

**立法會**  
**Legislative Council**

LC Paper No. CB(1)83/06-07  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/4/05/2

**Bills Committee on Unsolicited Electronic Messages Bill**

**Minutes of the second meeting on  
Wednesday, 27 September 2006, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Howard YOUNG, SBS, JP (Chairman)  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon WONG Ting-kwong, BBS
- Members absent** : Hon James TO Kun-sun  
Hon SIN Chung-kai, JP  
Hon Emily LAU Wai-hing, JP  
Hon Ronny TONG Ka-wah, SC
- Public officers attending** : Mrs Marion LAI, JP  
Deputy Secretary for Commerce, Industry and Technology  
(Communications and Technology)
- Mr Tony LI  
Principal Assistant Secretary for Commerce, Industry and  
Technology (Communications and Technology) B
- Mr Franco KWOK  
Assistant Secretary for Commerce, Industry and  
Technology (Communications and Technology) B1
- Mr SO Tat-foon  
Assistant Director of Telecommunications (Support)
- Mr Jeffrey GUNTER  
Senior Assistant Law Draftsman  
Department of Justice

Miss Leonora IP  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Anita SIT  
Chief Council Secretary (1)4

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3

Mr WONG Siu-yee  
Senior Council Secretary (1)7

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Action

**I Confirmation of minutes**

(LC Paper No. CB(1)2120/05-06 -- Minutes of meeting on 2 August 2006)

The minutes of the meeting held on 2 August 2006 were confirmed.

**II Meeting with the Administration**

(File Ref: CTB(CR)7/5/18(06) -- Legislative Council Brief  
LC Paper No. CB(3)735/05-06 -- The Bill  
LC Paper No. LS93/05-06 -- Legal Service Division Report  
LC Paper No. CB(1)2243/05-06(01) -- Background brief on Unsolicited  
Electronic Messages Bill prepared by  
the Legislative Council Secretariat)

2. The Bills Committee deliberated (index of proceedings attached at **Annex A**).
3. Members accepted in principle the policy direction of the Bill.
4. The Administration was requested to consider –
  - (a) not to exclude person-to-person interactive telemarketing calls from the application of Clauses 7 and 12 of the Bill; and
  - (b) to require senders of telemarketing calls to ensure that operators of the telecommunications networks through which the telemarketing calls were sent had made necessary arrangements to enable the display of the senders' calling line identification information on the telephones of the recipients, especially in circumstances where the recipients were outside Hong Kong using roaming services.

Action

**III Any other business**

5. Members noted that the next meeting would be held on Tuesday, 10 October 2006, at 9:00 am to receive views from deputations, and discussion with the Administration would continue at the meeting scheduled for Tuesday, 24 October 2006, at 10:45 am.

6. The Chairman requested the Clerk to issue a circular to invite members to indicate their availability for possible time slots for subsequent meetings of the Bills Committee up to the end of 2006. He would then finalize the schedule of meetings based on members' returns.

7. There being no other business, the meeting ended at 9:20 am.

Council Business Division 1  
Legislative Council Secretariat  
18 October 2006

**Proceedings of the second meeting of the  
Bills Committee on Unsolicited Electronic Messages Bill  
on Wednesday, 27 September 2006, at 8:30 am  
in Conference Room A of the Legislative Council Building**

| Time marker     | Speaker                           | Subject(s)  | Action required |
|-----------------|-----------------------------------|---|-----------------|
| 000000 - 000157 | Chairman                          | Confirmation of minutes of the meeting held on 2 August 2006 (LC Paper No. CB(1)2120/05-06)   |                 |
| 000158 - 001248 | Administration                    | Briefing by the Administration<br><br><i>(Post-meeting note: The presentation notes (LC Paper No. CB(1)2270/05-06(01)) tabled at the meeting were subsequently issued to members on 28 September 2006.)</i>   |                 |
| 001249 - 001528 | Chairman                          | Members' acceptance in principle of the types of electronic messages covered by the Bill and the proposal to apply the provisions to unsolicited commercial electronic messages only  |                 |
| 001529 - 001839 | Mr Jasper TSANG<br>Administration | Enquiry on the rationale for the proposed exemption of person-to-person interactive communications<br><br>The Administration's explanation of the need to strike a balance between respecting the right of a recipient and allowing the development of legitimate telemarketing in Hong Kong; and the Administration's view that such exemption could be reviewed in future if unsolicited person-to-person interactive communications became a serious problem<br><br>Enquiry on whether senders of person-to-person interactive communications would need to disclose their calling line identification information |                 |

