

**立法會**  
**Legislative Council**

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**Panel on Information Technology and Broadcasting and  
Panel on Commerce and Industry**

**Minutes of joint meeting held on  
Tuesday, 16 April 2019, at 10:30 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Members of the Panel on Information Technology and  
Broadcasting

- Dr Hon Elizabeth QUAT, BBS, JP (Chairman)
- \* Hon Charles Peter MOK, JP (Deputy Chairman)
- Hon James TO Kun-sun
- \* Hon WONG Ting-kwong, GBS, JP
- Hon CHAN Kin-por, GBS, JP
- Hon Paul TSE Wai-chun, JP
- Hon Claudia MO
- \* Hon MA Fung-kwok, SBS, JP
- \* Hon CHAN Chi-chuen
- Hon YUNG Hoi-yan
- \* Hon CHAN Chun-ying, JP
- Hon HUI Chi-fung

Members of the Panel on Commerce and Industry

- # Hon YIU Si-wing, BBS (Chairman)
- # Hon Alvin YEUNG (Deputy Chairman)
- Hon Steven HO Chun-yin, BBS
- Hon WU Chi-wai, MH
- Hon Christopher CHEUNG Wah-fung, SBS, JP
- Dr Hon CHIANG Lai-wan, SBS, JP

Hon Jimmy NG Wing-ka, JP  
Hon SHIU Ka-fai  
Hon LAU Kwok-fan, MH

**Members absent** : Members of the Panel on Information Technology and Broadcasting

Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
\* Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
\* Hon CHUNG Kwok-pan  
\* Hon CHU Hoi-dick

Members of the Panel on Commerce and Industry

Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Dennis KWOK Wing-hang  
Hon Martin LIAO Cheung-kong, SBS, JP

(\* Also members of the Panel on Commerce and Industry)

(# Also members of the Panel on Information Technology and Broadcasting)

**Public officers attending** : Agenda item II

Commerce and Economic Development Bureau

Mr Edward YAU, GBS, JP  
Secretary for Commerce and Economic Development

Mr Clement LEUNG, JP  
Permanent Secretary for Commerce and Economic  
Development (Communications and Creative  
Industries)

Mr Edward TO, JP  
Deputy Secretary for Commerce and Economic  
Development (Communications and Creative  
Industries) (Special Duties)

Mr Tony YIP  
Principal Assistant Secretary for Commerce and  
Economic Development (Communications and  
Creative Industries) (Special Duties)

Office of the Communications Authority

Mr Sammy LI  
Assistant Director (Support)

**Clerk in attendance** : Mr Daniel SIN  
Chief Council Secretary (1)6

**Staff in attendance** : Ms Mandy LI  
Senior Council Secretary (1)6

Mr Patrick CHOI  
Council Secretary (1)6

Miss Yolanda CHEUK  
Legislative Assistant (1)6

Action

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**I. Election of Chairman**

The Panels agreed that Mr YIU Si-wing, Chairman of the Panel on Commerce and Industry, should chair the joint meeting in accordance with paragraph 22(k) of the House Rules.

**II. Major Parameters of Proposed Legislative Framework for Strengthening Regulation of Person-to-Person Telemarketing Calls**

(LC Paper No. CB(1)873/18-19(01) -- Administration's paper on Major Parameters of Proposed Legislative Framework for Strengthening Regulation of Person-to-Person Telemarketing Calls

LC Paper No. CB(1)873/18-19(02) -- Paper on review on regulation of person-to-person telemarketing calls prepared by the Legislative Council Secretariat (Updated background brief)

Briefing by the Administration

2. At the invitation of the Chairman, the Secretary for Commerce and Economic Development ("SCED") and the Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries) (Special Duties) briefed members on the major parameters of the proposed legislative framework for strengthening regulation of person-to-person telemarketing calls ("P2P calls") and the associated control measures. In gist, the Administration proposed to put in place an "opt-out" arrangement for P2P calls, supported by a do-not-call ("DNC") register to be set up to allow phone users who do not wish to receive P2P calls to indicate so by registering their phone numbers with the register. Details were set out in the Administration's paper (LC Paper No. CB(1)873/18-19(01)) and the power-point presentation materials (LC Paper No. CB(1)874/18-19(01)).

*(Post-meeting note: A set of the power-point presentation materials (Chinese version only) was issued to members vide LC Paper No. CB(1)874/18-19(01) on 16 April 2019.)*

Declaration of interests

3. Mr MA Fung-kwok declared that a non-profit organization he affiliated with conducted opinion polls by phone calls.

Discussion

4. Mr CHAN Chun-ying commented that the proposed regulatory measures were unlikely to be effective in deterring unsolicited P2P calls but would create hurdles to receivers who would be required to report such calls to the authorities for enforcement and to appear as witnesses during the prosecution process. He queried how many people would register with the DNC register. Mr CHAN suggested that the Administration should, instead, provide free call-filtering application ("app") for the public who did not wish to receive unsolicited P2P telemarketing calls.

5. SCED responded that the Administration had, on various previous occasions, highlighted the limitations and difficulties of the regulatory measures against P2P calls. The current proposal was formulated in response to a general public support, as reflected in the recent public consultation exercise, as well as general support expressed by the Information Technology and Broadcasting Panel, for regulating P2P calls by way of legislation. SCED added that other non-statutory measures such as enhancing public awareness of appropriate use of call-filtering apps would continue to be implemented in parallel.

