

September 6, 2003

Hon. SIN Chung-kai
Chairman
Bills Committee on
Broadcasting (Amendment) Bill 2003
Legislative Council
Hong Kong

Dear Mr. Sin,

Broadcasting (Amendment) Bill 2003

Thank you for inviting us to submit our views on the above captioned Bill.

First of all, we would like to express our appreciation of the Government's intention to tighten the control of unauthorized reception of subscription television services. For the local film industry, the Pay-TV platform is one of the most important distribution windows that can contribute a significant portion of distribution income to the film industry. It is important to the survival of the local film industry that the Pay-TV platform is well protected from the existing rampant unauthorized reception of subscription television services.

In view of the rampant unauthorized reception activities in Hong Kong and the serious effect on the film industry, we submit our views as follows:

1. To introduce both criminal sanction and civil remedy against unauthorized reception of subscription television programme services without payment of a subscription;
 - Pirated viewing is an act of theft. We firmly believe that the act of knowingly escaping payment of fees should be subject to the same sanctions as for example stealing electricity.
2. To introduce both criminal sanction and civil remedy against the possession of unauthorized decoders for domestic uses or commercial purposes;

- We firmly believe that criminal liability is necessary to deal with the current rampant domestic uses of unauthorized decoders and to create the deterrent effect needed to discourage a person from continuing to possess unauthorized decoders and/or to obtain one from overseas;
- It is unrealistic and unreasonable to justify exclusion of criminal sanctions against domestic uses because of technological security measures that can be applied. There is no security system which can never be hacked. There must be a parallel legal deterrent.
- It is illogical to differentiate a theft for commercial purposes from a theft for personal gains.
- A misleading and confusing message that pirated viewing without payment is an acceptable act will be conveyed to children.

Finally, we would like to stress that in view of the serious economic crisis that Hong Kong has been suffering, it has been the SAR Government's strategy to develop and nurture a knowledge-based economy built on intellectual property industry. In order to achieve that goal, we believe that the Government should in the highest priority provide sufficient legal protection and a good legal environment in which the IP industry can thrive and prosper. Hence, we believe the Government should include, in the Bill, criminal sanctions against pirated viewing of subscription television programme for both domestic and commercial purposes.

Yours sincerely,

Woody Tsung
MPIA