



Assistant Secretary (B)
Communications and Technology Branch
Commerce, Industry and Technology Bureau
2/F Murray Building
Garden Road
Hong Kong

20 March 2006

Dear Sir,

Comment on Consultation Paper on Legislative Proposals to Contain the Problem of Unsolicited Electronic Messages

Professional Information Security Association (PISA) is a non-profitable organization for local information security professionals. Our objective is to promote security awareness to the IT industry and general public in Hong Kong, utilizing our expertise and knowledge to help bringing prosperity to the society in the Information Age. In October 2004, we had responded to the OFTA Consultation Paper on UEM. We are glad that the Government had consolidated the comments from the community and proceed with a proposal to legislate against UEM. PISA would like to express our opinions on the consultation paper on the legislation.

Principles of Legislation

PISA agrees with the principles stated in the consultation paper to balance the concerns of different stakeholders, by providing room for development of e-marketing especially for SME, respecting the receiver's right to decide reception of electronic messages, maintaining the freedom of speech & expression, making penalties proportional to offences and emphasizing on enforceable legislation.

Scope of UEM

We welcome that the scope of the UEM be covering all forms of electronic messages so as to stay ahead of the technological advances. On the other hand, we note several exceptions mentioned in the paper which include human voice, video, telephone calls without pre-recorded element. Our view is that the exclusion of unsolicited human telephone calls should be subjected to review when situation worsen. If unsolicited human telephone calls continue to grow, more stringent measures should be considered, for example, requiring all unsolicited calls to reveal the caller's telephone number.

“Hong Kong Link” Concept

The concept of “Hong Kong link” is introduced in the consultation paper which broadens the applicability of the legislation. As the cross-border spamming service enterprises are tapping into loopholes of jurisdiction issues of different economies. A legislation that provides better coverage of applicability can help weeding out spammers to root in Hong Kong. As a good neighbour in the international community to combat UEM, Hong Kong can gain better reputation and support in cross-border collaboration to resolve UEM problems.

Opt Out Scheme and Unsubscription Facilities



Opt out scheme is an acceptable proposal at this moment. However, the paper put a lot of optimistic expectation on the unsubscription facilities. From the experience of the CAN-SPAM law implementation, unethical e-marketers were making use of tricks to render the unsubscription useless, like requiring the user to answer a survey, to solve a puzzle, or to perform something difficult. Unsubscription may become a trap of spammers to verify the existence of an email address or a tool for directing users to advertisement or bogus web sites. The legislation should be amended to close these loopholes to make the unsubscription facility more effective.

Do-not-call registers

“Do-not-call registers” is an effective way to reduce the number of unwanted calls from telemarketers. On the other hand, a publicly available register can be a directory of valid address for harvesting. The government should implement the register with extreme care. We also emphasize that the Telecommunication Authority (TA) should also be responsible for security of the register.

Commitment in Developing Accountability in Email Infrastructure

Hong Kong should play a more active role in international efforts on the accountability of email infrastructure. Government can collaborate with major ISPs to consider accountable email infrastructure, for example, use of authenticated SMTP service and adoption of mail server authentication framework (Sender Policy Framework and/or Domain Keys). Government offices should take the lead in implementing Sender Policy Framework or Domain Keys in major government mail gateways, in order to speed up the acquiring of knowledge and standard.

A Holistic Approach in Combating UEM and Malicious Attacks

Unsolicited Electronic Messages has been a breeding ground for spyware and phishing attacks. Such malicious email is not only a nuisance to the public but a threat to our society. After the UEM bill is legislated, Government offices should start review adequacy of current education and legal framework on spyware and phishing attacks.

For legislation, we notice that the proposal offers to relax the 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.

PISA welcomes this proposal as it empowers the telecommunication service provider to stop UEM without fearing the violation of law. At the same time PISA would commend that such relaxation should be extended to include measures other than those against UEM, but those to combat malicious attacks like hacking, worms and denial of service attack.

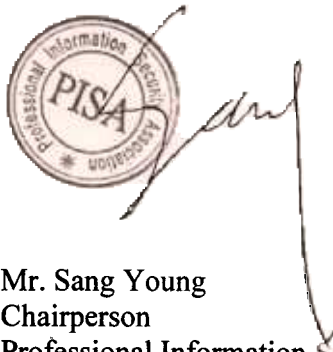
We appreciate our opinions be considered by the bureau. Please contact me at telephone or email:

Yours faithfully,



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