



Hong Kong Call Centre Association
30 June 2017

Response to Commerce and Economic Development Bureau on Strengthening the Regulation of Person-to-Person Telemarketing Calls

The Hong Kong Call Centre Association (HKCCA) has received and reviewed the Consultation Paper on strengthening the regulation of Person-to-Person Telemarketing Calls

The Association would like to express the following views:

1. The Association acknowledges there is public concern on P2P marketing calls that cause inconvenience and sometimes nuisance to the recipients. It agrees there is a need for the Government and parties concerned to address the issue and implement effective measures to rectify the situation.
2. Of the three options that Commerce and Economic Development Bureau (CEDB) has identified, members of the Association unanimously prefer Option 1 - Trade Specific Self-regulatory Regime.

Since the Unsolicited Electronic Messages Ordinance (UEMO) was enforced on 22 December 2007 that regulates commercial electronic messages; including fax; short messages and pre-recorded messages, HKCCA joined effort with other trade associations in banking, insurance and telecommunications sectors, with the support of Office of the Telecommunications Authority (OFTA), implemented a Code of Practice (CoP) effective on 1 July 2010 that covers, among others, the hours of calling, the need to reveal the identity of telemarketers and to honour unsubscribe requests.

To demonstrate our commitment to fulfil the requirement of the CoP, HKCCA further established a CoP Certification mechanism by appointing Hong Kong Quality Assurance Agency (HKQAA), an independent quality management body, to conduct on-site audit annually for the contact centres that participate in the scheme voluntarily. Different assessment methodologies are used for the audit to assess if the telemarketers are fully compliant to the CoP that include: recorded calls assessment; document review; data inspection; equipment setting checking; on-the-spot interview.

HKCCA was successful in applying for the SME Development Fund to extend this Certification scheme to support SME telemarketers in providing free Certification audit for them as well as free training series relating to telemarketing operation knowledge and skills for their frontline agents. A total of 25 companies were certified in 2011. Upon the cessation of the SME Development Fund in August 2012, those funded SME telemarketers gradually discontinued their participation in the Certification. There remains 10 companies, mainly HKCCA Corporate members, participating in the Certification since 2011. And one member from telecom sector joined the Certification recently.

In order for Option 1 to be effective, a registration regime for telemarketers (companies) has to be in place. Coupled with a mandatory CoP Certification to ensure every registered telemarketer is compliant to the requirement of the CoP on an on-going basis (through annual re-audit) and be traceable (through registration).

Our current Certification scheme has too little participation to be convincing as an effective mechanism to curb nuisance as participation is voluntary. Through mandatory certification, participation would be significantly increased and telemarketing business would be more structured in particular in the SME sector. Companies looking for telemarketing vendors to make calls for themselves would be encouraged to use certified telemarketers.

3. For Option 2 – Call-filtering Applications in Smartphones. We suggest, instead of using call-filtering applications to screen out “black-listed” unwanted calls, it would be better to use the applications to maintain a “white list” where the telephone numbers of government departments e.g. social welfare department; public institutions e.g. hospitals and certified telemarketers are maintained. When the call is from those on the “white list”, phone-users will be alerted with a Q-mark display (Certified Telemarketer) or the name of the institution (QM Hospital) that those are the calls to answer.

This would encourage more telemarketers to obtain certification through proper operation of their business and instil more confidence to the phone-users to answer calls they don't want to miss.

4. For Option 3 - Do-not-call Register. We strongly oppose the establishment of a blanket; cross-sectorial do-not-call register on person-to-person marketing calls.

Under the Personal Data (Privacy) Amendment Ordinance 2012 (PDPO) (effective 1 April 13), there are already very strict requirements in collecting; using and transferring personal data in making marketing calls with heavy penalty for non-compliance. Telemarketers making “**warm calls**” (using the personal data which have been previously collected in accordance and compliance with PDPO) are already regulated by PDPO and provide opportunities (in every call and at any time) for the receiving

party to unsubscribe (opt-out) future calls from the calling party / principal. It would be inappropriate and unreasonable to include “**warm calls**” in the ambit of any additional do-not-call register that would impact tens of thousands of people who are gainfully employed using the phone to legitimately speak with their previous customers and business prospects.

5. The enforcement of PDPO 2012 had triggered an increasing number of “cold calls” (called numbers generated by computer without personal data of the called party) being made by rogue operators / brokers that often mask their true identity. Most of these calls are generated from offshore, with the purpose of soliciting loan prospects or selling beauty therapy packages for their ultimate clients. For the general public, they cannot tell the difference between warm calls and cold calls but are getting frustrated being called frequently. If the establishment of a “cold call only”; sector-specific (public can choose to opt-out certain sectors e.g. beauty therapy, property agency etc.) do-not-call register could screen out those malpractice; provide a better business environment for the genuine and compliant telemarketers and minimize the nuisance to the public, this could be an acceptable option - provided an expiry date to be associated with the number registered. The reason for an expiry is that the number does not belong to the phone-user perpetually – only the period the telephone service is subscribed. To register a phone number on the Do-not-call Register is to subscribe a service though it would be free. Like other subscribed services, there is a service end date that the subscriber has the chance to review if he needs the service anymore. The registration effective period should be 2 to 3 years – similar to most subscribed service contracts.
6. To address the concern on the difficulty of law enforcement towards offenders making calls to the public outside of Hong Kong, the beneficiary / principals of the marketing call should be held responsible for the offence irrespective of where the call was generated.

For example, a beauty salon in Hong Kong appoints an operator in China to make “cold calls” to Hong Kong public to source business. If the China-based operator breaches the law and call phone-users on the Do-not-call Register (assuming Do-not-call Register were statutory), though collection of evidence and prosecution of offshored offenders would be difficult, the beauty salon, being the principal of the marketing call should bear the legal liabilities of the offence.

Under PDPO 2012, principals of warm calls are already being held responsible for any offence arising from conducting the telemarketing business. The court case relating to Hong Kong Broadband Network (HKBN) refers, HKBN was found guilty for calling an opt-out customer for re-contract of service. The actual calls were made from Guangzhou.

We believe this would be a more effective measure to deter non-compliant telemarketers / principals and encourage companies

considering using vendors to make calls to use certified telemarketers.

7. We are in agreement with the conclusion that assigning specific prefixes to telemarketers who wish to conduct telemarketing business is not feasible as stated in the consultation paper. It will also create a labelling effect and involve substantial costs and resources to the business for the change.

In closing, we believe it is the responsibility of the authority concerned to tackle crimes using marketing calls as a tool and channel for illegal acts. There are already ordinances (Unsolicited Electronic Messages Ordinance; Personal Data (Privacy) Amendment Ordinance 2012; Commodity Description Regulations) and Code of Practice in place to govern the telemarketing business and protect the interests of the general public. The industry practitioners at large are responsible corporates that adhere to the requirements of the ordinances and Code of Practice. It would be unfair for them to bear the full blunt of further legislation that would eventually strangle the industry but let the real culprits off the hook.

— End —

About the HKCCA

The Hong Kong Call Centre Association (www.hkcca.com) is a not-for-profit organisation that has a mission to help local businesses improve their contact centres and on-line customer service by deploying the best management practices and latest technologies. The HKCCA has grown to include over 460 corporate and individual members in both Hong Kong and Southern China and supports its members through annual benchmarking studies, site visits, awards competitions, symposium, seminars; training and many social events.

Inquiries:

Mr Rayland Chan
raylandchan@hkcca.com
Tel: +852 39662852
Mobile: 852 90901309