

LC Paper No. CB(1)2420/11-12(01)
(English version only)



"Dhanesh Sakhrani"

22/06/2012 17:24

To "CT Mak" <ctmak@cedb.gov.hk>

cc

bcc

Subject Re: Junk call anti-spam regulations not strong enough (Ref : E02183 - WEB#01812-12)

Urgent Return receipt Sign Encrypt

Mr. Mak,

Thank you for your reply. I understand the concerns you mention regarding implementation of potential solutions to the problem, and completely agree with providing protection for legitimate businesses whom pursue cold call marketing.

In these kind of situations, I find it best to provide feedback to organizations such as yours for follow-up to ensure knowledge of arising problems. I have faith that my opinion has been heard, and will be taken into account for future considerations and enhancements of anti-spam policy.

Kind Regards,

Dhanesh Sakhrani

-----Original Message-----

From: CT Mak

Sent: Friday, June 22, 2012 4:35 PM

To: Dhanesh Sakhrani

Cc: webmaster@ofca.gov.hk ; uem-enquiry@ofca.gov.hk

Subject: Junk call anti-spam regulations not strong enough (Ref : E02183 - WEB#01812-12)

Dear Mr Sakhrani,

We are sorry to learn of your bad experience recapped in your preceding email of 21 June 2012 to the Office of the Communications Authority (OFCA), which is overseen by this Bureau. As the review and formulation of policies and legislative proposals in the area of telecommunications fall under our purview, we would like to reply to you direct.

When the Unsolicited Electronic Messages Ordinance (Cap. 593) came into full operation in December 2007, fax messages, short messages, emails and pre-recorded voice/video messages have been put under regulatory control. Person-to-person (P2P) marketing calls are left outside the regulatory scheme with the intention to leave room for legitimate telemarketing activities. In this connection, we have kept a close watch of the impact of P2P marketing calls on the general public vis-a-vis the possible impact on the telemarketing business with estimated over 20,000 practitioners if such calls are brought under control.

From surveys conducted by OFCA, over 90% of the P2P marketing calls come from four business sectors, namely finance, insurance, call centres and telecommunications. In 2010, OFCA and the major industry associations concerned introduced a self-regulatory scheme for these four sectors. Companies in these sectors engaging in P2P marketing calls would comply voluntarily with a code of practice which contains arrangements that will help reduce possible nuisance and inconvenience that might arise. Examples of the arrangements are : displaying callers' phone numbers, accepting

unsubscribe requests and calling hours confined to between 9 am to 10 pm.

The call you received earlier with the caller's phone number concealed is surely not made by companies which have joined the self-regulatory scheme. Given the unhappy experience, it is understandable that you want the Government to -

- * enhance protection of consumers (your suggestion of adding a P2P Do-not-call register);
- * step up regulatory control on P2P marketing calls (your suggestion of imposing fines and banning marketing calls made from phones not displaying telephone nos.); and
- * empower telecom service/network operators to suspend the telephone services of telemarketers under complaint.

We note all your above suggestions. Since their implementation requires amendments to the existing legislation, we need to take into account many factors (e.g. impact of measures) and go through requisite steps (e.g. public consultation) in order to formulate the legislative proposals. As such, please understand that your suggestions are not a light-handed approach to tackle the P2P marketing call issue, thus we need to assess with care. Meanwhile, we will keep reviewing the effectiveness of the self-regulatory scheme and are open to various possible solutions when mapping the way forward.

Thanks for drawing our attention to your situation and suggestions.

Regards,

CT Mak

for Secretary for Commerce and Economic Development

Tel : 3655 5517

Fax : 2511 1458

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(Embedded | "Dhanesh Sakhrani"
image moved | 21/06/2012 02:53 PM
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pic61880.jpg
)
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To: <webmaster@antispam.gov.hk>, <webmaster@ofca.gov.hk>
cc:

Subject: WEB#01812-12 - Junk call anti-spam regulations not strong
enough Restricted: |-----|

[] Restricted

Category: Cold Calls Ref no: WEB#01812-12

Nature of complaint:

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-----+-----
( ) Category A
( ) Category B
(*) Enquiry
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Status: Open Closed on:

Dear Anti-Spam and Office of Communications,

I just had a bad experience with a junk call. It was a person to person junk call. When the caller realized I couldn't speak Chinese, started to become abusive and swearing at me. I finally hung up, but this person called back again and continued swearing at me. The number was BLOCKED so I couldn't even see who was calling me.

This is the most utmost form of cowardice, making junk calls from a BLOCKED number. As a consumer, I have no options, I can not call them back, nor can I report them since I do not know what organization is calling me. As I said, I don't speak Chinese.

The regulation in Hong Kong regarding this is extremely weak. While the Do-Not-Call registry is a good start, there is no provision for person-to-person junk calls, and those people don't have to worry about any consequences. This issue is extremely annoying and can be costly if I receive such a phone call when I am overseas. I contacted my mobile phone provider, PCCW, and they said they could not do anything. They can not even trace the call to determine what the number the person is calling from is, nor can they block "BLOCKED" numbers from calling me. It seems like the general public has zero protection in this quickly escalating matter.

What are my options?

Please review your policies on person-to-person junk calls. I had contacted OFCA yesterday via phone, and was told that based on a survey conducted when the do-not-call registry was implemented, that most people didn't want legislation on person-to-person junk calls. I'd strongly suggest you revisit the feedback regarding this.

My suggestions:

- 1) Add a person-to-person Do-Not-Call registry
- 2) Fines associated with making person-to-person junk calls
- 3) Person-to-person junk calls can not be made from a blocked number
- 4) Mandatory for mobile phone providers to be able to trace back a junk-call and have the authority to impose account bans on them

This problem is getting out of control and really needs a solution. I fear we are lagging behind other countries in a solution to stop this. This is Hong Kong, not a third world country.

Regards,
Dhanesh Sakhrani