

**Progress Update on the
Implementation of
the Unsolicited Electronic
Messages Ordinance ("UEMO")**

Office of the Telecommunications Authority
13 May 2008




Background of the UEMO

- ▶ To contain the problem of unsolicited electronic messages, the UEMO was enacted in May 2007. It came into effect in two phases.
- ▶ Phase I commenced on 1 June 2007, covering offences concerning –
 - (i) the use of unscrupulous techniques to expand the reach of commercial electronic messages; and
 - (ii) fraudulent and other illicit activities related to the sending of multiple commercial electronic messages.




Background of the UEMO

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- ▶ Full operation commenced on 22 December 2007. Rules for sending commercial electronic messages came into effect, including:
 - (i) to provide accurate sender information and unsubscribe facility in the message;
 - (ii) to honour recipients' unsubscribe requests;
 - (iii) not to send messages to any telephone / fax numbers listed on the do-not-call register;
 - (iv) not to withhold calling line identification information when sending pre-recorded telephone calls and fax messages; and
 - (v) not to use misleading subject heading when sending email messages.



Do-not-call Registers (DNC)

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- ▶ Three DNCs established under the UEMO in phases
 - Fax;
 - Short messages; and
 - Pre-recorded telephone messages.
 - ▶ Members of the Public can register their numbers onto the DNCs to decline unsolicited commercial electronic messages.
 - ▶ Simply call the registration hotline[#] by using the phone or fax machine of the number to be registered.
 - ▶ Registration is free of charge.
 - ▶ Operation of the do-not-call registers is smooth and in an orderly manner so far.

[#] The same hotline number also supports de-registration of numbers and checking of registration status.


Do-not-call Registers (DNC)

- ▶ Protection commencement date will be the tenth working day from the registration date.
- ▶ If unsolicited commercial electronic messages were received at the registered numbers after the protection commences, reports of contravention could be made to OFTA.
- ▶ Registration up to 16 Apr 2008 is:

Fax	Short Message	Pre-recorded Calls	Total
127,065	156,001	375,090	658,156



Do-not-call Registers (DNC)

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- ▶ To access and download the DNC for vetting one's sending list, a sender can apply for a subscription account from OFTA.
 - ▶ The subscription fee, which is set on cost-recovery basis, is \$1,600 per year or \$425 per quarter for unlimited downloading.
 - ▶ As at 16 April 2008, about 220 subscription accounts have been opened.




Enforcement

- ▶ OFTA is the enforcement agency of the UEMO (except for the provisions relating to fraudulent activities, which are enforced by the Hong Kong Police Force).
- ▶ The TA may issue enforcement notices to senders for contravening the sending rules (i.e. Part 2 of the UEMO).
- ▶ Failure to comply with enforcement notice is a criminal offence and the penalties are:
 - on first conviction: a fine up to \$100,000;
 - on second and subsequent conviction: a fine up to \$500,000;
or
 - for a continuing offence: a further daily fine of \$1,000 can be imposed.



Channels to Make Report to OFTA

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- ▶ Many channels to make report to OFTA.
 - Filling in an online report form on OFTA's website.
 - Filling in a report form that can be obtained:
 - via fax;
 - from the web site; and
 - by post.
 - Writing to OFTA.




Reports received Before full commencement of the UEMO

- ▶ Phase 1 (from 1 June 2007 to 21 December 2007): 1446 reports received.
- ▶ Among the reports with investigation concluded:
 - 51% were related to the sending rules which had not come into effect at that time;
 - 35% were not established; and
 - 14% fell outside the scope of the UEMO (e.g. the reported message was not of commercial nature).
- ▶ OFTA has issued advisory letters to the concerned senders and reminded them to observe the sending rules. Upon approach, many were prepared to change their telemarketing practice.



Reports received After full commencement of the UEMO

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- ▶ Full commencement (22 December 2007 to 16 April 2008): 2158 reports received.
 - ▶ Most of the reports received are related to allegations of contraventions of the sending rules. Among the reports received during this period:
 - 71% is about fax; and
 - 15% involves unsolicited email.



Reports received After full commencement of the UEMO

- ▶ To follow up on report, OFTA will contact the sender concerned. Most of the senders were willing to take rectification action immediately (e.g. to suspend the sending of messages in contravention of the UEMO, etc), and OFTA will:
 - Issue a warning letter to the relevant sender (25 warning letters have been issued up to 16 April 2008); and
 - Monitor the situation to ensure that the sender would cease any activities which would contravene the UEMO.
- ▶ For cases involving continuous contravention or the contravention will likely continue or be repeated, the TA may issue an enforcement notice to the sender requiring him to take steps to remedy the contravention.
 - No enforcement notice has been issued so far.



Publicity

- ▶ To enhance public awareness of the full commencement of the UEMO, OFTA has launched a series of publicity, including:
 - TV and radio API;
 - posters at MTR stations;
 - posting advertisements in the newspaper;
 - leaflets; and
 - online promotion.
- ▶ Briefings for various trade and industry organizations and professional sectors have been held.




Anti-Spam Task Force

- ▶ As undertaken in the 2007 Policy Agenda, the Anti-spam Task Force has been set up to provide a platform to share and exchange views on how to further tackle the problem of spam.
- ▶ Objective of the Task Force is to assist the Government to monitor the effectiveness of the legislation as well as other measures in combating the problem of spam.



International Collaboration

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- ▶ Spam reporting channels with other jurisdictions[#] have been established.
 - ▶ OFTA is one of the 11 signatories of the Seoul-Melbourne Multilateral Memorandum of Understanding on Co-operation in Countering Spam. Through this platform, information and intelligence about spam emails are shared with other signatories in the Asia-Pacific region.
 - ▶ OFTA is also prepared to join the London Action Plan (LAP), to further enhance OFTA's connections with overseas enforcement agencies with a view to fostering international cooperation on tackling the problem of spam.



Way Forward

- ▶ Continue to enforce the UEMO and monitor the compliance situation.
- ▶ Publicity will continue to further enhance public awareness of the UEMO. Focus will be directed to:
 - informing the community of the channels for making contravention reports to OFTA; and
 - reminding senders of CEM not to send messages to the telephone/fax numbers listed on the do-not-call registers.
- ▶ Person-to-person marketing calls are currently not regulated under the UEMO.
- ▶ To better understand the extent of the problem of person-to-person telemarketing calls and the views of the public towards such calls, OFTA plans to commission a survey in mid-2008.



- The End -