

## WHARF T&T LIMITED

### Submission in response to Proposed Revisions of the Code of Practice on Sending Commercial Electronic Messages under the Unsolicited Electronic Messages Ordinance Public Consultation Paper

8 April 2013

Wharf T&T Limited (“WTT”) welcomes the Public Consultation Paper to review the existing “*Code of Practice on Sending Commercial Electronic Messages under the Unsolicited Electronic Messages Ordinance*”. WTT’s comments are as follows.

#### General

1. WTT generally supports the revisions proposed by OFCA to take into account developments following the last revision of the Code of Practice.

#### Specific comments

2. Clause 4: definition of “other short message”. The proposed new definition of “other short message” purports to embrace MMS. However, the definition does not appear to cover other forms of short messaging, such as so-called “IM” (instant messaging) online chat services as well. IM services such as Windows Messenger, Yahoo! Messenger, Skype, ICQ and QQ have been popular for many years. Such services are susceptible to unsolicited commercial spamming. In the interests of maintaining consistency of regulation, we suggest that guidance on the use of IM services should be provided by the Code of Practice.
3. Clause 6.1(a), 6.2(b), 6.3(b)(i), 6.5(b)(i): The proposed requirement that sender information should be reasonably visible is dependent on the recipient’s electronic device. For a message received on a fax machine, the visibility of the message depends on the fidelity of the print output from the fax machine. For a message received on a mobile phone, the visibility of the message depends on the size and quality of the telephone screen and its settings. We suggest that these clauses need to take into account the nature and variability of the recipient device.
4. Clause 6.1(b): The proposed requirement for a fax transmission to contain the sending telephone number may be impractical in certain circumstances. Some fax transmission systems may utilise multiple lines, so it may not be possible for a pre-composed fax message to state the particular telephone number from which the fax is eventually sent. We suggest that the Code of Practice should permit a fax sender to nominate a particular telephone number as a fax reply number for receiving fax replies in relation to the fax.
5. Clause 8.7(c) and (d): The proposed requirement for transmissions to be kept in original format for storage may be impractical. For technical reason, WTT is unlikely to be able to keep SMS or e-mail opt-out requests in their original format. We suggest that the wording of these clauses should be amended by adding “where reasonably practicable”.