

**For Information  
On 16 October 2007**

**Legislative Council Panel  
on Information Technology and Broadcasting**

**Proposed Code of Practice (“CoP”) to be Issued  
under the Unsolicited Electronic Messages Ordinance (“Ordinance”)**

**Purpose**

This paper briefs Members on the proposed CoP to be approved and issued under the Ordinance.

**Background**

2. Under section 29 of the Ordinance, the Telecommunications Authority (“TA”) may approve and issue CoP for the purpose of providing practical guidance in respect of the application or operation of any provision of the Ordinance.

3. Pursuant to section 30 of the Ordinance, a failure on the part of any person to observe any provision of an approved CoP shall not of itself render that person liable to legal proceedings. However, if, in any legal proceedings, the court is satisfied that a provision of an approved CoP is relevant to determining a matter that is in issue in the proceedings, the CoP is admissible in evidence in the proceedings and proof that the person contravened or did not contravene a relevant provision of the CoP may be relied on by any party to the proceedings as tending to establish or negate that matter.

**Proposed CoP**

4. Under the Ordinance and the Unsolicited Electronic Messages Regulation (“Regulation”), the sender of commercial electronic message that has a Hong Kong link is required to observe certain requirements in sending the message. For example,

- the sender must provide, in bilingual form unless otherwise

indicated by the recipient, clear and accurate sender information in the message so that the recipient can identify the sender and have the contact information (e.g. telephone number and address of the sender) in case the recipient wants to contact the sender; and

- the sender must provide, in bilingual form unless otherwise indicated by the recipient, unsubscribe facility statement in the message so that the recipient can send an unsubscribe request to the sender using the unsubscribe facility free of charge if the recipient does not wish to receive any further commercial electronic messages from that sender.

5. With a view to providing practical guidance to senders of commercial electronic messages in relation to the provision of sender information, unsubscribe facility and unsubscribe facility statement in a message, the TA proposed to issue a CoP under the Ordinance. An informal discussion group comprising representatives of different stakeholders was formed and invited to make comments on a draft CoP developed by the TA. Having considered the comments from the discussion group, the draft CoP has been revised and put forward for public consultation. The draft CoP covers the following aspects, namely:

- (a) presentation of sender information;
- (b) choice of unsubscribe facility; and
- (c) presentation of unsubscribe facility statement.

6. In relation to the three aspects above, the draft CoP aims to provide practical guidance such as:

- (a) in respect of presentation of sender information, how the sender information should be presented in different types of messages (e.g. facsimile message, email message, SMS<sup>1</sup> message, pre-recorded telephone call, etc.) such that it would be considered clear. This is particularly relevant for SMS messages in view of the inherent length limitation;
- (b) in respect of unsubscribe facility in different types of

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<sup>1</sup> SMS means short message service.

messages, the kind of unsubscribe facility to be provided, and what kind of unsubscribe facility would be considered as convenient to use and readily available for use by the recipient; and

- (c) in respect of presentation of unsubscribe facility statement, how the unsubscribe facility statement should be presented in different types of messages such that it would be considered as clear and conspicuous. The draft CoP also sets out how the unsubscribe facility statement should be presented in view of the length limitation of SMS messages.

### **Public Consultation**

7. The public consultation paper (at the **Annex**) was issued on 7 September 2007. Views were invited by 8 October 2007. We have informed major trade associations that have an interest in the matter (e.g. commerce chambers, small and medium size enterprises, the marketing sector, the telecommunications sector) as well as the Consumer Council about the consultation and have invited them to make submissions.

### **Way Forward**

8. The TA is now studying the submissions received and would issue the finalised CoP in late October or early November 2007. This would allow the industry about one and a half to two months to review their existing systems and operation mechanisms to ensure compliance with the Ordinance and the Regulation after the planned commencement of Phase Two of the Ordinance on 22 December 2007.

**Office of the Telecommunications Authority**  
**10 October 2007**

**Code of Practice under  
the Unsolicited Electronic Messages Ordinance (Cap. 593)**

**Public Consultation Paper**

**7 September 2007**

**Background of the Ordinance<sup>1</sup>**

Electronic communication is an essential part of business development for many businesses in Hong Kong. However, unsolicited electronic messages are causing a lot of concerns in the community. In order to address the issue, the Unsolicited Electronic Messages Ordinance (“Ordinance”) was enacted in May this year. The Ordinance strikes a balance between respecting the right of a recipient to refuse further unsolicited electronic messages on the one hand and allowing development of legitimate electronic marketing in Hong Kong on the other. The Ordinance comes into effect in two phases.

