



1. ISCO-HK believes that the Internet resources should be used fairly by all parties. The abuse of use of the Internet should be penalized and yet policing should be minimal to allow the civil society to realize the freedom of speech and expression. We believe the governance of the Internet is a cross-border effort and each economy should act as a good neighbour to the other economies. Legislation against UEM should target at making a place like Hong Kong to be abuse resistant, or in other words “anti-spam friendly”.
2. ISOC-HK agrees with the broad principles that
 - a. Receivers should have the right to decide reception of electronic messages
 - b. The freedom of speech & expression must be put in priority
 - c. There should be room for development of e-marketing esp. for SME
 - d. Penalties proportional to offences
 - e. Legislation be enforceable and easy to follow
3. We agree that the scope of the UEM be covering all forms of electronic messages so as to stay ahead of the technological advances. The exceptions mentioned in the paper which include human voice, video, telephone calls without pre-recorded element seems to be an easy split line of applicability. It can be agreed that the exceptions cause fewer problems at this moment because of the economical hurdle to use manual communication is higher.

Yet we should be aware that unsolicited manual telephone calls are becoming more annoying. We should be able to leave a flexibility to include these ‘exceptions’ after future review.
4. ISOC-HK agrees to the concept of “Hong Kong link” in considering the applicability of the legislation. The concept can cover a broader scope of spamming activities cross-border in nature, for example, spamming traffic transiting Hong Kong and spamming preparation in Hong Kong



but being sent out, transiting and receiving outside Hong Kong. The “Hong Kong link” concept helps to close jurisdiction loopholes that might be utilized by spammers. The resulting legislation can allow Hong Kong to be an anti-spam friendly city. It provides a stronger foundation for Hong Kong to work bilaterally with other economies to weed out UEM.

5. ISOC-HK agrees that the “Opt out” scheme is a more acceptable proposal at this moment as to allow the growth of e-marketing and SME. We would point out that the proposal assumes too much on the credibility of the unsubscription facility. From the experience of the CAN-SPAM law implementation, unethical e-marketers were making use of tricks to render the unsubscription useless or difficult. Unsubscription may even be a means to confirm validity of email address or a means to provide advertisement.
6. We are quite worry that the “Do-not-call Register” be misused. The proposal only mentioned that the Telecom Authority (TA) be responsible to create and manage the register. We suggest TA be responsible for the security of the register as well. A poorly secured register can be exploited by malicious party to harvest the electronic address. “Do-not-call-Register” must be piloted before putting into mass production. For example, a Do-not-call Register composed of email addresses is an evil that can cause disastrous abuse. (The proposal may have skipped such register for this reason.)
7. The proposal’s standpoint on Address Harvesting is very confusing. While it stated directory harvesting is a kind of abuse to be penalized when associated with sending UEM without complying to opt-out regime, in #63 it stated directory harvesting do have legitimate uses. The proof of use of directory harvesting or use of harvested-address list seems to be impractical in real life. Isn't it simpler to penalize the use of address list not obtained by a authorized means?



8. The proposal treated sending UEM with electronic address obtained via dictionary attack as an offense. In real life, it is hard to prove an address was obtained by dictionary attack occurred some time earlier. The best time and location to prove the occurrence of dictionary attack is at an email server when it is trialed by the attack. Dictionary attack is a kind of resource exploitation. We can quantify the amount of trials as we do for incoming UEM in a period of time and legislate against this activity.
9. In #98 of “Consequential amendments to other enactments”, it was proposed to clarify section 24 of Telecommunication Ordinance to exempt telecommunication service provider from being guilty of offence when he willfully destroy, alters, intercepts, or abstains from transmitting any message, if the act is done for the purpose of facilitating compliance with the UEM Bill or any other law or contract between telecommunication service provider and its customer. ISOC-HK welcomes this proposal as it empowers the telecommunication service provider to stop UEM without fearing the violation of law.

At the same time, this exemption can be extended to cases when the telecommunication service provider needs to protect the network service from malicious attacks like hacking, worms and denial of service attack.

Internet Society Hong Kong Chapter is the local chapter of the Internet Society (ISOC), the global organization of Internet users and professionals, providing leadership in issues confronting the future of the Internet, including global coordination, development and cooperation of the Internet, technology standards, Internet governance and online civil society.

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