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Secretary for Commerce, Industry and Technology  
(Attn: Mr Franco KWOK, Assistant Secretary  
(Communications and Technology)B1)  
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Commerce, Industry and Technology Bureau  
2/F Murray Building  
Garden Road  
Central  
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13 October 2006

**BY FAX**  
Fax No. : 2511 1458

Dear Mr Kwok,

### **Unsolicited Electronic Messages Bill**

Thank you for your letter of 22 September 2006.

Regarding the Chinese text of the Bill, I set out below my comments and observations for your consideration:

#### Chinese text proposed for “recklessly”

It is noted that the word “recklessly” appears in a number of provisions proposed in the Bill, for example, clauses 14(3), 15(3), 16(3), 17(3), 18(3), etc., and the Chinese text proposed for the word is “罔顧實情”. However, it seems that under existing Ordinances, this Chinese text is used in the context of making a statement or furnishing information while in other contexts, “罔顧後果” is generally used. Since the clauses in question do not relate to making statements or furnishing information, would it be more appropriate to use “罔顧後果” as the Chinese text of the word instead?

#### Clauses 21(2) and 22(2)

Please make the Chinese and English texts match. If it is intended that a sandwiched clause is appropriate, please do the same in the English text.

### Clause 29

In clause 29(2), why is “攸關” proposed as the Chinese text for “relevant”? As you are aware, in a similar section (i.e. section 28) of the Entertainment Special Effects Ordinance (Cap. 560), the Chinese text of “relevant” is “相關”. Should the same Chinese text be used in clause 29(2)?

### Clause 30

In clause 30(1), should “拒收訊息登記冊” be replaced by “拒收登記冊”?

### Clause 34

It is noted that “攸關” is proposed as the Chinese text for “relevant” in clause 34(1) and (3). However, in a similar context in section 36D(1) and (3) of the Telecommunications Ordinance (Cap. 106), the Chinese text used for the same word is “有關”. Is there any reason for using a different Chinese rendition in this Bill?

### Clause 35

In clause 35(2)(b), please consider adding “而” before “擬訂” to make it consistent with clause 35(2)(a).

### Clause 37

In clause 37(1)(b)(ii), the meaning of “但行使該扣留權力的先決條件” is not reflected in the corresponding English text. Moreover, it appears from the English text that “during such period as is reasonably required” should describe the search. To make both texts match, please consider amending the Chinese text to “在為使搜查得以進行而合理地需要的期間內，扣留任何在該處所或地方之內或之上發現的人，而該人若非如此扣留，則可能會妨礙搜查的目的”. You may wish to refer to the Chinese text of a similar provision (i.e. section 50(7)(b)) of the Police Force Ordinance (Cap. 232).

### Clause 46

- (a) In clause 46(1)(b), is it appropriate to use “攸關” as the Chinese text for “relevant”? As you are aware, in a similar section (i.e. section 32O(1)(d)) of Cap. 106, “有關” is used as the Chinese text for the same word.
- (b) In clause 46(1)(e)(ii), would it be more appropriate to use “個案” instead of “案件” as the Chinese text for “case”?

Clause 47

Should the Chinese text for “proceedings before the Appeal Board” be amended to “在上訴委員會進行的法律程序” to make it consistent with the Chinese text proposed for “proceedings before a court” in the same clause?

Clause 52

- (a) In clause 52(4), should “授予” before “適宜” be deleted?
- (b) In clause 52(7), while “賦予” and “委予” may be appropriate in the context of “權利” and “特權”, are they appropriate in the context of “義務” and “法律責任”? Would “施加” be a more appropriate Chinese text for “imposed” in the latter context?

Clause 54

In clause 54(3), please add “被” before “控犯”.

I would appreciate it if you could let us have the Administration’s reply in both languages *on or before 25 October 2006*.

Yours sincerely,

(Connie FUNG)  
Assistant Legal Adviser

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