

LCQ15: Combating circumvention of technological measures used to protect copyright works

Following is a written reply by the Secretary for Commerce and Economic Development, Mr Frederick Ma, to a question by the Hon Sin Chung-kai in the Legislative Council today (May 28):

Question:

The provisions in the Copyright (Amendment) Ordinance 2007 that regulate the dealing in devices and provision of services which aim to circumvent technological measures applied in the protection of copyright works have come into operation since April 25 this year. In this connection, will the Government inform this Council whether:

(a) the enforcement department has proactively inspected various shops for the purpose of enforcing the above provisions, or actions will be taken only upon receipt of complaints; if it has proactively conducted inspections, of the number of inspections so far; if it has not, the reasons for that;

(b) the enforcement department has instituted any prosecutions or other enforcement actions since the relevant provisions have come into operation; if it has, of the relevant figures; and

(c) measures have been adopted to intercept the import of circumvention devices into Hong Kong for sale or hire; if so, of the details?

Reply:

Madam President,

To guard against copyright infringement, some copyright owners use technological measures, including encryption of data or special chips which prevent unauthorised digital copying, as a means to better protect their copyright works. In order to effectively combat those infringing activities that involve circumvention of the technological measures applied to protect copyright works, we introduced new anti-circumvention provisions vide the Copyright (Amendment) Ordinance 2007. Under the Amendment Ordinance, any person who makes, imports, exports or deals in circumvention devices or provides circumvention services for commercial purposes renders himself/herself liable to civil and criminal liabilities.

To prepare for the pursuit of enforcement actions, the Customs and Excise Department (C&ED) had engaged copyright owners since late last year to gain a fuller understanding of technological measures (including access control and copy control measures) that are commonly used to protect individual copyright work and how these measures operate.

With regard to parts (a) to (c) of the question, our reply is as follows:

(a) Since the new provisions came into effect on April 25, C&ED had been closely monitoring activities in the market, through intelligence gathering, to watch out for products and services that may entail circumvention of technological measures used to protect copyright works. Separately, up to May 21, C&ED received six complaints from the public about "circumvention devices". The Department had started investigation on each and every one of these cases. Since much of the evidence that needs to be adduced for successful prosecution is rather technical in nature, C&ED is in close liaison with the relevant copyright owners. Upon completion of the evidence gathering work, and depending on the circumstances, C&ED will take appropriate enforcement actions including raiding and arrest.

(b) As at May 21, no case of formal arrest or prosecution action has been recorded. As has been highlighted in part (a) above, for cases under investigation, C&ED will take further action once sufficient evidence is available.

(c) C&ED will proactively carry out intelligence gathering work and take stringent enforcement actions at various control points, with a view to stemming the import of circumvention devices into Hong Kong for commercial purposes. C&ED will also follow up on every case to clamp down the supply and sale of such devices.

Ends/Wednesday, May 28, 2008