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December 6, 2006

Hon Howard Young, SBS, JP
Committee Chairman of the UEM Bill
C/o Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Re: The Unsolicited Electronic Mail Bill

Dear Sir

The Hong Kong Call Centre Association (CCA) is a non-profit organisation that was formed by a group of call centre users in September 1999. The Association has a mission to help local organisations improve their customer service and call centre operations by deploying the best management practices and latest technologies. The Association represents predominantly commercial organisations, ranging from the largest of multinational companies to a number of SMEs. At present there are approximately 60 corporate members and over 150 individual members of the association from Hong Kong, Macau and Southern China.

As all of our members are involved in responsible electronic marketing, this has enabled us to consider the arguments being aired before the Bills Committee both as individual citizens interested in preserving our families' privacy, and as responsible corporate citizens also.

The Association is very supportive of the intent behind the Bill, principally to stem the flow of spam email and pre-recorded voice messages. We also note the importance of striking a balance between the need for personal privacy and the legitimate commercial interests of companies to undertake electronic marketing. However, we do have some serious concerns regarding the



possible inclusion of Person-to-Person telemarketing within the ambit of the Bill in relation to Clauses 7 & 12. If this were to happen, there could be significant impact on 10's of thousands of Hong Kong workers who are legitimately employed within this field.

As such, we have prepared a submission in response to the Unsolicited Electronic Messages Bill. We would like to submit and have this distributed to members of your committee in order that they can obtain the viewpoints and very serious concerns being expressed by our Association members.

In the meantime, if the Association can provide additional input, then please don't hesitate to contact either myself or Mr Sidney Yuen, Chairman, HK CCA.

Yours sincerely

Michael Cowell
Executive Committee Member
Hong Kong Call Centre Association

cc. Mr Sidney Yuen, Chairman, HK Call Centre Association
Ms Anita Sit, Legislative Council Secretariat

Submission in Response to the
Unsolicited Electronic Messages Bill

Legislative Council of the Hong Kong
Special Administrative Region of the
People's Republic of China

Prepared by:

The Hong Kong Call Centre Association
November 30th, 2006

1 The Hong Kong Call Centre Association

The Hong Kong Call Centre Association (CCA) is a non-profit organisation that was formed by a group of call centre users in September 1999. The Association has a mission to help local organisations improve their customer service and call centre operations by deploying the best management practices and latest technologies.

We are committed to improving customer satisfaction by supporting members in continuous quality improvement and productivity growth. We do so by organising seminars, visits to leading Hong Kong based call centres, accredited training, benchmarking, research opportunities and the coveted Hong Kong Call Centre Awards.

At present there are approximately 60 corporate members and over 150 individual members of the association from Hong Kong, Macau and Southern China.

2 Our view on the proposed UEM legislation

The Association represents predominantly commercial organisations, ranging from the largest of multinational companies to a number of SMEs. The Association is very supportive of the intent behind the Bill, principally to stem the flow of spam emails and pre-recorded voice messages. We also note the importance of striking a balance between the need for personal privacy and the legitimate commercial interests of companies to undertake electronic marketing.

All of our members are involved in responsible electronic marketing and this has enabled us to consider the arguments being aired before the Bills Committee both as individual citizens interested in preserving our families' privacy, and as responsible corporate citizens also.

Person-to-person (PTP) interactive communications:

We wholly approve of the exclusion of PTP interactive communications from the ambit of the Bill. We do not wish to see PTP messages hindered in any manner whatsoever. There is a very large volume of business transacted on a daily basis in Hong Kong whereby sales representatives from Banks, Insurance, Financial Services, Real Estate, Information Technology, Logistics and FMCG sell products to consumers.

We understand that if PTP interactive communications were to be included within the ambit of the Bill, that Clauses 7 and 12, dealing with Call Line Identification, this would give rise to a number of practical problems that we will address.