2. In Phase One (starting from 1 June 2007), those parts of the Ordinance in relation to offences concerning (i) the use of unscrupulous techniques to reach out to more recipients (e.g. use of dictionary attack in sending email messages); and (ii) fraudulent and other illicit activities related to the sending of multiple commercial electronic messages (e.g. hacking into a computer to send multiple commercial emails), have come into effect.

3. In Phase Two (expected to commence towards the end of this year), the rules for sending commercial electronic messages (mainly Part 2 of the Ordinance) will come into effect. Under Part 2, there are certain requirements that senders of electronic messages must observe to comply with the Ordinance (e.g. provision of accurate sender information and unsubscribe facility, etc.).

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<sup>1</sup> For the full text of the Ordinance, please refer to [http://www.legislation.gov.hk/blis\\_ind.nsf/CurAllEngDoc?OpenView&Start=590&Count=30&Expand=590.1#590.1](http://www.legislation.gov.hk/blis_ind.nsf/CurAllEngDoc?OpenView&Start=590&Count=30&Expand=590.1#590.1).

## **Code of Practice under the Ordinance**

4. Under section 29 of the Ordinance, the Telecommunications Authority (“TA”) may approve and issue Code of Practice (“CoP”) for the purpose of providing practical guidance in respect of the application or operation of any provision of the Ordinance. A CoP may consist of a code, standard, rule, specification or any other documentary form of practical guidance prepared by the TA or other body or authority.

5. Pursuant to section 30 of the Ordinance, a failure on the part of any person to observe any provision of an approved CoP shall not of itself render that person liable to legal proceedings. However, if, in any legal proceedings, the court is satisfied that a provision of an approved CoP is relevant to determining a matter that is in issue in the proceedings, the CoP is admissible in evidence in the proceedings and proof that the person contravened or did not contravene a relevant provision of the CoP may be relied on by any party to the proceedings as tending to establish or negate that matter.

6. All the views expressed in this consultation paper are for the purpose of discussion and consultation with the public and industry only. Nothing in this consultation paper represents or constitutes a direction or decision made by the TA, and the consultation contemplated by this paper is without prejudice to the exercise of the TA’s powers under the Ordinance and the Unsolicited Electronic Messages Regulation (“Regulation”)<sup>2</sup> made under section 62 of the Ordinance.

## **The Proposed CoP under this Consultation**

7. Under the Ordinance and the Regulation, the sender of commercial electronic message that has a Hong Kong link is required to observe certain requirements in sending the message. For example, the sender must:

- provide clear and accurate sender information in the message (the relevant provisions are section 8 of the Ordinance as well as sections 5, 6 and 8 of the Regulation); and
- provide an unsubscribe facility and an unsubscribe facility statement in the message in accordance with the prescribed requirements (the relevant provisions are section 9 of the

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<sup>2</sup> The Regulation will come into force in Phase Two (towards the end of this year). For the full text of the Regulation, please refer to <http://www.gld.gov.hk/egazette/pdf/20071123/es220071123108.pdf>.

Ordinance and sections 7, 8 and 9 of the Regulation).

8. With a view to providing practical guidance to senders of commercial electronic messages relating to the practices and standards which should be followed in order to comply with the relevant requirements of the Ordinance and the Regulation mentioned in paragraph 7 above, a draft CoP has been prepared and attached to this consultation paper. This draft CoP covers the following aspects, namely:

- (d) presentation of sender information;
- (e) choice of unsubscribe facility; and
- (f) presentation of unsubscribe facility statement

9. In relation to the three aspects above, the draft CoP aims to provide practical guidance such as:

- (d) In respect of presentation of sender information, how should the sender information be presented in different types of electronic messages such that it would be considered “*clear*”<sup>3</sup>? With the length limitation of SMS message, how should the sender information be presented?
- (e) In respect of unsubscribe facility in different types of messages, what kind of unsubscribe facility should be provided? What kind of unsubscribe facility would be considered as “*convenient to use*”<sup>4</sup> and “*readily available for use by the recipient*”<sup>5</sup>?
- (f) In respect of presentation of unsubscribe facility statement, how should the unsubscribe facility statement be presented in different types of messages such that it would be considered as “*presented in a clear and conspicuous manner*”<sup>6</sup>? With the length limitation of SMS message, how should such statement be presented?

