

Statement by the Hong Kong Direct Marketing Association

20 November 2010

Public Consultation on Review of the Personal Data (Privacy) Ordinance

My name is Eugene Raitt and I am the Chairman of the Hong Kong Direct Marketing Association. Our association represents companies and individuals engaged in a wide range of industries and activities that include banking, credit cards, insurance, telecommunications, FMCG, retailing and others on the consumer side. In addition our members come from the supply chain that supports direct marketing, for example call centers for inbound and outbound calls, printers, production houses, advertising agencies, lettershops, computerization specialists, the HK Post, fulfillment centers, and many others.

The range of activities involved in direct marketing include direct mail, e-mail, text messaging, newspaper, magazines, radio, television, internet, statement inserts, telemarketing, and any new media that can be used to better target appropriate consumer segments.

The industry represents more than 140,000 Hong Kong citizens engaged either directly in the business, or indirectly via the supply chain of industries that survive by supporting the direct marketing industry. These are average Hong Kong citizens who depend upon this employment to pay their mortgages, pay for school tuition, and feed their families.

Direct marketing contributes more than HK\$31 billion annually, and that is directly through sales, thus it does not count the contribution to the economy made by the more than 140,000 people employed and their consumer spending habits. Over the past 15 years during which direct marketing has grown as a distribution channel in HK more than 1,000,000 people have purchased some kind of product or service via this channel.

Why has this system worked so well? Primarily thanks to the Hong Kong government's balanced approach which weighs the rights and needs of the consumer with the rights and needs of the industry. At the heart of this is the question of whether we should continue with a system called "opt-out", or change to a system called "opt-in". We believe strongly that continuing with opt-out, while adding more specific requirements to ensure transparency, objective standards for disclosure formats, and adding a "tick-box" making it as easy as possible for consumers to opt-out provides a continuing fair balance between consumer and business.

Our member companies have a legal obligation, which they follow, to provide disclosure which is transparent, easy to understand, allows the consumer to opt-out, etc. The consumer however has no legal obligation to actually read the document or statement before agreeing to the terms. All we can do is follow the law, after that it's in the hands of the consumer.

It's important to note that there isn't a single country in the entire world currently using the opt-in system, including the UK, which is notoriously the most restrictive regulatory environment. The reason is simple. They all realize that switching to opt-in would completely kill the industry, and that's not on anyone's agenda.

The HKDMA agrees (and recommended) that we need better and more objective standards for disclosure, an easy "tick box" for opting out, and criminal penalties for actual crimes. But for the sake of the consumers who benefit from direct marketing as well as the industry that provides for them let's take the most rational, the most reasonable, and the most fair and balanced approach of continuing with a proven, reliable system called opt-out.

This has been a high-level summary of the HKDMA's core position, however we are currently preparing a comprehensive point-by-point response to the Public Consultation Document and encourage all in attendance today to please read our response when it becomes available.

Thank you all for your time and attention today.