

China Resources Peoples Telephone Company Limited
("Peoples")

Response to

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

("Consultation Paper")

Date of submission : 20 March, 2006

Peoples would like to submit its views on the Consultation Paper issued by the Commerce, Industry and Technology Bureau ("CITB") in January 2006.

All abbreviations have the same meaning as in the Consultation Paper.

Part I Introduction

Peoples agrees in principal the initiatives of CITB to consider legislation as part of a basket of measures to tackle the problems caused by unsolicited electronic messages ("UEMs").

Part II Objectives and Guiding Principles

Guiding Principle 1

The registered user of an electronic address should have the right to decide whether to receive or refuse further electronic messages at that electronic address.

Peoples agrees.

Guiding Principle 2

There should be room for the development of e-marketing in Hong Kong as a legitimate promotion channel.

Peoples agrees.

Guiding Principle 3

Hong Kong should avoid becoming a haven for illicit spamming activities.

Peoples agrees.

Guiding Principle 4

Freedom of speech and expression must not be impaired.

Peoples agrees.

Guiding Principle 5

Penalties and remedies should be proportionate to the severity of the offences.

Peoples agrees.

Guiding Principle 6

The legislative provisions should be enforceable with reasonable effort.

Peoples agrees.

Legislative Proposals

Peoples has no specific comments to the legal language of the legislative proposals contained in Part III – IX as the technicality of legislative proposals should be scrutinized in Legco.

Part III Scope of Application

Nature of electronic messages

Peoples agrees in principal to paragraphs 19-20 but suggests that the TA should set out a clear demarcation between commercial and non-commercial communications in the COP to be published.

Form of electronic messages

Peoples agrees to paragraphs 21-22.

Specific form of electronic messages to be excluded

Peoples agrees to paragraphs 23-24.

Electronic messages with a Hong Kong nexus

Peoples agrees to paragraphs 25-28.

Part IV Rules About Sending Commercial Electronic Messages

Opt-out regime

Peoples agrees to paragraphs 31-35.

Implementing the opt-out regime

Peoples agrees to paragraph 36.

Functional unsubscribe facility

Peoples agrees to paragraphs 40-43.

Do-not-call registers

Peoples proposes that the Not-to-call registers should be made available in such a form which will enable the e-marketers to automate the process to take effect of the unsubscribe messages.

Accurate sender information

Peoples suggests that, for SMS, the sender should only be required to include company name and telephone number in order to spare more available length for content in the SMS.

Misleading subject headings

Peoples agrees in principle to paragraphs 48-49 but suggests the TA should give clear guidelines to the definition of misleading subject headings in the COP to be published.

Enforcement notice

Peoples agrees to paragraphs 50-51.

Offence in relation to enforcement notice

Peoples agrees to paragraph 53.

Part V Rules About Address-Harvesting

Peoples agrees to paragraphs 61-65.

Part VI Offences Relating to the Sending of Commercial Electronic Messages

Peoples agrees to paragraphs 67-68.

Sending commercial electronic messages to electronic addresses obtained by automated means

Peoples agrees to paragraph 69.

Use of scripts or other automated means to register for multiple e-mail addresses

Peoples agrees to paragraphs 70-71.

Relay or re-transmission of commercial electronic message without authorization

Peoples agrees to paragraphs 72-73.

Fraud and related activities in connection with sending electronic messages

Peoples agrees to paragraphs 74-75.

Part VII Compensation

Peoples agrees to paragraphs 78-81.

Part VIII Powers for Investigation

Peoples agrees to paragraphs 83-84.

Part IX Other Provisions

Peoples agrees to paragraphs 87-99.

CONCLUSION

Peoples broadly agrees to the proposed statutory framework for regulating activities related to the sending of commercial UEMs. Some specific comments are included in this response to the Consultation Paper.