



Submissions in relation to the
Consultation Paper on Proposed Revisions of Code of Practice
on Sending Commercial Electronic Messages
under the Unsolicited Electronic Messages Ordinance

12 April 2013

PCCW Limited and its associated group entities (“PCCW”) is pleased to make submissions to the Communications Authority (“CA”) in relation to the Proposed Revisions of the Code of Practice on Sending Commercial Electronic Messages under Unsolicited Electronic Messages Ordinance (“UEMO”) dated 1 March 2013 (the “Code of Practice”).

In response to the individual questions, we submit the following:

Question (1)
Paragraph 4A

The underlined clause below should be added to paragraph 4A to ensure the revised Code of Practice consistent with s. 11 of the UEMO which enables a sender to send commercial electronic messages to a user of electronic address who has given his/her unrevoked consent to the sender no matter when his/her electronic address was registered to the do-not-call register maintained by the CA.

“...To ensure compliance with this section of the UEMO, a sender of commercial electronic messages should cleanse his/her distribution list of electronic addresses against the relevant DNCR, unless the registered user of the electronic address has given his/her consent to the sending of the message. The UEMO is technology neutral and covers all types of commercial electronic messages irrespective of the technology used by the senders...”

Question (5)
Paragraph 8.7

Section 9(3) of the UEMO requires the senders to ensure that a record of the unsubscribe request in the format in which it was originally received, or in a format that can be demonstrated to represent accurately the information originally received. However, the proposed new paragraph curtails the flexibility in this drafting by conclusively specifying the format rather than allowing the senders to demonstrate the record they have accurately representing what they received. It will unnecessarily curtail the flexibility of senders in using different devices to retain unsubscribe request records they received through their unsubscribe facilities. This paragraph should be deleted because, in particular:

- Paragraph 8.7(a) will require senders to convert the unsubscribe telephone conversation into a digital voice for storage. However, a digital voice format is not the only allowable format that can be demonstrated to represent the original

telephone conversation received under section 9(3) of the UEMO. A note of the conversation which is accurately recorded the instruction also fulfils the requirements of the UEMO.

- Paragraph 8.7(b) unnecessarily requires senders to convert the facsimile into an image file for storage which is not the only format allowable under section 9(3) of the UEMO;
- Paragraph 8.7(c) provides no information about storing the original SMS records in other formats which are allowed under section 9(3) of the UEMO;
- Paragraph 8.7(d) requires senders to store additional information of the webpage of the hyperlink for 3 years which is in fact part of unsubscribe facility instead of unsubscribe request record. Both paragraphs 8.7(d) and 8.7(e) are also silent on storing the original emails and records of a pre-recorded telephone message in other formats allowable under section 9(3) of the UEMO;

Whilst PCCW is supportive of the Code of Practice we would invite the CA to make minor, but very important modifications as suggested in this submission.