## **Invitation for Comments**

10. The TA would like to solicit views and comments on the draft

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<sup>3</sup> The relevant provision is section 8(1)(a) and (b) of the Ordinance.

<sup>4</sup> The relevant provision is section 9(3)(a) of the Regulation.

<sup>5</sup> The relevant provision is section 9(3)(b) of the Regulation.

<sup>6</sup> The relevant provision is section 9(1)(b) of the Ordinance.

CoP attached to this consultation paper, in particular the questions raised in the CoP. All submissions should be made in writing and reach the TA on or before **8 October 2007**. The TA reserves the right to publish all views and comments and to reveal the identity of each submission. Accordingly, any part of a submission considered commercially confidential should be clearly marked together with the reasons for such claims. The TA will take such markings into consideration in making his decision as to whether or not to disclose such information. Submissions should be addressed to:

Office of the Telecommunications Authority  
29/F Wu Chung House  
213 Queen's Road East  
Wanchai  
Hong Kong  
Attention: Ms. Helen Lai, Senior Regulatory Affairs  
Manager (Communications Technology)  
Fax: 3155 0956  
E-mail: [hyslai@ofta.gov.hk](mailto:hyslai@ofta.gov.hk)

11. An electronic copy of the submission should be provided by e-mail to the address indicated above.

**Office of the Telecommunications Authority**  
**7 September 2007**

[ DRAFT ]

**Code of Practice  
on  
Sending Commercial Electronic Messages under  
the Unsolicited Electronic Messages Ordinance**

**Preamble**

- 1 This Code of Practice (“CoP”) is approved and issued by the Telecommunications Authority (“TA”) under section 29 of the Unsolicited Electronic Messages Ordinance (Cap. 593) (“Ordinance”) for the purpose of providing practical guidance to senders of commercial electronic messages on certain requirements in the Ordinance as well as the Unsolicited Electronic Messages Regulation (Cap. [XXX]) (“Regulation”) relating to sender information and unsubscribe facility as described therein.
- 2 Pursuant to section 30 of the Ordinance, a failure on the part of any person to observe any provision of this CoP shall not of itself render that person liable to legal proceedings. However, if, in any legal proceedings, the court is satisfied that a provision of this CoP is relevant to determining a matter that is in issue in the proceedings, this CoP is admissible in evidence in the proceedings and proof that the person contravened or did not contravene a relevant provision of this CoP may be relied on by any party to the proceedings as tending to establish or negate that matter.
- 3 Sender of commercial electronic message must refer to the statutory requirements in the Ordinance and the Regulation. Without prejudice to the generality of the Ordinance and the Regulation, nothing in this CoP shall absolve any person from complying with the Ordinance or the Regulation or other applicable laws of Hong Kong.



## **Interpretations**

4 In this CoP, unless the context otherwise requires –

“address field”, in relation to an SMS message, means the information that is displayable and attached to the message transmitted to the recipient, but is not part of the main text of the SMS message. For the avoidance of doubt, the address field of an SMS message may or may not be numerical;

“commercial electronic message”, in relation to an SMS message, includes the main text and any displayable information attached to the message transmitted to the recipient;

“SMS message” has the meaning assigned to it by section 3 of the Regulation. For the avoidance of doubt, SMS message does not include multimedia message service (“MMS”) message;

“unsubscribe facility” has the meaning assigned to it by section 9 of the Ordinance;

“unsubscribe facility statement” means the statement required to be included in a commercial electronic message under section 9(1)(a) of the Ordinance.

## **Provision of Accurate Sender Information**

### **5 Relevant Provisions of the Ordinance and the Regulation**

5.1 The sender of commercial electronic message that has a Hong Kong link must provide clear and accurate sender information in the message and the relevant provisions are:

- section 8 of the Ordinance; and
- sections 5, 6 and 8 of the Regulation.

### **6 Guidelines under this CoP**

6.1 If the message is a facsimile, all sender information should be:

- (a) prominently displayed either at the top, or at the bottom,

of the first page of the facsimile message; and

***Explanation (A): Some facsimile messages may contain more than one page. If the sender is required to display all sender information on each page of the facsimile message, this requirement might arguably attenuate the marketing message and possibly increase the number of facsimile pages a recipient would receive. On the other hand, if the sender information is allowed to be displayed on any of the pages, the recipient may not be able to locate the sender information easily. To strike a balance, it is proposed that all sender information should be displayed on the first page of the facsimile message.***

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

- (b) reasonably visible in terms of the font size, position and contrast.

