

# Public Consultation on Strengthening the Regulation of Person-to-Person Telemarketing Calls

**25 May 2017**

# Agenda

1. Update on the latest development of the P2P telemarketing calls issue.
2. Update on the status of the P2P Telemarketing Code of Practice Certification Scheme.
3. Collect views of the 3 options as proposed by CEDB.
4. Formulate plan to feedback our concerns to CEDB.
5. A.O.B.

# Media Coverage



- 商業電台-新聞
- 香港電台-千禧年代
- 香港電台-自由風，自由 phone
- 無線電視-新聞
- 無線電視-時事多面睇
- Now TV-新聞
- Now TV-時事全方位
- 鳳凰衛視-時事大破解
- 香港01
- 明報
- 經濟日報
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- 東方日報
- 頭條日報
- The Standard

# Media Coverage

## Cold Call 與 Warm Call 不分 業界批諮詢存誤導

【本報訊】真人促銷電話多年來處於近乎「零監管」狀態，政府昨終肯踏出填補空白的一小步。本港最大型的電話資料庫HKJunkCall.com也支持立法規管真人促銷電話及設立「非應邀電話登記冊」，讓市民能識別致電者身份，並保障正當營商者；但批評整份諮詢文件「Cold Call」與「Warm Call」不分，有誤導市民之嫌。不過，業界則支持行業自我規管，以保障從業員生計。

### 倡設「非應邀電話登記冊」

至今有二百萬用戶、累計收集攔截電話舉報以億計的HKJunkCall.com，其管理員胡文翰贊成政府以立法形式規管真人促銷電話，並認為除立法外，當局應設立「非應邀電話登記冊」，讓從事電話促銷的經營者登記，一方面方便追蹤電話來源，又可加強攔截促銷電話應用程式的效率。

不過，胡批評政府現時Cold、Warm不分，卻指促銷電話交易成功率達一成三是絕對誤導，「你試吓分開兩條數，睇吓係咪一百個Cold Call有十三個做到生意，市民同業界都唔信啦！」

香港客戶中心協會執行總監陳建年指，根據該會一四年進行的調查顯示，全港約有二千五百個電話中心，近六萬名從業員中，有約兩萬五千人負責一般客戶服務及電話促銷，如政府立法規管真人電話促銷，勢必影響從業員生計，故傾向支持自行規管制度，又指即使立法，亦不應「一刀切」，須豁免「Warm Call」經營者、登記電話須設年期限制及讓市民選擇拒接的銷售電話類別，以減低對業界的影響。

# Media Coverage



## TELEMARKETING

# Criminal sanctions an option to deter nuisance cold-callers

**Officials say a do-not-call register could be the best method to shield people from telemarketers**

**Raymond Cheng**  
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Hong Kong authorities are considering criminal sanctions for the first time among several options in a public consultation exercise on tackling a long-running nuisance – rampant cold calling by telemarketers.

The options offered yesterday by the Commerce and Economic Development Bureau included self-regulation by telemarketing firms, call-filter applications for smartphones, and a do-not-call register, considered the strongest of the measures.

Officials said telemarketers could be subject to either civil or criminal sanctions if they continued to call numbers listed on the register by people who did not want to be disturbed.

The government has long been reluctant to get tough on nuisance callers, but is now under renewed pressure to act after the recent case of a family in an emergency raised concern.

A woman ignored 17 calls from hospital staff trying to get consent for surgery on her husband after he was injured in a car accident, as

she had assumed they were nuisance calls from a telemarketer.

While Hong Kong has an established do-not-call register that protects listed numbers from commercial electronic messages, including voice recordings, direct person-to-person calls are exempted. A survey commissioned by the government in 2015 found 96 per cent of respondents were bothered by unsolicited calls.

"We understand they cause a lot of nuisance to people, that is why we want to gather people's views in this consultation," commerce minister Greg So Kam-leung said. But he cautioned that the government would also have to consider the impact on the livelihoods of an estimated 7,000 telemarketing workers.

According to the experience of 17 overseas jurisdictions surveyed by the government, a do-not-call register appeared to work in reducing cold calls, although enforcement action was dwarfed by the number of complaints.

"From overseas experience, there are actually some difficulties in legislating to set up the registry," So said. "These include technical difficulties. For example, many cold calls are made from

outside Hong Kong. There are also techniques to display a false number of the caller."

