

## LCQ10: Regulation of money lenders

Following is a question by the Hon Cheung Kwok-kwan and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (May 13):

Question:

Section 24 of the Money Lenders Ordinance (Cap. 163) provides that any person who lends money at an effective rate of interest which exceeds 60 per cent per annum commits an offence, and section 25 provides that a transaction where the effective rate of interest exceeds 48 per cent per annum is presumed *prima facie* to be extortionate. Regarding the regulation of money lenders, will the Government inform this Council:

(1) of the historical background of and justifications for setting the ceilings for the two aforesaid per annum rates of interest on loans at the relevant levels;

(2) whether it will study the lowering of the statutory ceiling for the per annum rate of interest on loans at 60 per cent;

(3) given that the ways in which the rate of interest on loans is shown on promotional materials by money lenders are multifarious at present (e.g. annualised percentage rate (APR), monthly flat rate, best lending rate), and the relevant range of APRs varies from 4.49 per cent to 59.26 per cent, making it difficult for consumers to make comparisons between the rates of interest of different loan products, whether the Government has plans to require money lenders to use APRs across the board in indicating the rate of interest on loans;

(4) given that under the existing regulatory regime, the Money Lenders Unit, the Licensing Court and the Police respectively regulate money lenders according to the relevant provisions in Cap. 163, whether the Government has assessed if the aforesaid practice is desirable; if it has assessed and the outcome is in the negative, whether it has plans to entrust the work relating to the regulation of money lenders to a single agency; and

(5) given that Cap. 163, which was enacted in as early as 1980, has been in operation for four decades, whether the Government has plans to make amendments to the Ordinance to step up the regulation of the business of money lenders (particularly the emerging mobile phone and online means of lending) and enhance the protection for consumers; if so, of the details; if not, whether it will consider doing so?

Reply:

President,

Our reply to the Hon Cheung's question is as follows:

(1) and (2) Licensed money lenders provide an alternative source of finance outside the banking sector for individuals and enterprises with financial needs. Money Lenders Ordinance (Cap. 163) (MLO) was enacted in 1980 to, amongst others, provide for the control and regulation of money lenders and money-lending transactions, and to provide protection and relief against excessive interest rates and extortionate stipulations in respect of loans. The two ceilings for the annual interest rate on loans laid down in the MLO combat money lending activities of usury, and also provide those in need a lawful channel to borrow money and appropriate protection. We will continue to monitor the implementation of the MLO, including provisions related to ceilings for the annual interest rate, and review and enhance the regulatory regime as and when necessary.

(3) According to section 26(2) of the MLO, money lending advertisements shall show the interest proposed to be charged as a rate per cent per annum. Section 2 of the MLO also clearly states that interest includes any amount (by whatever name called) in excess of the principal, which amount has been or is to be paid or payable in consideration of or otherwise in respect of a loan. Subject to the requirements of these provisions, we are exploring measures to increase the transparency of loan interest rates so as to facilitate consumers in comparing different loan products in the market.

(4) and (5) We have been mindful of the public's concern over the money lending sector, and have been reviewing and enhancing the regulation of licensed money lenders as appropriate. This includes the launching of various measures to address the concerns about the sector in 2016, including enhanced enforcement by the Police, imposition of more stringent licensing conditions on money lenders under the MLO, enhanced public education and publicity, as well as enhanced advisory services to the public. Moreover, in view of the concerns about anti-money laundering and referees' consent, we have imposed two additional licensing conditions since 2018. Under these conditions, a licensed money lender is required to comply with specific anti-money laundering and counter-terrorist financing requirements. A licensed money lender is also required, if a referee is involved in a loan application, to obtain such referee's written consent confirming his/her agreement to act as a referee in respect of the loan application.

Currently, the Licensing Court, the Police and the Money Lenders Unit (MLU) of the Companies Registry have respective roles to play under the regulatory regime of money lenders. The Licensing Court is responsible for the determination of applications for and granting of money lender licences as well as the imposition of licensing conditions. The Police is responsible for enforcing the MLO, including examination of applications for money lender licences and renewal of licences, as well as investigating and taking enforcement actions towards complaints against money lenders. As for the MLU, it is responsible for processing applications for money lender licences, maintaining a register of money lenders for public inspection, as well as monitoring licensed money lenders' compliance with the MLO and the conditions imposed by the Licensing Court when carrying on their money lending business, including conducting site inspections.

In recent years, the Government has strengthened measures along the four-pronged approach, viz. imposition of more stringent licensing conditions, enhanced enforcement, public education and publicity, and advisory services to the public. The Government will continue to monitor the situation of the money lending sector and the latest developments of the money lending business. If necessary, we will tighten the regulation of licensed money lenders and refine as appropriate the provisions and implementation of the MLO.

