

LEGCO QUESTION NO. 15

(Written Reply)

Date of sitting : <u>22 June 2005</u>	
Asked by : <u>Hon Li Kwok-ying</u>	Replied by : <u>Law Officer (International Law)</u> (in the absence of Secretary for Justice)

Question :

Regarding controversies arising from a television programme featuring legal knowledge, will the Government inform this Council whether:

- (a) the enforcement of the law by law enforcement agencies and the criteria for prosecution adopted by the Department of Justice will be affected if legal professionals and government departments have different interpretations of the legislative provisions; if not, of the reasons for that, and how it will avoid confusion among the public arising from different interpretations of the legislative provisions;
- (b) it has issued any guidelines in respect of television programmes on legal knowledge; if so, of the details; if not, the reasons for that, and how it will prevent these programmes from disseminating mistaken legal knowledge; and
- (c) it will promote the popularization of legal knowledge through infotainment programmes in view of the growing popularity of such programmes; if so, how it will promote it?

Reply :

Madam President,

This question is in three parts, and I will answer it in the same order.

- (a) It is by no means uncommon for lawyers to hold different opinions about the way in which legal provisions are to be interpreted. When enforcement agencies are in any doubt as to the meaning of a provision,

they should consult the Department of Justice. Decisions on whether or not a prosecution should be brought are determined in accordance with the Department's "Statement of Prosecution Policy and Practice". Under this a prosecution should not be started unless there is a reasonable prospect of convicting a person for a criminal offence known to the law. The Department will advise on, or decide, whether there is, or is not, such a reasonable prospect.

The fact that some lawyers in private practice may hold a different view of the law from that of the Department of Justice will not have any impact on the enforcement of the law, or on prosecution decisions. Of course, if a court upholds the view of the private practitioner, this will be reflected in the court's decision.

Since every lawyer is entitled to express his view on the meaning of a legal provision, there are bound to be occasions when conflicting views are stated. Court decisions on the issue in question, or a legislative amendment, may eventually resolve the conflict.

- (b) Paragraph 3 of Chapter 9 of the "Generic Code of Practice on Television Programme Standards" (the Code) issued by the Broadcasting Authority stipulates that "every reasonable effort must be made [by the licensees] to ensure that the factual content of programmes is accurate."

Television stations are required to ensure that the content of programmes involving legal knowledge is accurate. The Broadcasting Authority (BA) will investigate any complaints about inaccuracy of factual content in such programmes. If the BA finds that the complaint is substantiated, the concerned television station would have breached the Code and could be subject to sanctions by the BA.

- (c) The Department of Justice is fully aware of the effectiveness of TV programmes in the promotion of the law, and has in recent years joined hands with RTHK in the production of three TV series entitled "Legal Drama". The three series comprised a total of thirty-seven 30-minute episodes and featured a range of law-related issues such as the infringement of intellectual property, libel and privacy. In 2002, the Department sponsored TVB to produce another series of twelve 3-minute episodes entitled "Know the law, abide by the law; a new generation",

which featured crimes frequently committed by teenagers. The Department will in future continue to provide assistance to TV stations where possible in their production of “infotainment” programmes aiming to promote awareness of the law, such as by providing information and technical advice.