2.1.1 The financial impact of this work is very significant

The DTI (Department of Trade and Industry) of the United Kingdom released an in depth research on the matter of call centre employment in May 2004. Entitled, *The UK Contact Centre Industry: A Study*, the government forecast

that UK call centres would employ over one million people by the year 2007. That would represent 1.6% of the entire population.

This is not an unreasonable percentage to apply to Hong Kong when one considers the important role that call centres play in Hong Kong's predominantly service type economy. In applying this same percentage to the Hong Kong market, that would represent approximately 112,000 people who generate a primary income from this activity. According to the same research conducted by the UK DTI, of the 1.6% employed in UK call centres, approximately 30% are involved with PTP telemarketing on an outbound basis. That would represent approximately 33K people in Hong Kong who rely on PTP telemarketing to generate an income.

If we apply some moderate assumptions in terms of the economic value of this work and assume that the average PTP telemarketer is able to generate HK\$240K per annum in sales activity, that would represent approximately **HK\$ 7.2 billion** per annum.

If we were to include Hong Kong's 268,000 SMEs, the bedrock of Hong Kong's economy, then the economic benefit of using PTP communication would be many multiples of HK\$ 7.2 billion.

2.1.2 CLI will only help to increase the number of unemployed.

We are very concerned that by applying CLI to PTP calls in the Hong Kong market will only lead to reduced employment. We understand that in other markets, CLI has led to reduced consumer response rates to offers being made through PTP calls.

Reduced response rates inevitably lead to higher costs in using the PTP channel to promote one's business. With higher costs employers may choose to either / or:

- a) Discontinue using the PTP channel.
- b) Pass the higher cost of doing business along to consumers.

In both cases, the PTP caller and consumer ends up being disadvantaged.

Based on the feedback of our members, we project that the number of people employed within PTP telemarketing positions will continue to grow at a rate of 20% through 2007.

As such, PTP telemarketing is a growth industry in Hong Kong and should be supported as such with minimal restriction.

2.1.3 The death of the Service Industry

The question legislators should ask themselves is the following;

If we help kill off a significant portion of the Service Economy, where will these people turn to for new employment? As we understand it, there are few options available to take over from the Service Industry.

Inclusion of PTP marketing and Clauses 7 & 12 within the Bill will help hasten the demise of a growing industry and employer in Hong Kong.

2.1.4 Unintentional contravention

If PTP calls were included in the Bill it would be possible to contravene the Bill unintentionally. If for example, a PTP caller were speaking with an existing client on a customer service matter (i.e. cancelled airline flight) and the customer asked a question about travel insurance, and the message turned to a commercial nature (i.e. our company can provide this coverage) and the PTP agent commenced selling an insurance product, then PTP caller would be in contravention of the Bill (clause 12), if they did not identify themselves and provide a name and or telephone number within a prescribed timeframe.

This seems to contravene everything that Hong Kong stands for in terms of the freest economy in the world.

2.1.5 CLI could be counter productive

We query whether the provision of CLI would not in fact be counterproductive. A provision insisting on CLI for PTP calls has the potential to inconvenience members of the public by creating a situation where they respond to an earlier but unanswered call, being curious as to who has called them. We understand this has caused problems in other jurisdictions where CLI has been mandated for PTP calls.

2.1.6 Most home and many business phones do not cater for CLI.

If the caller were required to identify themselves prior to the consumer agreeing to accept the call, this would not be possible to accomplish. We are concerned that in a situation where home phones or business phones do not have CLI capability that this could lead to a significant increase in spurious or litigious situations.

In addition, this would likely impose an unfair burden on both fixed line and mobile carriers in Hong Kong who would need to sort out and deal with possible complaints and inquiries on this matter.