IT sector lawmaker Charles Mok said: "The government should make the final beneficiary of cold calls shoulder criminal responsibility, and also make telemarketers' phone numbers start with a certain digit so that people know who is calling."

Shiu Ka-fai, legislator for the wholesale and retail sector, was against the register option. "Because the rent for shops at street level is so high, a lot of small and medium enterprises rely on telemarketing to do business," he said.

Pro-establishment lawmaker Elizabeth Quat suggested the government itself should provide filter apps, and that it was important to enact legislation to offer the public the register option.

Financial services lawmaker Christopher Cheung Wah-fung felt the impact of effectively banning cold calls would be too big.

"Maybe the companies should give better training so the caller will not cause too much disturbance, and also agree not to call the person again for a period if he shows no interest in the product."

The government will gather public views until July 31 before proposing the way forward.

> HARRY'S VIEW A10

# Media Coverage

## **COLD-CALL VICTIMS GET THEIR SAY**

A public consultation is under way to gather views on tightening regulations on cold calls for marketing.

The Commerce and Economic Development Bureau proposes three solutions to improve regulations on person-to-person, or P2P, telemarketing calls. These are enhancing self-regulation for the industry, promoting call-filtering mobile applications and establishing a statutory "do not call" register.

While the bureau already has some ideas, its spokesman said officials will keep an open mind and consider suggestions from the public.

"We understand that there are concerns in the community about the nuisance caused by person-to-person calls," he said, while the impact on telemarketing employees and protection of personal data are also important issues.

The document cited survey data collected in 2015, which showed the public was calling for tighter regulations on telemarketing calls. An overwhelming 96 percent of respondents found such calls a "nuisance to some extent," while

86 percent wanted the government to strengthen control.

The bureau estimated that about 7,000 workers were directly or indirectly engaged in making telemarketing calls in that year, and at least 1,000 were working in the mainland.

When asked about their preferred mode of regulation, 67 percent asked for new legislation. Only 16 percent preferred voluntary codes. And within the telemarketing industry, only about 10 percent of the companies engaged in P2P calls wanted new laws.

The public may submit views to the bureau before July 31.

Information technology sector lawmaker Charles Mok slammed the government's "lackluster" suggestions.

"I don't see what is being strengthened," he said.

Mok said existing self-regulatory measures are known to have limited effect, as those that make the most calls — beauty and loan companies — had refused to adopt the measures.

SUM LOK-KEI

# Media Coverage



## 規管促銷電話 政府提3方案



政府就規管人對人促銷電話展開公眾諮詢，將於7月底完結。(資料圖片)

【本報記者洪寶瑩、文藝怡報道】政府就規管人對人促銷電話展開公眾諮詢，提出3個方案，包括業界自行規管、透過手機來電過濾程式攔截，及設立拒收信息登記冊。

### 業界估影響2.8萬港職位

政府諮詢文件提出3個可行方案，包括由行業自行規管制度，惟不遵行實務守則，不會招致民事或刑事法律責任。另一方案透過智能電話的來電過濾 App 攔截，政府可跟軟件公司合作，將收集的促銷電話號碼建立一個資料庫。

第三個方案是設立拒收信息登記冊，若促銷商撥打登記冊的號碼，須承擔法律責任。此方案有較大阻嚇性，但促銷商可改由境外打電話，或更改來電顯示技術，避開規管。文件指企業成本增加，料業內約7,000名電話促銷員的就業機會受到嚴重影響。

香港客戶中心協會執行總監陳建年表示，若法定的拒收信息登記冊推出，料部分促銷商轉移陣地至內地或境外，逃過監管；如名冊沒有豁免已掌握客戶身份、雙方有業務關係的非隨機致電（warm call），恐怕大部分從業員飯碗不保，連同非外判的推銷員、後勤人員，受影響人數達2.8萬。他表示，業界不介意被監管，但希望政府不要一刀切，豁免規管 warm call。

### 蘇錦樑：港府無既定立場

hkjunkcall.com 創辦人胡文翰指，即使透過來電過濾應用程式攔截促銷電話，仍要配合立法，指配指定「字頭」號碼予商業機構、大學及醫院等，才可有最理想效果，因可方便用戶上網查閱，應用程式亦可據此製作「白名單」。

