

Bills Committee on Broadcasting (Amendment) Bill 2003**Administration's Response to Hon MA Fung-kwok's letter
dated 24 February 2004****Background**

It was stated in Hon MA Fung-kwok's letter of 24 February 2004 to the Bills Committee that the Department of Industry of Canada has found that certain illicit devices used to receive conditional access systems of direct-to-home (DTH) broadcasts will cause interference to radiocommunication, including that of law enforcement agencies and emergency response teams. In Canada, all television receivers and appliances, including satellite television decoders, must meet applicable technical standards that limit levels of radiated signals that could cause interference. Apart from the interference issue, unauthorized decoding is also prohibited under the Radiocommunication Act of Canada.

2. In relation to the above, the Administration has been asked to clarify the following:

- (a) Have similar illicit receivers or decoders, which cause interference to radiocommunication, been found in Hong Kong? If yes, whether such interference was serious and had affected important communications (e.g. those of the Police)?
- (b) According to the provisions in the Telecommunications Ordinance, possession or use of illicit radiocommunications equipment which causes interference is a criminal offence. Will the Administration apply the same legislative standard and criminalize the possession of illicit receivers of television signals which cause interference?

The Administration's response

3. Regarding (a) in paragraph 2 above, the Office of the Telecommunications Authority (OFTA) has confirmed that they have not received any reports of interference caused by illicit decoders connected to satellite television receivers (antenna dishes), including interference to

the Police or other essential services.

4. Regarding (b) in paragraph 2 above, the Telecommunications Ordinance (Cap. 106) has already prohibited the use of equipment which causes interference. According to section 32J of Cap. 106 (under the heading Interference):

- (i) A person shall not knowingly, and without lawful excuse, use an apparatus, whether or not it is an apparatus for telecommunications, in a manner that causes direct or indirect harmful interference with any telecommunications services lawfully carried on, or other apparatus for telecommunications lawfully operated, in or outside Hong Kong.
- (ii) The Telecommunications Authority (TA) may, by notice in writing, direct a person possessing an apparatus, whether or not it is an apparatus for telecommunications, to take such measures as the TA specifies and within the time directed to prevent the interference specified in the notice.
- (iii) The offence in (i) or failure to comply with a direction in (ii) above may attract a fine of \$50,000 and imprisonment for 6 months.
- (iv) The TA may specify limits of interference from any apparatus to prevent harmful interference.
- (v) The TA may require an apparatus to be submitted for testing/verification that it complies with the limits specified by the TA.
- (vi) A magistrate may issue warrant to permit the TA to enter and search premises, vehicles, vessels etc. and to examine, test or confiscate any apparatus if request for access has been made and unreasonably refused.

5. Given the above, the existing legislation has empowered TA to take action against any apparatus, including unauthorized decoders, which may cause harmful interference. Hence, no new legislation is required.

February 2004
Communications and Technology Branch
Commerce, Industry and Technology Bureau