

Asia Digital Marketing Association's Submission on:

The Bills committee on personal Data (Privacy) (Amendment) Bill 2011

Prepared by:
Dominic Powers
19 November, 2011

Summary of ADMA's Position:

The Asia Digital Marketing Association (ADMA) is a non-profit organisation with a membership base spanning the full range of the digital marketing ecosystem, from portals and publishers, to advertisers, agencies, technology solutions providers, and research houses. Our membership includes international organisations such as Microsoft Advertising, Google, Turner and Hewlett Packard, as well as local organisations such as dotAsia and SCMP.

Many of our membership provide free services to consumers such as web-based email and communication services, as well as free content. These services are provided through a consent-based opt-out relationship that in turn allows the service provider to present the consumer with relevant advertisements and offers from third parties based on the consumer's profile and data collected throughout the life of the relationship. Consumers at any time can terminate the relationship.

The ADMA believes that legislation is an important part of the overall solution to protecting personal data and consumer privacy; however it is not the entire solution, especially in Hong Kong where we already have a world-class privacy ordinance, and where the free economic environment favors minimal legislation.

Legislation drafted through consultation with industry associations, coupled with an adherence to globally accepted best practices around data privacy and a wide-reaching consumer education programme, is the best solution for not only protecting the consumers' right to choose, but also providing businesses, particularly in the SME sector, the right to do business in Hong Kong.

We do recognize the shortcomings of any legislation when it comes to truly protecting the rights of consumers. Those marketers that are belligerent in their abuse of the rights of consumers will continue to be so with or without stronger legislation in place, and enforcement of existing legislation is as important as looking to expand relevant legislation.

The ADMA would support legislation that, amongst other things, i) promotes an **Opt-Out** mechanism for data collection, as is the requirement of the **Unsolicited Electronic Messaging Ordinance** enacted in 2008 and that went through many rounds of public and industry consultation, and ii) helps the consumer to clearly understand not only their rights, but also their obligations as an interested party in agreements that they enter into with organisations that use personal data for direct marketing purposes.

As legitimate marketers, the members of the ADMA are already adhering to the following best practices:

Notice: A marketer will state clearly what information they collect and what they intend to do with this information, including for marketing purposes

Transparency: The marketer should be a clearly visible entity and should: "Say what they do, and do what they say".

Choice: The consumer should have the right, at all times, to chose what they receive and when, and have the ability to unsubscribe, or opt-out, from any or all communications, no matter the channel.

The ADMA will support legislation that promotes, supports, and regulates activities based on these three principles.

NOTE ON COMMENTS MADE BY THE OFFICE OF THE PRIVACY COMMISSIONER FOR PERSONAL DATA IN VARIOUS STATEMENTS RELATED TO THE AMMENDMENT OF THE BILL

In many of the PCPD's comments since the Octopus issue, the office makes reference to the "sale" of data. Again we must object to the use of this term. Members of the ADMA and other organisations such as the Hong Kong Direct Marketing association, who are the organisations that the PCPD makes reference to with these comments, do not sell consumer data. Data is typically made available for rental on an unseen basis, and is used in strict adherence to the purposes for which it was collected and for which the member organisations have consent from the consumer.

CONTACT

For further information or clarification please contact

Dominic Powers
Vice-Chairman, Asia Digital Marketing Association
SVP & Managing Director, APAC & EMEA, Epsilon International
dpowers@epsilon.com
Tel: +852 3589 6308

<END>