

From: Brian Coak
To: panel_itb@legco.gov.hk

LC Paper No. CB(1)888/09-10(01)
(English version only)

Date: Tuesday, January 12, 2010 10:35PM
Subject: Debt Collectors & Unidentified & Cold Calls

Dear Hon. Lee Wing Tat

Happy New Year! Long time no see! However, you are always visible.

I was reading the SCMP today 12.1.2010 regarding proposals to regulate paid messages to mobile phones. You are quoted as saying you criticised the 'code' as 'toothless' because it was voluntary. We may not have always agreed in the past over a few things but here I agree with you and a code will not work in Hong Kong. The people here are too smart and lack discipline!

Please see a similar UK problem and code of practice:

"The British Parking Association

The Association represents private firms and only its members can access the DVLA database to trace vehicle owners and send out fines. Even it admits a more robust system is needed.

Its chief executive Patrick Troy said: "There is no law which requires operators of car parks to abide by any kind of code of practice.

"That is why we have introduced a code of practice for our members and they are required to comply with that code as a condition of their membership. We are calling on the government to look at this and to consider regulating car parks."

Mr Khan said it was clearly time for the government to step in:

"What the current bill going through parliament is saying is that there will now be hopefully be an independent complaints mechanism available so people who are aggrieved can make a complaint to an independent appeals panel."

The AA welcomed the move but said it hoped the complicated legislation would get through parliament before the election, or motorists would continue to be victims of unscrupulous operators".

Also may I take this opportunity to bring to your attention and the panel another problem and frequent abuse over the telephone i.e. persistent and abusive unidentified and 'cold calls' used by debt collectors. Please see attached:

1. My letter dated 31.12.2009 to United Finance Allied Finance Ltd. cc to the CP; Law Reform Commission; OFTA; Registrar Companies(Money Lenders Unit)
2. My letter dated 8.1.2010 to the Secretary Law Reform Commission
3. My letter dated 10.1.2010 to Secretary Security Bureau.

I appreciate the telecommunication field is highly technical. However, it appears to me and other members of the public are being abused simply because the government is unable to coordinate the various departments and private companies to protect the public from abuse and their privacy and from being ripped off with scams even

now attacking the elderly.

I would be appreciate if I could receive an acknowledgement how the panel views these problems and what can be expected to improve more control over abuse through the telephone line system?

Sincerely

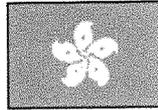
Brian Coak

Attachments:

Letter to UA Finance Ltd
31.12.2009.pdf

Letter to Secretary LRC
8.1.2010 Re Debt.pdf

Letter to Secretary Security
Bureau 10.1.2010.pdf



Website: <http://web.me.com/briancoak>

31.12.2009

United Asia Finance Ltd. 21/F Allied Kajima Bldg.138 Gloucester Road Wanchai HK

(Tel:2681-8214)

By Fax: 2521 2675 (2 pages)

Complaint Re Debt Collectors & Unidentified Nuisance Calls.

Dear Sirs. (Attn. Mr. Billy Kwan) Credit Control Dept.

I regret that my former domestic helper appears to have failed in repaying a debt to your company. However, I was unaware of her debt until much later and only after I was plagued by unidentified nuisance calls at my home. The police is aware that I gave my former helper interest free loans for her family needs to avoid approaching outside money lenders.

Regarding your reply dated 19 December 2009 to my letter of complaint dated 12.12.2009 you have admitted and confirm you have been giving instructions to the following debt collector agents i.e. Aaron Credit Management Ltd.; Magic Team Credit Management Ltd. & Rankmex Consultants Ltd.

I wish to point out that your agents above may have conducted improper practices in debt collection and hereby may have committed prima facia criminal offences i.e. illegal and persistent nuisance telephone calls under Section 20 of the Summary Offences Ordinance. (Cap 228) & threats under Section 34 Crimes Ordinance (Cap 200) the Laws of Hong Kong. The Hong Kong Police have now been informed of the relationship between your company and your debt collectors.

Would it be possible for you to tell me:

1. Have your staff ever held unscheduled visits to these debt collectors above to satisfy the operational integrity of those employees and if so and when and do you hold a complaint register and have made reports to the police and the placement of telephone calls without meaningful disclosure of the caller's identity ?
2. Can you confirm if you have thoroughly looked into those agents to see if they have sub contracted to any third party such as triads at unconscionable interest rates?

Your agents were clearly informed by me in writing that Mrs. Gonzales was ordered to leave Hong Kong before 15 May 2009 by the Immigration Department and the Police informed accordingly. Yet

I received so many persistent unidentified calls amounting to harassment from May to December 2009 and even earlier.

You simply state now that you have given instructions to the above debt collectors to contact Mrs. Gonzales for discussion? That is not good enough! How do your debt collectors expect to contact her for discussion when she left the Philippines since early May 2009? I received unidentified calls this month December 2009 possibly from your debt collectors? If so I regard this as intimidation and a serious matter.

You are the principal lender and yet you have allowed these persistent abusive tactics to continue over so many months! I assume your company holds a licence under the Money Lenders Ordinance. (Cap 163) Laws of HK?

May I remind you of your obligations and responsibilities under the Money Lenders Ordinance and penalties and disqualification under section 32?

Can I expect an early reply and your further assurances in writing from you that I will not receive any further unidentified telephone calls, demands or communications regarding my former helper's debt from any debt collector?

