal Proceedings

Thank you for your letter of 23 April 2002 which contains comments on our consultation paper issued on 8 March 2002. I am pleased to inform you that the proposal to take evidence from a witness outside Hong Kong in criminal proceedings via live television link, contained in Part II of the Evidence (Miscellaneous Amendments) Bill 2002, is published in Legal Supplement No. 3 to the Gazette today.

Members' concerns regarding the proposal have been considered. This Bill does not purport to remove the requirement for witnesses to be physically present in the courtroom. In our proposal, the live TV link option is only available with the leave of the court. It is not envisaged that a witness whose presence in the courtroom can more conveniently be arranged will be allowed by the court to give evidence via live TV link in a place outside Hong Kong. The purpose of the Bill is to enable the court to obtain evidence of a witness whose presence in the courtroom cannot be arranged without inconvenience or cannot be arranged at all. If the presence of an

overseas witness in a Hong Kong court cannot be arranged, the present alternatives will be to proceed with the hearing without his evidence or to take his evidence in pursuance to a request issued by the Secretary for Justice or the Court of First Instance. In the latter case, the court will receive the written deposition of the witness taken at the overseas location concerned. It will not be able to observe the demeanour of the witness or to test his evidence by cross-examination in the courtroom. The introduction of the live TV link option will address this problem by enabling the court to observe the demeanour of a witness via the live TV link and facilitating cross-examination by the court.

I also note that Members would like to have information about the experience in other jurisdictions. We will check with other jurisdictions to see whether such information is available. In the meantime, any comments on Part II of the Evidence (Miscellaneous Amendments) Bill 2002 are welcome.

Yours sincerely,

(Miss Selina Lau)
Senior Government Counsel (Ag.)
Legal Policy Division