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## **LCQ5: Local Mask Production Subsidy Scheme**

Following is a question by the Hon Kenneth Lau and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (May 13):

Question:

With the coronavirus disease 2019 epidemic raging on in Hong Kong, surgical masks (masks) have all along been in short supply and their prices have surged. In view of this, the Government launched the Local Mask Production Subsidy Scheme (the Scheme) to provide subsidies for manufacturers to produce masks locally. The subsidy quota of 20 production lines has now been fully allocated. Under the Scheme, the first two million masks produced by each subsidised production line each month must be sold to the Government for a period of one year. If the monthly production exceeds two million, the manufacturers concerned may sell the surplus masks locally by themselves. However, it has been reported earlier on that a manufacturer which was granted subsidy has sold its masks on the market before signing any agreement with the Government and supplying masks to the Government. In this connection, will the Government inform this Council:

(1) whether it has signed an agreement with all of the manufacturers which were granted subsidies; if so, of the respective dates on which such agreements came into force; if not, the reasons for that; whether such agreements stipulate a partial or full refund of the subsidy by a subsidised manufacturer to the Government when the former has failed to supply the Government with the quantity of masks specified in the agreement;

(2) of the following information in respect of each subsidised production line: the (i) commencement date of production, (ii) date on which the masks were/will be first supplied to the Government, (iii) date on which the masks were/will be first sold on the market (if applicable), as well as (iv) the respective monthly quantities of masks for adults and those for children produced, supplied to the Government and sold on the market (if applicable)

since the commencement of production;

(3) of the criteria or mechanism to be adopted by the Government for allocating the masks supplied to it under the Scheme, and whether it will make public the distribution of such masks;

(4) whether it will impose a restriction on the prices at which the subsidised manufacturers sell those locally produced masks on the market, so as to ensure that members of the public can acquire masks at reasonable prices; and

(5) whether it will put in place a regulatory mechanism for the Scheme to ensure the proper use of public funds?

Reply:

President,

My consolidated reply to the various parts of the question raised by the Hon Kenneth Lau is as follows:

The Government launched the Local Mask Production Subsidy Scheme (the Scheme) under the Anti-epidemic Fund to facilitate local production of masks in order to stabilise supply and to build up stock. The Government announced on May 4 that it allocated all the quota of 20 production lines under the Scheme. It is estimated that, when all the production lines are in full production, every month they would collectively supply 33.85 million masks to the Government. Further details are tabulated at Annex.

Given the global shortage of masks, enterprises in many places have flocked to establish mask production facilities and have recently sent their mask samples to accredited laboratories outside Hong Kong for certification, resulting in a longer-than-normal lead time for certification. Taking this bona fide situation into consideration and in accordance with the application guide, the Government would allow approved applicants who are still waiting for such certification and are unable to begin supplying masks to the Government by the target commencement date to apply for an extension of up to one month. Any extension beyond one month without exceptional reasons and full justifications would result in revocation of the subsidy.

The Government has, through the Hong Kong Productivity Council (HKPC), provided all approved applicants with a copy of the funding agreement and have been signing the agreement with individual companies successively. Once the approved applicants secure the relevant certification and meet other relevant requirements, they would gradually begin to supply masks to the Government. As mentioned above, obtaining certification for masks is taking longer than usual recently, and this also impacts on the timing of supplying masks by approved applicants.

The masks procured by the Government under the Scheme are mainly for addressing the needs of the public sector, particularly those of frontline

health care workers and other frontline staff. After the masks produced by a subsidised production line have obtained the relevant certification, the production line must supply two million masks to the Government each month before it could sell the excess to the local market. Under no circumstances could the masks be exported. As the global supply of surgical masks continues to be tight in the near term, this restriction has the effect of increasing local mask supply and is more pragmatic than regulating the price of masks.

As the Chief Executive announced earlier, the Government will share the first batch of 30 million masks procured under the Scheme with the public. Depending on the certification and production progress of the subsidised production lines, the Government estimates that a pack of 10 masks would be distributed to each household starting around end June. Further details will be announced later.

To ensure proper use of public funds, the Government and the HKPC will regularly monitor the operations of the subsidised production lines during the one-year subsidy period. This includes ensuring that the production lines meet their targeted outputs and monitoring whether masks produced in excess of those supplied to the Government are distributed locally etc. The subsidy will be disbursed in phases which hinge on the progress of establishing the subsidised production line as well as its production output. Funds are disbursed only if the production line meets specified targets, such as obtaining certification for its masks, reaching a certain level of production output etc. The funding agreement also stipulates that, if a production line's actual output falls short of the committed output as stated in its application, the total subsidy amount would also be reduced proportionally. Where a production line ultimately fails to meet the Scheme's requirements, the Government may also recover from the concerned company any funds already disbursed.

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## **LCQ7: Distribution of pornography and obscene articles in social media groups**

Following is a question by the Hon Yung Hoi-yan and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (May 13):

Question:

It has been reported that some lawbreakers in South Korea set up an instant messaging group (known as the Nth room) for persons who paid to join the group to watch video clips that featured females being sexually abused.