| Time marker     | Speaker  | Subject(s)   | Action required |
|-----------------|--|--|-----------------|
|                 |  | <p>The Administration's explanation that as person-to-person interactive communications would be exempted, they would not be subject to the provisions of the Bill; and the Administration's view that good commercial practice was to include accurate sender information in making such calls and to respect the wishes of customers who requested not to be called again</p>  |                 |
| 001840 - 002542 | Chairman<br>Mr WONG Ting-kwong<br>Administration | <p>Suggestion of not excluding person-to-person interactive communications from the requirement of the disclosure of the calling line identification information so as to enable the recipients to decide whether to answer a particular call, especially when they were outside Hong Kong and using roaming services</p> <p>Enquiry on the technical feasibility of displaying calling line identification information on the telephones of the recipients when they were outside Hong Kong</p> <p>The Administration's explanation that-</p> <p>(a) at present, operators of local telecommunications networks were mandated to transmit calling line identification information and would display such information at the receiving end if it was not withheld by senders; and</p> <p>(b) in the case of roaming services, whether calling line identification information would actually be displayed depended on whether operators of local telecommunications networks had made arrangements with relevant overseas operators to provide the</p> |                 |

| Time marker     | Speaker  | Subject(s)   | Action required            |
|-----------------|--|--|----------------------------|
|                 |  | display function, and there was no legal requirement on local operators to make such arrangements at present   |                            |
| 002543 - 002838 | Mr Jasper TSANG<br>Administration<br>Chairman    | <p>Suggestion of not to exclude person-to-person interactive telemarketing calls from the application of Clauses 7 and 12 of the Bill</p> <p>The Administration's agreement to consider the suggestion</p> <p>Enquiry on whether the sender would contravene the provisions of the Bill if the calling line identification information was transmitted but not displayed on the telephones of the recipients when they were outside Hong Kong</p> <p>The Administration's explanation that the Bill only prohibited the sender from withholding or concealing the calling line identification information. However, whether the calling line identification information would be displayed on the telephones of recipients who were roaming outside Hong Kong would depend on a number of factors, including whether such information would be relayed enroute to the mobile networks outside Hong Kong on which the recipients were roaming, and whether such caller number display service was available on those networks outside Hong Kong</p> | Administration to consider |
| 002839 - 003319 | Mr WONG Ting-kwong<br>Chairman<br>Administration | Suggestion of requiring senders of telemarketing calls to ensure that operators of the telecommunications networks through which the telemarketing calls were sent had made necessary arrangements to  | Administration to consider |

| Time marker     | Speaker   | Subject(s)   | Action required |
|-----------------|---|--|-----------------|
|                 |   | <p>enable the display of the senders' calling line identification information on the telephones of the recipients, especially in circumstances where the recipients were outside Hong Kong using roaming services</p> <p>The Administration's response that imposing a requirement on local operators to make arrangements with overseas operators in relation to the display of calling line identification information might result in termination of roaming services in those overseas countries where calling line identification information display service was not available</p> |                 |
| 003320 - 003606 | Chairman<br>Mr Jasper TSANG                       | <p>Members noted that the Information Technology and Broadcasting Panel had discussed the issue of whether an "opt-in" or "opt-out" regime should be adopted and accepted an "opt-out" regime in principle</p> <p>Members noted the proposed arrangements for enforcement and penalties for contravening the provisions of the Bill and did not raise queries</p>  |                 |
| 003607 - 003747 | Mr WONG Ting-kwong<br>Chairman<br>Mr Jasper TSANG | <p>Members noted and accepted in principle the proposed arrangements in relation to liabilities of various parties, having regard to the inclusion of relevant defence provisions in the Bill</p> <p>Members noted the proposed arrangements in relation to address-harvesting and did not raise queries</p>   |                 |

| <b>Time marker</b> | <b>Speaker</b>                                    | <b>Subject(s)</b>  | <b>Action required</b> |
|--------------------|---|--|------------------------|
| 003748 - 004003    | Chairman  | Members accepted in principle the policy direction of the Bill<br><br>Meeting on 10 October 2006 to receive views from deputations and meeting on 24 October 2006 to continue discussion with the Administration |                        |
| 004004 - 004301    | Chairman<br>Mr Jasper TSANG<br>Mr WONG Ting-kwong | Schedule of subsequent meetings up to end of 2006  | Clerk to take action   |

Council Business Division 1  
Legislative Council Secretariat  
18 October 2006