

28 May 2008

LC Paper No. CB(1)1705/07-08(01)

Miss Erin Tsang  
Chief Council Secretary (1)3  
Clerk to Panel  
Panel on Information Technology and Broadcasting  
Legislative Council Secretariat  
3/F Citibank Tower  
3 Garden Road, Central  
Hong Kong

Dear Miss Tsang,

**Panel on Information Technology and Broadcasting  
Meeting on 13 May 2008:  
Progress Update on the Implementation of  
the Unsolicited Electronic Messages Ordinance**

At the Information Technology and Broadcasting Panel Meeting held on 13 May 2008, Members requested the Administration to provide the number of complaints received in relation to spam messages before the commencement of the Unsolicited Electronic Messages Ordinance (“Ordinance”), in order to compare with the number of reports of contravention received after the commencement of the Ordinance.

2. Since the full commencement of the Ordinance on 22 December 2007 till 19 May 2008, the Office of Telecommunications Authority (“OFTA”) has received 2,784 reports of contravention. The breakdown of reports is as follows.

<b>Type of Message</b>	<b>Numbers of Reports</b>
Fax	1 916
Email	415
Short Message	168
Pre-recorded Telephone Message	220
Others	65
<b><i>TOTAL</i></b>	<b><i>2 784</i></b>

3. Before the full commencement of the Ordinance, there was no legislation in Hong Kong for regulating the sending of commercial electronic messages. With a view to containing the problem of spam messages, OFTA has collaborated with telecommunications service operators (“operators”) to formulate codes of practice as the interim measures. The codes of practice were enforced by the operators.

4. The codes of practice on spam messages cover “unsolicited” messages, which were defined as messages sent for promoting goods or services to a recipient not at the request, or with the agreement or consent, of that recipient, from someone who did not have any established relationship with the recipient. In other words, if the recipient used to be a customer of the message sender, the concerned message would not be covered by the codes of practice. Furthermore, the code of practice for pre-recorded telephone message covered inter-operator messages only. On the other hand, the Ordinance regulates the sending of all messages that have a commercial element. As such, it may not be meaningful to directly compare the number of complaints received under the codes of practice and the number of reports received under the Ordinance.

#### **Number of Complaints Received under the Code of Practice for Fax Messages**

5. In accordance with the “Code of Practice -- Procedures for Handling Complaints against Senders of Unsolicited Fax

Advertisements”, members of the public could request their telecommunications service operators to register their fax numbers onto the “Not-to-Call” list. Senders of fax advertisements should refer to the list and should not send fax messages to the numbers registered onto the list. If members of the public still received junk fax after registration, they could lodge a complaint with their operators. If, after investigation, two complaints were substantiated against a fax sender, the operator could disconnect all lines of this sender at the registered address in accordance with the contract terms.

6. According to the information provided by operators, the number of complaints received by all operators from 2005 to 2007 in relation to unsolicited fax advertisements is as follows:

<b>Year</b>	<b>Number of complaints in relation to unsolicited fax advertisements</b>	<b>Number of complaints concerning numbers which have been registered onto the “Not-to-Call” list</b>
2005	42 462	13 949
2006	20 653	11 021
2007	56 171	6 704

**Number of Complaints Received under the Code of Practice for Pre-recorded Telephone Messages**

7. In accordance with the “Code of Practice on Handling Complaints about Inter-operator Unsolicited Promotional Telephone Calls Generated by Machines”, an operator would start investigation if two or more complaints have been received against the same sender. If it was found that the pre-recorded telephone message was sent by the concerned sender, the operator could terminate the provision of telephony services to the sender in accordance with the contract terms.

8. According to the information provided by operators, the

number of complaints received by operators from 2006 to 2007 in relation to inter-operator unsolicited pre-recorded promotional telephone message is as follow:

<b>Year</b>	<b>Number of complaints in relation to inter-operator unsolicited pre-recorded promotional telephone message</b>
Mar – Dec 2006	358
Jan – Nov 2007	54

### **Email and Short Message**

9. Operators have not provided to OFTA the number of complaints received by them in relation to spam emails and short messages.

Yours sincerely,



( T F So )

for Director-General of  
Telecommunications