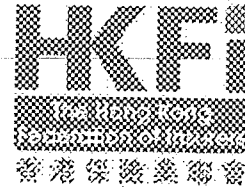


立法會CB(2)1212/11-12(01)號文件
LC Paper No. CB(2)1212/11-12(01)



Ref: Lv032/12

URGENT AND BY FAX ONLY (2521 8702)

23 February 2012

Ms Adeline Wong
Under Secretary for Constitutional and Mainland Affairs
Constitutional and Mainland Affairs

Dear Adeline

Bills Committee on Personal Data (Privacy) (Amendment) Bill 2011

We understand that the Bills Committee would meet tomorrow on the subject matter.

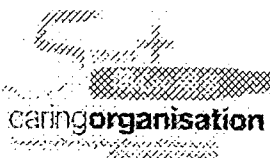
We would like to raise our serious concern on paragraphs 9 and 24 in LC Paper No. CB(2)1169/11-12 (01). The paper states that the Privacy Commissioner does not want to go so far as to adopt an opt-in system, but the proposal is clearly an opt-in system.

The paper acknowledges that requiring written communication between the parties may be impractical and therefore proposes to get rid of the writing requirement when the customer is subsequently objecting - but to keep the requirement for the customer to opt-in in writing.

In particular, paragraph 9 states that "*Instead, we propose that if a data user did not intend to use or provide a data subject's personal data to others for use in direct marketing at the time of data collection but intends to do so subsequently, he can only do so if he has provided in writing the information and response facility as required in paragraph 2 above.....and **received a written reply**....from the data subject indicating that the data subject does not object to the data user doing so.*"

In short, the process will be as follows:

- ▲ an insurer must give details about proposed direct marketing to customer in writing;
- ▲ if the customer confirms no objection in writing, the direct marketing can proceed;
- ▲ if the customer does not respond, or responds but not in writing, the direct marketing cannot proceed;
- ▲ if the customer subsequently objects (in writing or otherwise), the direct marketing must cease.



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This proposal would suffocate the direct marketing industry as it is very unlikely that any customer will take the trouble to respond in writing confirming he has no objection.

We urge that you give due consideration to the impact the proposal will have on the direct marketing industry.

Yours truly

A handwritten signature in black ink, appearing to read 'Harry Wong', is written over a faint, circular stamp or watermark.

Harry Wong
Chairman of the Task Force on the
Review of the Personal Data (Privacy) Ordinance

c.c. The Honourable K P Chan
The Commissioner of Insurance
HKFI Governing Committee Members