公眾諮詢於7月底結束，商務及經濟發展局局長蘇錦樑強調，3個方案不是彼此排斥，一些方案可同時進行，政府沒既定立場，對文件以外方案持開放態度。

## 輪候

【本報訊】公屋輪候時間連升10個月，最新數字，一般申請人12月的4.7年，至於輪候冊宗，按季減6,400宗，委員指，要觀察至今年3月。截至今年3月，公屋申請，為連升一人申請個案亦1季少4,900宗。4.6年，較去年更遠超「3年上樓」平均輪候時間則2

### 房委委員：

身兼房委會

## 鄧桂

【本報訊】肝衰竭須換肝，對於醫管 Michelle 正考 [Michelle 昨表示交代事故。

Michelle 昨但醫生及家屬仍釋因涉事醫生工布事故。Michelle 昨表示，但質疑院方「如果我無上去個交代我？還我？我問他們時她補充，一通，質疑自己考局整個4月不能定；又指聯院至

Ming Pao

## 倘立法訂登記冊 政府指有難度



記者：張一華

政府昨日就真人促銷電話規管展開公眾諮詢，

政府作三大方案建議，可考慮由個別行業自行規管、政府資助軟件公司改良智能手機的過濾應用程式，及立法訂立市民拒收訊息登記冊。但政府強調立法訂登記冊需時及難阻海外撥入的真人促銷電話。而美容業等多個業界均指，寧加強自律規管，也不希望立法，若立法應只針對一般促銷電話「cold call」，對已有客戶電話資料的「cold call」應豁免。

政府於一五年委託獨立顧問研究發現，九成六人認為對人促銷電話帶來滋擾不便，兩成七人會即掛斷電話，八成六人支持擴大規管，而六成七人支持立法才有效。政府在諮詢文件表明，不涉立法較快捷，立法或收更大阻嚇，卻又未必須一刀切去規管對人促銷電話問題，諮詢期將至七月三十一日止。

# 真人促銷電話諮詢 提三大規管方案

政府建議行業自行規管方案，是在商會現時的實務守則上，再鼓勵會員遵守及引入投訴處理，不時公布投訴數字及擴大至更多行業，不涉立法，但靠行業自發自律，成本較低。

## 自行規管或改良程式

智能手機設來電過濾應用程式的建議，政府資助軟件公司改良現行相關手機應用程式，但頗依賴市民舉報促銷電話號碼，亦難保證舉報準確及時，而應用程式亦有可能令用家手機內資料外泄，存在風險。

第三個方案則建議立法設拒收訊息登記冊，市民可登記拒收促銷電話，所有行業禁止致電，這方案起較大阻嚇，但對境外打出電話、蒐證、網絡電話技術等，都嚴重影響執法成效，亦會令真人促銷的正常交易減少。且立法需時，蒐證更要符刑事訴訟準則，市民須錄音及出庭作證，未必人人願舉報。

商務及經濟發展局長蘇錦樑指，三個方案可一起進行，政府無既定立場，但立法訂登記冊需時，外國經驗亦顯示有技術困難，因大部分營銷電話由外地打入，每個方案都有利弊。

香港客戶中心協會執行總監陳建年認為，應規管一般促銷電話「cold call」，對機構與市民已確關係的一般促銷「warm call」應豁免。政府方案雖全部促銷電話，但銀行、電訊公司已有客戶資料推銷，不應涵蓋他們。他指政府應一併規管海外話、能執行名冊才去立法，否則成效有限。

## 莫乃光：立法登記冊較可取

國際專業美容師協會會長潘佩芬反對立法管，她指再立法只打擊中小企營商的生存空間。港美容業總會創會主席葉世雄指，其公司去年也促銷電話公司冒名推銷，立法也未必能一網打盡不少促銷電話已由網絡撥出，應向電訊商、網絡應商入手堵截更有效。

立法會資訊科技界莫乃光認為，立法登記冊較可取，但諮詢文件予人感到政府無意立法，批當局未有探討業界建議。業界早已有自願性守則成效不大。

個人資料私隱專員公署指，現時條例並非禁止對人促銷電話，而是說明怎樣才合法。考慮規管私隱專員認為應考慮不同因素，確保資訊自由流通

每日只需2粒  
輕鬆改



申請文件。但康文署回覆本報查詢指，



# Principles considered in regulation of P2P calls



- The regime should be **effective** in identifying and filtering unwanted P2P calls so as to **reduce nuisance** to recipients;
- The regime (statutory or otherwise) should be **enforceable** to the extent that any breach by telemarketers can be effectively **traced within reasonable resources**;
- The regime should be **flexible enough** to respond to quick **market changes** and people's needs;
- The regime **should not impose onerous burden** on normal business operations;
- **Impact on employment** opportunities in the telemarketing field and related businesses should be **minimized** as far as possible.