6.2 If the message is an email, all sender information should be:

- (a) prominently displayed either at the top, or at the bottom, of the body of the email message; and
- (b) reasonably visible in terms of the font size, position and contrast/colour.

6.3 If the message is a voice or video telephone call<sup>7</sup>, and

- (a) if the sender information is voice-based, it should be presented at such speed so as to be reasonably audible; or
- (b) if the sender information is text/image-based, it should be:
  - (i) reasonably visible in terms of the font size, position and contrast/colour;
  - (ii) separate and distinguishable from the commercial content of the message; and
  - (iii) displayed long enough for the recipient to read the information.

6.4 If the message is an SMS message, the contact telephone number

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<sup>7</sup> Section 8(2) of the Regulation requires sender information to be presented at the beginning of the message together with the unsubscribed facility statement in the prescribed order.

of the sender should be presented in the main text of the SMS message:

- (a) with a preceding label of either “查詢 EN” or “EN 查詢” (alternative proposal: “查詢 ENQ” or “ENQ 查詢”)<sup>8</sup> if the message is in both Chinese and English;
- (b) with a preceding label of “查詢”, if the message is solely in Chinese;
- (c) with a preceding label of “EN” (alternative proposal: “ENQ”), if the message is solely in English; or
- (d) if the recipient has indicated to the sender that the sender information may be given solely in a language other than Chinese or English, with a preceding label with the meaning of “Enquiry” in that language.

***Explanation (B): The above points (a)-(d) aim at specifying a format for presenting the sender’s contact telephone number, in view of the length limitation of the SMS message.***

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

Apart from the sender’s contact telephone number, the main text of the SMS message must also include other sender information<sup>9</sup>. However, if the address field of the SMS message already displays some of the sender information, for example, the sender’s contact telephone number (with or without the preceding label of “查詢 EN” or “EN 查詢” (alternative proposal: “查詢 ENQ” or “ENQ 查詢”)) or the sender’s name, there is no need to repeat such information in the main text of an SMS message. The reason is that, the address field displayed and attached to the SMS message transmitted to the recipient is considered as part of the “commercial electronic message”. Hence, there is no need to repeat the sender information in the main text if it is already displayed in the address field of the SMS message.

Furthermore, for a long SMS message that is split into two or more transmissions, the sender information must be included in the first transmission of the SMS message.

***Explanation (C): Some SMS messages are too long to be displayed in one single transmission and are therefore split into***

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<sup>8</sup> The draft CoP proposes to use “EN” or “ENQ” as the acronym of “enquiry”. The industry and public are invited to make comments on the proposed acronyms.

<sup>9</sup> For details, please refer to section 5 of the Regulation.

*two or more transmissions. If the sender is required to display the sender information in each transmission of the SMS message, this requirement might arguably attenuate the marketing message and possibly increase the number of messages a recipient would receive, in particular for an SMS message which has length limitation. On the other hand, if the sender information is allowed to be displayed in any of the transmissions, the recipient may not be able to locate the sender information easily. To strike a balance, it is proposed that the sender information should be displayed in the first transmission of the SMS message.*

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

6.5 For a message that is not covered by paragraphs 6.1-6.4 of this CoP,

- (a) if the sender information is voice-based, it should be presented at such speed so as to be reasonably audible; or
- (b) if the sender information is text/image-based, it should be:
  - (i) reasonably visible in terms of the font size, position and contrast/colour;
  - (ii) separate and distinguishable from the commercial content of the message; and
  - (iii) displayed long enough for the recipient to read the information.

For the avoidance of doubt, MMS messages are not covered by paragraphs 6.1-6.4 of this CoP and are therefore subject to the requirements specified in this paragraph.

***Question (1): Are there any other matters or things which you consider should be included in paragraphs 6.1-6.5 to provide more practical guidance to the senders of commercial electronic messages in relation to the presentation of sender information? If yes, please provide reasons for your proposed additions.***

***Question (2): Are there any other matters or things which you consider should be included in paragraphs 6.1-6.5 to provide more protection to the recipients' interests? If yes, please provide reasons for your proposed additions.***

***Question (3): In relation to an SMS message (paragraph 6.4), do you agree with the proposed format of presenting the sender's contact telephone number? Furthermore, do you agree that, in case of a long SMS message that is split into two or more transmissions, the sender information must be included in the first transmission of the SMS message? If not, please propose amendments to this paragraph and provide explanations to substantiate the proposed amendments.***

## Unsubscribe Facility and Unsubscribe Facility Statement

### 7 Relevant Provisions of the Ordinance and the Regulation

- 7.1 A person shall not send a commercial electronic message that has a Hong Kong link unless the message contains an unsubscribe facility and an unsubscribe facility statement that comply with the requirements under:
- section 9 of the Ordinance; and
  - sections 7, 8 and 9 of the Regulation.