6. Mr SHIU Ka-fai alleged that most of the P2P telemarketing calls were initiated by companies which falsely claimed to be banks or other financial institutions. He added that the Administration's proposal was not only ineffective in stopping those calls when they were made outside Hong Kong, but the proposal would also affect normal operations of many legitimate businesses where the companies concerned would need to contact their customers or potential customers by telephone to promote or explain to them any products and services.

7. Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) ("PS(CCI)") clarified that the circumstances that Mr SHIU described appeared to be legitimate commercial activities which were not the object of the proposed regulatory framework. SCED said that it was unlikely that a company would refuse to receive calls from a person or another company with which it had or might have business dealings, and it would be even more unlikely that such company would report such calls to the enforcement authority. SCED acknowledged that the proposed legislation would probably not be able to prevent all unsolicited P2P calls, and there would be practical difficulties in the enforcement of the regulatory framework, and the Administration was willing to consider refining the statutory provisions in consultation with the relevant sector to alleviate their worries if necessary. PS(CCI) further advised that making fraudulent P2P calls might have already contravened other legislation. Recipients of such calls could report their cases to the Police.

8. Mr MA Fung-kwok sought the Administration's clarification whether telephone calls for the purposes of opinion polls or surveys carried out by non-profit organizations would fall under the scope of the proposed legislation. In particular, Mr MA asked whether a person who had registered with the DNC register would expect not to receive calls for the purposes of conducting opinion polls or surveys. PS(CCI) explained that following the existing practices under the Unsolicited Electronic Messages Ordinance (Cap. 593), the proposed regulatory framework would not cover such calls which were not of a commercial nature.

9. Mr Charles Peter MOK supported the legislative proposal and commented that the proposed measures and the levels of sanctions reasonable. He asked the Administration to proceed with the legislative process as quickly as possible. Mr MOK expressed concerns that the prosecution process, which was formulated based on Cap. 593, might be too lengthy and might give an impression that the regulatory regime might be ineffective. SCED said that the proposed regulatory framework offered a means to reduce the nuisance caused by unsolicited P2P calls, as shown in the operation of the existing Cap. 593. He added that the Administration would need to strike a balance between the concerns expressed by different stakeholders in setting appropriate levels of sanctions so as to achieve sufficient deterrence without severely affecting the business environment. As regards members' concerns about the prosecution process, SCED explained that cooperation by the complainants during the investigation and prosecution process was essential.

10. Mr WONG Ting-kwong said that he supported the legislative proposal. He asked whether the proposed regulatory regime would effectively prevent P2P calls where the recipients were selected randomly. PS(CCI) said that the use of telephone number harvesting software and making of P2P calls to telephone numbers obtained using automated means would be subject to a heavier penalty under the proposed legislative framework. SCED supplemented that it would be a contravention for telemarketers to make unsolicited P2P calls to a phone number which was registered with the DNC register, regardless of whether the number was selected consciously or at random.

11. In response to Mr WONG Ting-kwong's enquiry, SCED said that, subject to the support and endorsement of the two Panels, the Administration would proceed with drafting the legislation and would present the bill to the Legislative Council ("LegCo") when ready.

12. Dr Elizabeth QUAT said that she supported the proposed statutory regulation of P2P calls and asked the Administration to expedite the legislative process. Dr QUAT added that the business sector was concerned about whether the regulatory regime would affect normal business activities, and she asked whether business-to-business ("B2B") calls would be within the scope of the proposed legislation. PS(CCI) said that under the proposed regulatory framework, B2B calls were not distinguished from other telephone calls. No P2P telemarketing calls should be made to a number registered with the DNC register, whether or not the number was being used for a business purpose, unless consent has been given by the call recipient. The Administration would further engage the business sectors during the drafting of the bill on the detailed arrangements. In response to another query from Dr QUAT, SCED said that it

was not practical to categorically exclude all business telephone numbers in DNC. It would be up to the individuals or companies to "opt-out" by registering their numbers with DNC if they did not wish to receive any unsolicited P2P telemarketing calls.

13. Mr WU Chi-wai said that he supported the legislative proposal in principle, and he asked the Administration for a draft bill for discussion. SCED said that the Administration would proceed to prepare the bill once the Panels endorsed the proposed legislative framework, and introduce the same into LegCo for scrutiny in due course.

14. Mr HUI Chi-fung queried whether the proposed enforcement notice mechanism would have sufficient deterrent effect against unsolicited P2P calls. He suggested that the enforcement authority should impose a penalty, albeit a relatively mild one, if it had formed an opinion that a contravention had taken place and would likely continue or be repeated. Ms Claudia MO supported the regulation of P2P calls by legislation but reminded the Administration not to overkill those acceptable, and sometimes important, calls.

15. The Chairman concluded that a majority of members supported in principle the proposal to regulate P2P calls by legislation. He asked the Administration to proceed with the preparation of the bill for presentation to LegCo at the earliest opportunity. The Chairman also invited the Administration to maintain a dialogue with the relevant sector to address their concerns.

### **III. Any other business**

16. There being no other business, the meeting ended at 11:30 am.