

**For discussion
on 12 January 2015**

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

**Review on the Regulation of Person-to-Person Telemarketing Calls
("P2P calls")**

Purpose

This paper seeks to brief Members on the Administration's review on the regulation of P2P calls and the proposed way forward.

Background

2. The Unsolicited Electronic Messages Ordinance ("UEMO") (Cap. 593) came into full operation in December 2007. It regulates the sending of commercial electronic messages, including pre-recorded phone messages, short messages, fax messages, emails, etc.

3. Most business enterprises in Hong Kong are small and medium enterprises ("SMEs"). They rely on electronic communications as one of a major means of marketing. To avoid affecting the development of normal electronic marketing activities, especially that of the SMEs, person-to-person telemarketing calls ("P2P calls") were excluded from the regulatory ambit when the Administration formulated the UEMO.

The Self-Regulatory Scheme

4. Nonetheless, it was recognized that some members of the public may regard P2P calls as causing nuisance in certain circumstances. To minimise the nuisance caused to the public by P2P calls, the Administration has since end 2010 actively encouraged the trade

associations of the four sectors that were found to have made most of the P2P calls¹ (finance, insurance, telecommunications and call centres) to draw up and issue their respective codes of practice on P2P calls (“industry codes”) and to encourage the industries concerned to adopt the best practice recommended in their industry codes. The best practices recommended in the industry codes cover the hours of calling, the need to reveal the identity of telemarketers and honour unsubscribe requests, etc. Since June 2011, the four trade associations have already joined the self-regulatory scheme on P2P calls, and such calls made by their members are regulated by their industry codes. The Administration has been maintaining close communications with the relevant trade associations with a view to better understanding the application of the industry code and the development of the relevant trade.

5. Recently, the finance sector has improved its industry code, requiring telemarketers to take the initiative in providing their names and official contact numbers of their companies to the recipients, as well as stipulating the practices to be adopted if there is a need to obtain more information from the recipients or arrange meetings. These aim at allowing the recipients to verify the identities of the telemarketers.

Latest Statistics on Complaints and Enquiries related to P2P calls

6. The overall numbers of enquiries and complaints related to P2P calls received by the Commerce and Economic Development Bureau and the Office of the Communications Authority have decreased in recent years. The overall numbers in 2012, 2013 and 2014 are 2 010, 1 693 and 1 215 respectively, among which enquiries comprise a substantive portion. We believe such decrease to a certain extent reflects the impact of the industry codes for P2P Calls.

Regulation of P2P Calls

7. There have been ongoing discussions in the community on

¹ According to the surveys conducted by the then Office of the Telecommunications Authority in 2008 and 2009, these sectors were found to have made more than 90% of P2P calls.

whether there is a need to enhance the existing regime by for example, legislative means, in addition to the present self-regulatory arrangement. Some also suggest setting up a registration system for companies engaging in the business of making P2P Calls, or assigning specific prefixes of phone numbers for such telemarketing activities.

8. The issue in relation to P2P calls is complicated and involves, *inter alia*, issues relating to the use of personal data, possible nuisance caused by the calls, limiting both legitimate marketing activities and free flow of information. The Administration maintains an open-mind towards the suggestion of strengthening the regulation of P2P calls. However, one should recognize that changes to the existing regime including tightened regulatory measures may have an impact on the employment and livelihood of some tens of thousands who engage in legitimate marketing activities², as well as commercial transactions that are facilitated by the relevant legitimate marketing activities carried out by various enterprises, particularly SMEs. The effectiveness of the regulatory measures also needs to be addressed. Therefore, when exploring the way forward in respect of the regulation of P2P calls, careful and thorough consideration of these relevant factors must be taken and a measured and proportionate approach should be adopted.

9. As far as we understand, the treatment of P2P calls in different jurisdictions varies. While some do not regulate P2P calls and leave everything to the market, some have established do-not-call registers. Amongst those that regulate P2P calls, the coverage and the nature of the enforcement agency also varies from jurisdiction to jurisdiction. It appears that where a formal regulatory framework in respect of P2P calls is in place, the mode of regulation depends on the particular circumstances of the jurisdiction.

10. We note there are on-going discussions in the community on enhancing the regulation of P2P calls. Given the complexity of the issues involved as highlighted above, we find it prudent and necessary to undertake a comprehensive landscaping exercise before contemplating the way forward. We are about to commission a Consultant to conduct a survey (“Survey”) with a view to soliciting the views of the public, the

² According to the surveys conducted by the then Office of the Telecommunications Authority in 2008 and 2009, some 20,000 employees were engaged in making P2P calls.

business sector and the industry on the regulation of P2P calls, as well as the employment and business situations of the industry. The Administration will take the opportunity to obtain an update on the regulatory measures, if any, taken by other jurisdictions on P2P calls.

Way Forward

11. It is expected that the Survey will be completed in the first half of 2015. In the light of the results of the Survey, the Administration will carefully deliberate on the way forward, including whether to conduct a consultation exercise on the regulation of P2P calls and the specific mode of doing so if considered necessary.

12. Meanwhile, the Administration will continue to closely monitor the implementation of the self-regulatory scheme and closely collaborate with the trade associations.

Conclusion

13. We welcome Members' views and advice on the above review of the regulation of P2P calls and the proposed way forward.

Communications and Technology Branch
Commerce and Economic Development Bureau
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