### 8 Guidelines under this CoP

8.1 If the message is a facsimile,

- (a) at least one unsubscribe facility should be a Hong Kong facsimile number; and
- (b) the unsubscribe facility statement is considered clear and conspicuous if such statement is:
  - (i) reasonably visible in terms of the font size, position and contrast;
  - (ii) separate and distinguishable from the commercial content of the message; and
  - (iii) placed either at the top, or at the bottom, of the first page of the facsimile message.

***For the reasons for displaying the unsubscribe facility statement on the first page of the facsimile message, please refer to Explanation (A).***

***[This paragraph is for explanatory purpose only and will not be included in the CoP.]***

8.2 If the message is an email,

- (a) at least one unsubscribe facility should be an email address, a web page or a web address; and

***Explanation (D): Section 9(1) of the Regulation requires that at least one unsubscribe facility provided in a commercial electronic message must be capable of receiving an unsubscribe request transmitted from the telecommunications device that is used by the recipient to access the message. If the message received by the recipient is an email, the recipient should be able to use the***

*telecommunications device that is used by him/her to access that email (e.g. a personal computer) to either:*

- *send an email to the sender; or*
- *access a web page through a hyperlink or a web address,*

*in order to make an unsubscribe request to the sender. As such, it is proposed that the sender should have the freedom to choose to provide either an email address, a web page or a web address in the message as the unsubscribe facility.*

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

- (b) the unsubscribe facility statement is considered clear and conspicuous if such statement is:
  - (i) reasonably visible in terms of the font size, position and contrast/colour;
  - (ii) separate and distinguishable from the commercial content of the message; and
  - (iii) placed either at the top, or at the bottom, of the body of the email message.

8.3 If the message is a voice or video telephone call,

- (a) at least one unsubscribe facility should be activated by key input of a specified one-digit number, and should be ready for use immediately after the unsubscribe facility statement has been given and should be available throughout the duration when the rest of the message is being played. Furthermore, the recipient should be considered as having sent the unsubscribe request to the sender once the specified key has been pressed by the recipient when the rest of the message is being played; and

*Explanation (E): Section 9(3)(a) & (b) of the Regulation requires that every unsubscribe facility specified in a commercial electronic message must be convenient to use and readily available for use by the recipient of the message. If the message received is a pre-recorded voice or video telephone call, the most convenient way for the recipient to make an unsubscribe request would be by pressing a number key when the rest of the message is being played. Furthermore, to make an unsubscribe request to the sender, the recipient should not be required*

*to do more than pressing the specified number key. In other words, if the recipient is told to dial another telephone number for making an unsubscribe request, this unsubscribe facility will be considered unacceptable under this CoP.*

*Some recipients may wish to listen to the commercial content of the message before deciding whether to make the unsubscribe request. In order to allow for more flexibility to the recipient, the recipient should be able to unsubscribe by pressing the number key at any time throughout the playing time of the message after the unsubscribe facility statement has been given.*

*It is further proposed that the key input should be a one-digit number as it is expected that the general public would find it easier to locate a number key, rather than the “\*”, “#” or “+” key, or a sequence of keys, on the phone key pad.*

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

- (b) the unsubscribe facility statement<sup>10</sup> is considered clear and conspicuous:
  - (i) if it is presented at such speed so as to be reasonably audible when such statement is voice-based; or
  - (ii) if it is:
    - (A) reasonably visible in terms of the font size, position and contrast/colour;
    - (B) separate and distinguishable from the commercial content of the message; and
    - (C) displayed long enough for the recipient to read the statement,when such statement is text/image-based.

8.4 If the message is an SMS message, the unsubscribe facility statement is considered clear and conspicuous if it is displayed in the main text of the SMS message in the form of a Hong Kong telephone number serving as the unsubscribe facility and is:

- (a) preceded by the label of either “取消 UN” or “UN 取消” (alternative proposal: “取消 CNL” or “CNL 取消”)<sup>11</sup>, where

<sup>10</sup> Section 8(2) of the Regulation requires unsubscribe facility statement to be presented at the beginning of the message together with the sender information in the prescribed order.