# The 3 options proposed by CEDB



- Option 1 – Trade Specific Self-regulatory Regime
- Option 2 – Call-filtering Applications in Smartphones
- Option 3 – Do-not-call Register

# Option 1 – Trade Specific Self-regulatory Regime



- The **codes of practices (CoP)** to be established, operated and enforced by respective trade associations.
- **Non-statutory** - Non-compliance will not attract legal liability, either civil or criminal.
- **Trade associations** administering the codes of practice to set up and **enforce** their own **sanctions** towards non-compliant members to boost compliance.
- Establish **formal complaint handling procedures** for reporting unwelcomed P2P calls. Number of complaints received can also be made public from time to time to raise public awareness.

# Option 2 – Call-filtering Applications in Smartphones



- Establish smartphone **applications** for **screening or filtering** telemarketing calls by collecting **telemarketers' phone numbers** through **voluntary reports** from members of public.
- The **Government** may collaborate (through **funding** or other forms) with selected software companies to improve the existing applications and promote the wider use of call-filtering applications.
- **Non-statutory** - Telemarketers are **not prohibited** to make **telemarketing calls** but their calls will be automatically filtered by the call-filtering applications for those who have installed such applications.

# Option 3 – Do-not-call Register



- Establish a **Do-not-call Register by law** to prohibit telemarketers from calling the numbers listed on the Register.
- Any **phone user** unwilling to receive telemarketing calls **can register his/her phone number(s)** with the Register.
- This option is **statutory** in nature. **Non-compliant** telemarketers will be **subject to legal sanction**, either civil or criminal.

# Other Options Explored but Concluded Not Feasible



- A self-regulated broad-based Do-not-call Register
- Assigning Specific Prefixes to Telemarketers

# A self-regulated broad-based Do-not-call Register



- A **non-statutory Register** across **all industries** maintained and operated by a **trade association** or similar private organization e.g. Marketing Association of New Zealand.
- Not Feasible because:
  - The **diversity of businesses**; the **vast number** of **SMEs** in Hong Kong, there is **not a single trade body** in a position to establish, maintain, operate and administer a non-statutory Do-not-call Register covering different trades.
  - **High cost and manpower** involved. it is unlikely for businesses to self-initiate such a move in Hong Kong

# Assigning Specific Prefixes to Telemarketers



- Assign **specific prefixes** to telemarketers for easy identification of the general public before deciding whether to answer the call
- Mandate **telemarketers to register** with the telecommunications authority
  
- Not Feasible because:
  - A **new law is required** to **empower** the telecommunications authority to register telemarketers and assign them with specific number prefixes and **prosecute** unregistered telemarketers
  - It will be **extremely difficult** to **catch telemarketers** who seek to circumvent the prefix registration system or deliberately avoid registering with the Government by **calling with ordinary** phone **number** prefixes or **calling from overseas**
  - Generate a **higher demand** for **telephone numbers**, reduce flexibility on number assigning and create adverse impact on the existing 8-digit numbering plan.