I intend to raise this issue of this matter to the highest levels within the Hong Kong government authorities, as I believe this issue of unsolicited & persistent unidentified nuisance calls and triad phone loan scams is totally out of control and increasing. Therefore I consider it a matter of general public importance requiring immediate attention and reform with a view to licensing debt collectors and further control of licence money lenders!

Thank you.

I am sending this letter dated 31.12.2009 to the government authorities below for their follow up and reply.

Yours sincerely

Brian L. Coak

CC Hong Kong Police North Point Division.(Attn. Chief Inspector Andrew Cheng)

Fax:28805437

CC Mr.Tang King Shing Commissioner of Police

Fax:28656546

CC Secretary The Law Reform Commission

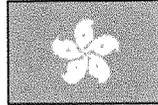
Fax: 2865 2902

CC OFTA

Fax:2803 5110

CC Registrar Companies Registry (Money Lenders Unit) Fax:2526 9495)

Brian L. Coak LLB. (Hons) London



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8.1. 2010

Dear Mr. Stoker

By Email to LRC Secretary: 2010/1/8 HKLRC <hklrc@hkreform.gov.hk>

Thank you. I have read the LRC reports and recommendations on debt collecting. I appreciate the fact that the LRC recommended a debt collecting licensing system be imposed. I have also read the Administration's weak response in 2002. It was a typical response from the government of the time and buried it! That is history. But we are now in a new decade and life has changed radically since then!

We have all suffered from the 2008 economic tsunami the worst in many decades. More unemployment, 500,000 new poor Filipino and Indonesian maids in HK. Their parents and children have no government or subsidized medical support. The maids are forced to send cash overseas or they go without medication or attention. Many have little choice to go to the HK Shylocks who make sure they have their piece of flesh sometimes in kind. While they of course should repay the debt they are the first ones that fall prey to abusive tactics. I have just given my maid an interest free loan to assist a family member in the Philippines who needs an operation to avoid her approaching HK Shylocks and persistent abusive debt collectors. That is reality!

The LRC found triads were operating as debt collectors or in cahoots with other debt agencies used by the licensed money lenders and used abusive & persistent tactics to recover debts.

The OECD expects unemployment to reach 57m in the rich countries by the end of next year.

Is this government tackling the lag effect adequately? How many people are now being caught in the debt compound trap.

French president Nicolas Sarkozy, with a good nose for popular moods, says: "We must overhaul everything. We cannot have a system of rentiers and social dumping under globalisation. Either we have justice or we will have violence. It is a chimera to think that this crisis is just a footnote and that we can carry on as before."

Since then the use through the telephone lines and mobile phones have increased immeasurable and out of sight.

It is said that criminals are now well ahead of government telecommunication & cyber services control to the extent that well funded terrorists are now said to be able to break encryption algorithm & frequencies in mobile phones. The government here has fallen behind so even petty

criminals such as abusive debt collectors are able to breach the telephone blocking systems so easily now.

I wish to make a point that petty nasty people are running rings around the HK government departments including the police making it more difficult for the police to act. You may have seen the UK Regulation of Investigatory Powers Act (RIPA) which I will send to the Commissioner of Police shortly once I have received his reply. I trust that the LRC are being kept in view of the problem ?

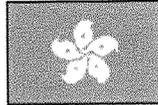
I have seen some of the SCMP articles regarding unidentified calls and scams particularly preying on the elderly. I especially liked the SCMP cartoon on 'cold calls' and joining the voluntary code of practice. It is the joke of the year 2009!

I intend to follow this up with the Security Bureau who appear passive despite things have changed!

Sincerely

Brian Coak

Brian L. Coak LLB. (Hons) London



Website: <http://web.me.com/briancoak>

10.1. 2010

Dear Ms. Chang

I was the innocent victim and plagued by abusive tactics by debt collectors over many months. Despite the matter was reported to North Point Police station and I volunteered a formal written statement in April 2009 the Police failed to deal with the case satisfactorily. Consequently, I made a complaint to CAPO. The CAPO complaint was only settled in November 2009 after the DC of North Point Police Station gave me a personal apology and agreed the matter was handled badly.

I have continued to pursue this problem myself, as I am of the view that this issue is a matter of public interest. I am of the view that licensed money lenders are failing in their responsibility by short cutting the judicial process by engaging debt collecting agencies many of whom work on the fringes of the law with little or no control. Consequently, these debt collectors are increasingly using abusive and persistent tactics to recover debts and other scams over the phone. You will be aware from the local recent media that there have been many complaints involving triads and numerous scams over the phone.

In 2002 the Law reform Commission recommended that debt collectors should be licenced and legislate further criminal offences and penalties. At the time the Administration ducked it!

Eight years on times have changed! As my wife and I have been victims of abusive and persistent debt collectors I am of the view that time has come around again that debt collectors should be licensed and the telephone authorities must make greater efforts in tightening up on unidentified and 'cold calls'. The UK police have recently reported increased numbers of burglary cases after receiving complaints of many 'cold calls'.

Please see attached my apropos letters to United Asia Finance and my letter to the LRC.

I am requesting the Administration to review the issue with the related government departments and telephone operators with a view to make improvements and greater protection for ordinary members of the public. Thank you.

Sincerely

Brian Coak

2 attachments — [Download all attachments](#)

Letter to UA Finance Ltd 31.12.2009.pdf

95K [View](#) [Download](#)

Letter to Secretary LRC 8.1.2010 Re Debt.pdf