2.1.7 Adding Some Perspective

With the exception of Sundays and public holidays, most Hong Kong businesses deploy PTP calls on a daily basis in order to generate new or expand existing business. Assuming for a moment that there are conservatively 33K people who make a living using PTP calls and that each of these individuals made only 20 calls a day, this would represent a total of 660,000 telephone calls a day being made in the Hong Kong market. With say an average of 20 working days per month, that's 13.2 million calls per month or 158 million calls per annum.

Hong Kong being one of the most well connected markets internationally in terms of both fixed line and mobile penetration, caters to the broad acceptance of the use of telemarketing. HK CCA members report that results on targeted sales efforts can generate success rates of between 3-20% depending on the nature of the product. Clearly consumers accept this channel as a means of conducting their personal affairs.

2.1.8 Personal Data (Privacy) Ordinance – PDPO

All members who responded to an adhoc interview confirmed that they follow the guidelines as set forth in the Personal Data (Privacy) Ordinance (PDPO). Where they have received consent from the consumer to engage in PTP marketing activity with consumers' permission, less than 1% opt out on an annual basis. This further supports Hong Kong's acceptance of the PTP telemarketing channel.

This also helps to illustrate another point regarding the extreme care and responsibility taken by our members and the role of a truly free market.

Take for an example a financial institution that has a relationship with customer X. They will only call Mr/s X if they have the permission to do so. If they ignore the wishes of Mr/s X in terms of Opting Out, then they stand to lose the business of Mr/s X – this could be a costly error on their part that is naturally avoided at all cost. Market forces in this example ensure that the consumer is managed in a positive manner.

Including PTP calls in the ambit of the Bill as related to Clauses 7 & 12, will only reduce the opportunities to engage with these very same consumers to whom due care and diligence is already provided.

2.1.9 CLI could impact one's right to privacy

We are concerned that by making CLI a necessity, that we may unintentionally break a consumer's right to privacy. If a person were to leave their phone unattended at the office or home for that matter, someone other than the phone user may be able to see who is calling when the phone begins to ring.

2.1.10 CLI would impede the legitimate notification / collection of debt

On the matter of CLI, one concern raised by an Association member has to do with the collection of debt. If the consumer is able to identify the line as calling from a specific organisation to whom they owe money (credit card, telco, etc.), they may wish to ignore or avoid taking those calls.

The impact of this type of situation would lead to higher collection fees that inevitably would be passed along to consumers and society as a whole.

2.1.11 Not possible to implement CLI across all markets while roaming.

CLI while roaming involves potentially four parties including two outside of Hong Kong (1 - International Gateway Operator and 2 - Overseas Mobile Operator which the recipient is connected through roaming service). In order for a HK consumer who is roaming to take advantage of CLI, depends on the information being relayed along the route.

Of the 260 economies with which Hong Kong mobile operators have agreements with to provide CLI, less than 30 economies support the display of CLI. If a Hong Kong mobile operator was unable to distinguish between a telemarketing call or non-telemarketing call, any requirements under the bill mandating the display of CLI information would need to apply to all roaming calls. In order not to contravene the Bill, the HK operator would have to stop providing roaming services for all telemarketing and non-telemarketing calls. This clearly would not be acceptable.

3 Conclusion

PTP interactive communication helps foster greater competition and allows Small and Medium Size enterprises the opportunity to bring their products to market more cost effectively than just about any other channel. As the freest economy in the world, Hong Kong should embrace this channel as one that helps our businesses to grow, prosper and benefit all segments of society.

Any suggestion that PTP interactive communications should be included in the Bill as related to clauses 7 & 12 would appear to depart from the original intended ambit of the Bill (to combat indiscriminate computer generated commercial messaging). As well, it's unlikely to be readily enforceable against rogue (unregulated) operators from outside of Hong Kong undertaking PTP communications in an abusive manner.

As such, we ask that the Bills Committee recognise the complexities of including PTP interactive communication as related to Clauses 7 & 12 of the Bill and delay any consideration until such time as there has been a full study of the very real and negative impact this would have on our economy.

For additional information, please contact:

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