# Comparison of the 3 Options

| Option 1  | Option 2   | Option 3  |
|---|--|---|
| <p><u>Regulation format:</u></p> <ul style="list-style-type: none"> <li>- Code of Practice</li> <li>- Formal complaint procedures</li> <li>- Associations to enforce their own sanctions</li> </ul> | <p><u>Regulation format:</u></p> <ul style="list-style-type: none"> <li>- Establish smartphone apps to screen / filter unwanted telemarketing calls</li> <li>- Govt. to fund selected software companies to improve existing applications</li> </ul> | <p><u>Regulation format:</u></p> <ul style="list-style-type: none"> <li>- Establish a Do-not-call Register by law</li> <li>- Phone users unwilling to receive telemarketing calls can register their phone numbers with the Register.</li> <li>- Non-compliant telemarketers will be subject to legal sanction</li> </ul> |
| <p>Non-statutory</p>  | <p>Non-statutory</p>   | <p>Statutory</p>  |
| <p><u>Limitations:</u><br/>Effectiveness hinges on its member coverage and their commitment in complying with the CoP</p>   | <p><u>Limitations:</u><br/>Rely on voluntary reporting of telemarketers' phone number, accuracy is not guaranteed<br/>Some apps contain "reverse look-up" function that user's phone number may be accessible by third parties</p>                   | <p><u>Limitations:</u><br/>Calls made from outside of HK, collection of evidence and circumvention techniques like spoofing and VoIP calls could undermine the enforceability and effectiveness of the regime.</p>  |

# Person-to-person Telemarketing Code of Practice (CoP)



- Hours of Calling
- 致電時間
- Identity and Purpose
- 身分和目的
- Unsubscribe Request
- 取消接收要求
- Statistic of Complaints
- 有關投訴的統計數字
- Use of Automated Dialing Equipment
- 使用自動撥號設備
- Called Party who is travelling overseas when the call is made
- 致電時接電者正身處海外

# Trade associations that practice self-regulatory scheme



- 香港銀行公會
- Hong Kong Association of Banks
- 存款公司公會
- DTC Association
- 香港保險業聯會
- Hong Kong Federation of Insurers
- 香港通訊業聯會
- Communications Association of Hong Kong
- 香港客戶中心協會
- Hong Kong Call Centre Association

# Audit and Certification



- HKQAA to conduct audit for the participating telemarketers to ensure compliance to the CoP
- Different assessment methodologies are used for each checkpoint, that include:
  - recorded calls assessment; document review; data inspection; equipment setting checking; on-the-spot interview*
- One man-day to be required for the Certification Audit
- HKCCA to issue Compliance Certificate to telemarketers that had passed the audit
- Telemarketers that failed the first audit to be re-audited within 3 months
- HKCCA to maintain a list of certified telemarketers on the HKCCA website for public access. The updated list to be submitted to CEDB
- The Certified Telemarketers to be re-audited every 12 months

# Contact Centre Industry Employment in Hong Kong – 2014 Research



- Hong Kong companies have about **3,500** contact centers and majority of companies have 1-2 contact centers in Hong Kong or China
- Among 3,500 contact centers, **2,500** of them are located in **Hong Kong** while the rest are outside of HK
- There are about **45,000 seats** in the contact centers in Hong Kong, and contact centers located in HK generally have fewer seats than those located else where
- About **30,000 employees** offer **inbound** call service only; about **25,000 employees** perform both **inbound and outbound** call while about **3,000 only do outbound**.
- Over **81%** of the about **58,000 employees** are employed as **full-time** agents at the contact centers in Hong Kong

# Our Position



- Support an industry association **Self-regulatory Regime** and that the P2P Telemarketing **Code of Practice Certification** should be **mandatory**.
- Support a **registration regime**, coupled with the certification mechanism that all operators will need to be compliant to the Code of Practice and be traceable.
- Oppose the establishment of a cross-sectorial or sector-specific **do-not-call registry** on person-to-person marketing **warm calls**.
- The establishment of “**cold call only**” and **sector-specific do-not-call registers** on person-to-person marketing calls would be acceptable if an **expiry date** to be associated with the number registered. And **sanctions could be enforced** towards **off-shore**; non-compliant telemarketers
- Propose the **beneficiary / principals** of the cold call to be held responsible for the offence related **irrespective of where the call was generated**.
- It is the **responsibility** of the **authority** concerned to tackle the **crimes using marketing calls** as a tool and channel for the illegal acts.

# Feedback Plan



| Date         | Action  |
|--------------|---|
| 11 May 17    | Public Consultation starts  |
| 25 May 17    | HKCCA Member Meeting to review the Consultation Paper and Options |
| 16 June 17   | Feedback collection ends  |
| 19 June 17   | Hong Kong Contact Centre Industry research starts                 |
| 14 July 17   | Consolidate views and submit HKCCA proposal to CEDB               |
| 31 August 17 | Release of research findings                                      |
|              |   |

**THANK YOU**