

立法會
Legislative Council

LC Paper No. CB(4)816/15-16(06)

Ref. : CB4/PL/ITB

Panel on Information Technology and Broadcasting

Meeting on 11 April 2016

**Updated background brief on review on regulation of
person-to-person telemarketing calls**

Purpose

This paper summarizes previous discussions by Members on the survey on regulation of person-to-person telemarketing calls ("P2P calls").

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. When sending commercial electronic messages, senders must comply with the rules of sending commercial electronic messages prescribed under UEMO.

3. Under section 31 of UEMO, the Communications Authority may establish and keep one or more "Do-not-call Registers" ("DNCs"). At present, three registers, namely, a DNC for fax ("Fax Register"), a DNC for short messages ("Short Messages Register") and a DNC for pre-recorded telephone messages ("Pre-recorded Register"). Short Messages Register generally covers messages of Short Message Service and Multimedia Messaging Service sent over mobile network as well as short messages sent over fixed network. Pre-recorded Register generally covers pre-recorded voice and video calls. A person may register his or her telephone and fax numbers onto the relevant DNC. Senders of commercial electronic messages are not allowed under UEMO to send any further commercial electronic messages to the registered number from the 10th working day after the number is listed in the relevant DNC unless consent has been given to this sender to send such messages.

4. At present, UEMO does not cover P2P calls. It is argued that most business enterprises in Hong Kong are small and medium enterprises which rely on electronic communications as a means of marketing. Regulating P2P calls may affect the development of normal electronic marketing activities. On the other hand, there have been comments that P2P calls are causing nuisance in certain circumstances. In response, the finance, insurance, telecommunications and call centre sectors have drawn up and issued respective codes of practice on P2P calls and joined the self-regulatory scheme on P2P calls since June 2011.

5. In considering whether further enhancement should be introduced to the existing regime of regulating P2P calls, the Administration has commissioned a consultant to conduct a survey in 2015 to solicit the views of the public, the business sector and the industry on the regulation of P2P calls, as well as the employment and business situations of the industry. The survey would cover an update on the regulatory measures, if any, taken by other jurisdictions on P2P calls.

Previous discussions

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6. At the Panel meeting on 12 January 2015, the Administration briefed the Panel on its review on the regulation of P2P calls and the proposed way forward. Some Panel members considered that the review on the regulation of P2P calls was long overdue and that Hong Kong's regulatory regime lagged behind international practices due to the Administration's procrastination. They also commented that the current self-regulatory regime was ineffective and susceptible to abuse. Proper legislation governing P2P calls was necessary.

7. The majority of members considered that P2P calls were ineffective in achieving sales but were causing inconvenience to the public. There was a genuine need to enhance the existing regulatory regime. On the other hand, a few members considered that a balance should be struck between the need to minimize the nuisance caused by P2P calls and the economic benefits brought by such calls through the creation of business and employment opportunities. These members suggested that the Administration should study the economic impact brought about by P2P calls to the public as well as the practices of overseas jurisdictions in handling such calls. Some other members suggested that Hong Kong should follow other countries such as Singapore, the United Kingdom and Canada in establishing DNC registers to regulate such calls.

8. The Administration advised that a comprehensive landscaping exercise should be conducted to ascertain the actual situation, including manpower and profile of the industry practitioners using telemarketing calls, before

contemplating the way forward. The Administration would report findings of the exercise to the Panel by end of 2015 or early 2016.

Latest position

9. The Administration will report to the Panel on 11 April 2016 on the findings of the survey on P2P telemarketing calls.

Relevant papers

10. A list of the relevant papers with their hyperlinks is at:

<http://www.legco.gov.hk/yr14-15/english/panels/itb/agenda/itb20150112.htm>
<http://www.legco.gov.hk/yr14-15/english/panels/itb/minutes/itb20150112.pdf>

Council Business Division 4
Legislative Council Secretariat
6 April 2016