

## LCQ17: Cracking down on online defamation and cyber-bullying

Following is a question by Prof the Hon Chow Man-kong and a written reply by the Secretary for Security, Mr Tang Ping-keung, in the Legislative Council today (February 19):

Question:

In September 2023, the Mainland issued the Guiding Opinions on Punishing Illegal and Criminal Acts of Cyberviolence in accordance with the Law (the Opinions), with a view to punishing illegal and criminal activities of cyberviolence in accordance with the law, effectively safeguarding citizens' rights and interests, and maintaining order in the cyberspace. There are views that the Government should draw on the experience and improve the legislation concerned. In this connection, will the Government inform this Council:

(1) of the respective numbers of persons who were prosecuted and convicted in each of the past three years for allegedly disseminating inappropriate information or making inappropriate speech on the Internet (including contravening data protection principles under the Personal Data (Privacy) Ordinance (Cap. 486), and committing offences such as criminal intimidation, blackmail or defamation, etc.), and set out the details of each case by the nature of crimes;

(2) given that it has been reported that the Government has completed a consultancy study on addressing the issue of false information, whether the authorities have examined if the existing legislation is adequate in combating false information, defamation and bullying behaviour in the cyberspace; if they have, of the details; and

(3) given that the Opinions stresses that "the focus must be on cracking down on malicious initiators, organizers, malicious promoters, and those who refuse to take corrective action after repeated education", and crimes committed under specific circumstances (such as cyberviolence committed against a minor or disabled person, and cyberviolence committed by organizing an "Internet water army" and "thugs") "carry a harsh penalty in accordance with the law", whether the authorities will make reference to the aforesaid principles in reviewing and updating the existing legislation, particularly focusing on Internet users who publicly or privately make speech not based on facts and intend to launch malicious attacks, and add a provision to enable victims to recover losses through legal channels from users or service providers who publish defamatory statements, so as to combat defamation and bullying behaviour online in a more targeted manner; if so, of the details; if not, the reasons for that?

Reply:

President,

The Internet is not an unreal world that is beyond the law. As far as the existing legislation in Hong Kong is concerned, most of the laws enacted to prevent crimes in the real world are in principle applicable to the online world, including social media and mobile communication softwares. Any illegal acts involving criminal offences would be regulated by the relevant legislation, regardless of whether such acts occur online.

After consulting the Home and Youth Affairs Bureau (HYAB), the Constitutional and Mainland Affairs Bureau and the Department of Justice (DoJ), consolidated reply in response to the Member's question is provided as follows:

(1) Disseminating inappropriate information or making inappropriate remarks on the Internet may constitute an offence under section 64 of the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO), which provides for disclosure of personal data without consent, commonly known as the "doxxing" offence. Since the offence came into effect in October 2021, as at December 31, 2024, the Office of the Privacy Commissioner for Personal Data arrested a total of 63 persons, with 32 of them being convicted. Meanwhile, the Hong Kong Police Force (HKPF) conducted investigations targeting the offence of doxxing causing specified harm to the data subject or any family member of the data subject under section 64(3C) of the PDPO. As at the third quarter of 2024, 34 persons were arrested, with 18 of them being convicted.

According to the records of the DoJ, no prosecution for "publishing libel known to be false" provided under section 5 of the Defamation Ordinance (Cap. 21) was initiated in the past three years. As of the third quarter of 2024, a total of 1 006 persons have been prosecuted for offences such as criminal intimidation under section 24 of the Crimes Ordinance (Cap. 200) or blackmail under section 23 of the Theft Ordinance (Cap. 210), of which 450 have been convicted.

The above figures include cases committed on the Internet. The Government does not maintain breakdown of online and offline figures.

(2) HYAB has earlier hired consultant to study the experiences and measures of other countries and regions in dealing with false information. According to information provided by HYAB, the Government has completed a consultancy study on how to deal with false information, and will continue to closely monitor the issue of false information. Generally speaking, the dissemination of information by the media in Hong Kong has improved compared to the past, but this does not mean that we do not need to be wary of false information and other online defamation and bullying.

(3) As mentioned in the first part of the reply, the existing laws in Hong Kong for preventing crimes are, in principle, applicable to the online world and the above-mentioned relevant offences are applicable to online conduct.

Making inappropriate comments online may also constitute other offences, such as contravention of the data protection principles as set out in Schedule 1 of the PDPO.

As regards online remarks or information which are not based on facts, there are mechanisms under the existing legal framework demanding the removal of inappropriate messages to combat online defamation and cyber-bullying. For instance, under section 159AAL of the Crimes Ordinance, in cases where intimate images (including falsified ones that have been altered) are published without consent, the court, having regard to the circumstances, may order the defendant or any other persons to remove, delete or destroy the intimate images concerned. Section 66M of the PDPO also empowers the Privacy Commissioner for Personal Data to demand actions to cease disclosure of "doxxing" contents. Upon noticing the circulation of inappropriate messages on the Internet, the HKPF will actively investigate and take enforcement action in a timely manner. They will also require service providers to remove the messages as appropriate. The parties concerned may also apply to the High Court for an injunction as and where necessary.

The Government reinstates that members of the public have to act legally and responsibly when using the Internet, and should not commit any criminal offence. We will devote full efforts to crack down unlawful acts on the Internet, and take enforcement actions in accordance with the existing legislation, as well as to review the applicability and effectiveness of the laws from time to time.