The group had as many as 260 000 members, and there were at least 74 victims. In April this year, the media uncovered that a similar incident had occurred in Hong Kong, in which some people created an instant messaging group (known as the Hong Kong version of Nth room) for members to exchange video clips that featured their sexual activities with partners. In this connection, will the Government inform this Council:

(1) of the existing legislation targeting the crime of disseminating obscene and indecent articles through social media or instant messaging groups;

(2) of the number of reports received by the Police in each of the past five years involving the crime mentioned in (1); in respect of each of the groups concerned, the number of victims (with a breakdown by gender and age (each group covering 10 years of age)), the number of members, the offences involved, as well as the respective numbers of persons arrested, prosecuted and convicted; the respective maximum and minimum penalties imposed on those convicted;

(3) whether the Police have initiated investigation after the Hong Kong version of Nth room was reported; if so, of the details, including the investigation targets, the evidence-gathering work (including whether they have demanded other government departments, organisations or Internet service providers to provide information) and the progress made, as well as the number of persons arrested to date; and

(4) whether it has comprehensively reviewed if the existing legislation is capable of combating such crimes; if it has reviewed and the outcome is in the negative, whether it will amend the existing legislation or enact new legislation; if it has not, of the reasons for that?

Reply:

President,

Our reply to the various parts of the question raised by the Member, prepared in consultation with the Security Bureau, is as follows:

(1) and (2) According to section 21 of the Control of Obscene and Indecent Articles Ordinance (Cap 390), any person who publishes any obscene article in Hong Kong, whether or not he knows that it is an obscene article, commits an offence and is liable to a fine of \$1,000,000 and to imprisonment for three years. If the servers of the relevant social media and instant messaging groups are hosted in Hong Kong, they would also be subject to regulation.

Moreover, according to section 3 of the Prevention of Child Pornography Ordinance (Cap 579), any person who publishes any child pornography commits an offence and is liable on conviction to a maximum fine of \$2,000,000 and to imprisonment for eight years.

The figures of arrest, prosecution, conviction and sentencing of the above offences in the past five years are at Annex. The Government does not

maintain the other breakdown of figures requested in the question.

(3) Regarding the incident of distribution of pornography and obscene articles in online social media groups in recent months, the Cyber Security and Technology Crime Bureau of the Police has followed up and conducted investigation, and made requests to the relevant social media to remove the group and content. The investigation is ongoing and no one has been arrested at this stage.

The Internet is a public platform filled with a huge amount of information, and can be exploited by criminals as a medium and tool for committing crimes. To effectively prevent, detect, fight and solve these crimes, the Police conduct "cyber patrol" to collect intelligence, and exchange intelligence with Mainland and overseas law enforcement agencies to conduct joint operations as appropriate.

(4) In view of the rapid developments of information technology, computers and the Internet, as well as the potential for them to be exploited for carrying out criminal activities, a sub-committee under the Law Reform Commission (LRC) has commenced a study on cybercrime in January 2019. The work of the sub-committee includes studying the challenges arising from the rapid developments of computers and the internet, reviewing existing legislation and other relevant measures, examining relevant developments in other jurisdictions, and recommending law reforms as necessary. The Security Bureau will pay close attention to the progress of the sub-committee's review.

The LRC also published in April 2019 a report on "Voyeurism and Non-consensual Upskirt-photography" recommending the introduction of a new offence of voyeurism to deal with an act of non-consensual observation or visual recording of another person for a sexual purpose; and a new offence in respect of non-consensual upskirt-photography.

In this regard, the Security Bureau is planning to consult the Legislative Council Panel on Security on amending Crimes Ordinance (Cap 200) to introduce the relevant offences, to be followed by a public consultation. With regard to public views, the Security Bureau will draft the relevant legislative amendment proposal with a view to introducing a bill for the Legislative Council's scrutiny.

As regards the Control of Obscene and Indecent Articles Ordinance, the Commerce and Economic Development Bureau will continue to listen to the views and suggestions of different sectors of the community, and review the existing legislative requirements in a timely manner.

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## **Fatal traffic accident in Tsuen Wan**

Police are investigating a fatal traffic accident in Tsuen Wan in the small hours today (May 13) in which a 38-year-old man died.

At 3.58am, a medium goods vehicle (MGV) driven by the 38-year-old man was travelling along Cheung Pei Shan Road towards Tsuen Wan. When approaching Tsuen Kam Interchange, it reportedly lost control, rammed into crash cushions and then side-turned.

The MGV driver was trapped inside the compartment and was rescued by firemen. Sustaining multiple injuries, he was certified dead at scene.

Investigation by the Special Investigation Team of Traffic, New Territories South is underway.

Anyone who witnessed the accident or has any information to offer is urged to contact the investigating officers on 3661 1300 or 3661 1346.

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## **Labour Department investigates fatal work accident in MTR Hong Kong Station**

The Labour Department (LD) is investigating a fatal work accident in MTR Hong Kong Station this morning (May 13) in which a man died.

The LD immediately deployed staff to the scene upon receiving a report of the accident, and is now conducting an investigation to look into its cause.