



Room 525, 5/F., Prince's Building, Central, Hong Kong
Telephone: 2521 1160, 2521 1169 Facsimile: 2868 5035
Email: info@hkab.org.hk Web: www.hkab.org.hk

香港中環太子大廈5樓525室
電話：2521 1160, 2521 1169 圖文傳真：2868 5035
電郵：info@hkab.org.hk 網址：www.hkab.org.hk

11 April 2013

By email: consult-uemo-cop@ofca.gov.hk

Office of the Communications Authority
25/F, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong

Attention: Senior Regulatory Affairs Manager
Unsolicited Electronic Messages Section

Dear Sirs

Public Consultation on Proposed Revisions of the Code of Practice on Sending Commercial Electronic Messages

1. We refer to your email dated 1 March 2013 in relation to the consultation paper on the proposed revisions of the "Code of Practice on Sending Commercial Electronic Messages under the Unsolicited Electronic Messages Ordinance (Cap. 593)" ("CoP") prepared by the Office of the Communications Authority ("CA") ("**Consultation Paper**"). HKAB is generally supportive of the proposed revision of the CoP in light of developments and the experience gained for compliance by stakeholders. Please find below (i) our views and comments on the CoP and Consultation Paper and (ii) our responses to the questions raised in the Consultation Paper.

Views and comments on the CoP and Consultation Paper

2. Under paragraphs 4A.(a), 4A.(b) and 4A.(c) of the CoP, we suggest replacing the word "the" with "the relevant" after the words "the electronic addresses listed in" for the purpose of clarity.
3. Under paragraph 4A.(c) of the CoP, we suggest inserting the word "messages" after the words "not receiving SMS" for the purpose of clarity.
4. Under the paragraph following paragraph 4A.(c) of the CoP, we suggest that the following amendments should be made:

Chairman Standard Chartered Bank (Hong Kong) Ltd
Vice Chairmen Bank of China (Hong Kong) Ltd
The Hongkong and Shanghai Banking Corporation Ltd
Secretary Boey Wong

主席 渣打銀行(香港)有限公司
副主席 中國銀行(香港)有限公司
香港上海匯豐銀行有限公司
秘書 黃凱儀



- (a) In the 5th line, deleting the word “this” before the words “section of the” and inserting the number “11” after the word “section” as this sentence refers to the requirement that commercial electronic messages must not be sent to the electronic addresses listed in a do-not-call register (“DNCR”), i.e. section 11 of the of the Unsolicited Electronic Messages Ordinance (Cap. 593) (“**Ordinance**”);
- (b) In the 6th and 8th lines, replacing the acronym “UEMO” with the word “Ordinance” pursuant to paragraph 1 of the CoP; and
- (c) In the 7th line, inserting the following at the end of the sentence after the words “relevant DNCR”:

“at regular intervals so that commercial electronic messages are not sent to electronic addresses which have been listed in the relevant DNCR for not less than 10 working days”.

5. Under paragraph 5.1 of the CoP, we suggest inserting the word “a” before the words “commercial electronic message”.
6. Under paragraph 6.1(b) of the CoP, we suggest inserting the words “as to whether the message is addressed to one of his/her numbers” at the end of the sentence after the words “by the recipient”.
7. Under paragraph 8.6 of the CoP, we suggest inserting the words “used as the unsubscribe facility” after the words “telecommunications line” for the purpose of clarity.
8. Under paragraph 8.7(b) of the CoP, we suggest inserting the words “or PDF” after the words “to an image”.
9. In the 2nd line of paragraph 8.7(d) of the CoP, we suggest separating the word “webpage” into two words to be consistent with the usage in paragraph 8.2(a).
10. Under paragraph 8.7(d) of the CoP, we suggest inserting the words “, or in a format that can be demonstrated to represent accurately the information originally received,” after the words “in its original format” so that paragraph 8.7(d) of the CoP reads as follows:
 - “(d) by email or using the hyperlink provided, the content of the email message or the webpage of the hyperlink should be retained and kept in its original format, or in a format that can be demonstrated to represent accurately the information originally received, for storage; or”.



11. In the last line of paragraph 8.7(e) of the CoP, we suggest replacing the word “response” with the words “unsubscribe request” for the purpose of clarity.
12. At the end of paragraph 8.7(e) of the CoP, we suggest replacing the full stop with a comma and inserting the following words below such paragraph so that such words apply to paragraphs 8.7(a) to 8.7(e) of the CoP pursuant to section 9(3) of the Ordinance:

“for at least three (3) years after its receipt.”
13. We suggest inserting the following new paragraph 8.8 of the CoP, which is consistent with section 9(3) of the Ordinance:

“8.8 Without prejudice to the provisions of paragraph 8.7 above, if a person to whom an unsubscribe request is sent is unable to retain a record of such request in the format in which it was originally received, he/she shall ensure that such request is retained in a format that can be demonstrated to represent accurately the information originally received.”

Questions raised in the Consultation Paper

Question 1

Are there any matters which should be included in paragraph 4A above to provide practical guidance in relation to the use of DNCRs in sending CEMs? If yes, please provide reasons for your suggestion.

We suggest inserting the wording set out in paragraph 4(c) above to ensure that senders cleanse their distribution list of electronic addresses against the relevant DNCR at regular intervals to take into account new electronic addresses listed in the relevant DNCR, i.e. electronic addresses that have been in the relevant DNCR for not less than 10 working days.

Question 2

In relation to the proposed revision set out in paragraph 6.1(b) above, do you agree that the proposal will reduce the burden on CEM senders in answering misguided complaints against them and enhance the awareness of the recipient to avoid making misguided complaints? Is there any other proposal that you would like to make? If yes, please provide your proposal with reasons.

No comment.

Question 3

Are there any matters which should be included in paragraph 6.5 above to provide practical guidance in relation to the sending of other short messages? If yes, please provide reasons for your suggestion.

No comment.

Question 4

Are there any matters which should be included in paragraph 8.5 above to provide practical guidance in relation to the unsubscribe facility statement for other short messages? If yes, please provide reasons for your suggestion.

No comment.

Question 5

Are there any matters which should be included in paragraph 8.7 above to provide practical guidance in relation to the retention and storage of unsubscribe requests? If yes, please provide reasons for your suggestion.

1. We suggest inserting the wording set out in paragraphs 10, 12 and 13 above to clearly inform the senders of the different formats in which they can retain a record of the relevant unsubscribe request and the period within which they must retain such request.
2. In regard to paragraph 8.7 of the CoP, the requirement to keep all unsubscribe requests in its original format is too rigid and may be difficult to execute for certain medium. We suggest that practicable flexibility should be permitted as warranted in the specific circumstances. Please see our suggested wording in paragraphs 10 and 13 above. Further, the required time to retain the relevant records should be specified as suggested in paragraph 12 above.
3. In regard to the 2nd and 3rd lines of paragraph 8.7(d) of the CoP, please clarify the requirement that “the webpage of the hyperlink should be retained and kept in its original format for storage” and how such requirement is supposed to be satisfied.

If you have any queries, please contact the Secretariat (Ms Ivy Wong at 2521-1160).

Yours faithfully



Boey Wong
Secretary