<sup>11</sup> The draft CoP proposes to use “UN” and “CNL” as the acronyms of “unsubscribe” and “cancel” respectively. The industry and public are invited to make comments on the proposed acronyms.



- the message is in both Chinese and English;
- (b) preceded by a label of “取消”, where the message is solely in Chinese;
- (c) preceded by a label of “UN” (alternative proposal: “CNL”), where the message is solely in English; or
- (d) if the recipient has indicated to the sender that the sender information may be given solely in a language other than Chinese or English, preceded by a label with the meaning of “Unsubscribe” in that language.

***Explanation (F): In view of the length limitation of an SMS message, the above points (a)-(d) aim at specifying a format for presenting the telephone number served as the unsubscribe facility.***

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

For a long SMS message that is split into two or more transmissions, the unsubscribe facility statement must be included in the first transmission of the SMS message.

***For the rationale behind the proposal of displaying the unsubscribe facility statement in the first transmission of the SMS message, please refer to Explanation (C).***

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

Furthermore, if the address field of the SMS message already displays the telephone number serving as the unsubscribe facility (with or without the preceding label of “取消 UN” or “UN 取消” (alternative proposal: “取消 CNL” or “CNL 取消”)), there is no need to repeat such number in the main text of the SMS message.

8.5 For a message that is not covered by paragraphs 8.1-8.4 of this CoP,

- (a) if the unsubscribe facility statement is voice-based, it is considered clear and conspicuous if it is presented at such speed so as to be reasonably audible; or
- (b) if the unsubscribe facility statement is text/image-based, it is considered clear and conspicuous if it is:
  - (i) reasonably visible in terms of the font size, position and

- contrast/colour;
- (ii) separate and distinguishable from the commercial content of the message; and
  - (iii) displayed long enough for the recipient to read the statement.

For the avoidance of doubt, MMS messages are not covered by paragraphs 8.1-8.4 of this CoP and are therefore subject to the requirements specified in this paragraph.

***Question (4): Do you agree with the unsubscribe facilities proposed in paragraphs 8.1(a), 8.2(a) and 8.3(a)? If not, please explain in details and make alternative proposal(s).***

***Question (5): Are there any other matters or things which you consider should be included in paragraphs 8.1(b), 8.2(b), 8.3(b), 8.4 and 8.5 to provide more practical guidance to the senders of commercial electronic messages in relation to the presentation of unsubscribe facility statement? If yes, please provide reasons for your proposed additions.***

***Question (6): Are there any other matters or things which you consider should be included in paragraphs 8.1(b), 8.2(b), 8.3(b), 8.4 and 8.5 to provide more protection to recipients' interests. If yes, please provide reasons for your proposed additions.***

***Question (7): In relation to an SMS message (paragraph 8.4), do you agree with the proposed format of presenting the telephone number which serves as the unsubscribe facility? Furthermore, do you agree that, in case of a long SMS message that is split into two or more transmissions, the unsubscribe facility statement must be included in the first transmission of the SMS message? If not, please propose amendments to this paragraph and provide explanations to substantiate the proposed amendments.***

8.6 If a telephone number or a facsimile number is provided as the unsubscribe facility, the sender should not drop or busy out more than 10% of incoming calls to this telephone or facsimile number, measured over a period of 24 hours per day for 5 consecutive calendar days.

***Explanation (G): Section 9(1)(f) of the Ordinance requires that the unsubscribe facility should be reasonably likely to be***

*capable of receiving the recipient's unsubscribe request at all times during a period of at least 30 days after the message is sent. Furthermore, section 9(3)(b) of the Regulation requires that an unsubscribe facility must be readily available for use by the message recipient. If a telephone number or a facsimile number is provided as an unsubscribe facility but recipients are not always able to get connected to the number in order to make an unsubscribe request, this number may not be considered "readily available for use". In order to set an objective minimum requirement, it is proposed that the sender should not drop or busy out more than 10% of the incoming calls, measured over a period of 24 hours per day for 5 consecutive calendar days.*

*[This paragraph is for explanatory purpose only and will not be included in the CoP.]*

*Question (8): Do you agree with the performance level of the unsubscribe facility specified in paragraph 8.6 (i.e. should not drop or busy out more than 10% of incoming calls to the telephone or facsimile number measured over a period of 24 hours per day for 5 consecutive calendar days)? If not, please propose amendments to the performance level and provide explanations to substantiate the proposed amendments.*

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