

**CODE OF PRACTICE  
ON  
HANDLING COMPLAINTS ABOUT  
INTER-OPERATOR UNSOLICITED PROMOTIONAL  
TELEPHONE CALLS GENERATED BY MACHINES**

**A. Preamble**

1. This Code of Practice (CoP) sets out the standard procedures for local Fixed Telecommunications Network Services Operators, Mobile Network Operators and Mobile Virtual Network Operators to follow in handling complaints about inter-operator unsolicited promotional telephone calls generated by machines.

2. For the avoidance of doubt, nothing in this CoP absolves an operator from the responsibility of operating in accordance with the terms of its licence issued by the Telecommunications Authority and legislation currently in force in Hong Kong.

3. The operators shall cooperate to protect the interest of the users of telephone services and shall to the extent each operator deems necessary inform users of the proper and acceptable way of using telephone services for advertising purposes and operator's rights of suspension, termination and disclosure pursuant to Section E.

**B. Interpretation**

4. Unsolicited promotional telephone calls (UTC) are telephone calls made for the purpose of promoting goods or services sent to a recipient not at the request, or with the agreement or consent, of that recipient, from someone who has no established relationship with the recipient. UTC can be made by persons (i.e. cold calls) or generated by machines (e.g. automatic calling machines, voice recorders, interactive voice response systems etc).

5. Unsolicited promotional telephone calls generated by machines (UTC-M) are UTC generated by machines.

**C. Scope**

6. This CoP applies to all inter-operator UTC-M originating and terminating at either fixed or mobile networks.

7. This CoP does not apply to UTC not generated by machines or UTC-M that does not contain any recorded voice message.

## **D. Service Agreement**

8. Each operator shall, if it has not done so already, incorporate such terms and conditions in the service agreement with their respective customers to enable the exercise and implementation of the rights of suspension and termination pursuant to section E.

## **E. Procedures for Handling Complaints**

9. Each originating operator should in accordance with Paragraph 10, suspend or terminate the provision of service to a sender of UTC-M as soon as it forms the reasonable opinion that it has sufficient grounds to establish that UTC-M has been sent by the sender.

10. Each originating operator should suspend or terminate the provision of service to a sender of UTC-M in accordance with this section E.

- (a) In the event that the terminating operator receives a complaint from a UTC-M recipient (i.e. complainant), the terminating operator shall use its reasonable endeavours to collect relevant information on the alleged UTC-M, including without limitation, the telephone number of the complainant, the date and time on which the alleged UTC-M was received, the content of the alleged UTC-M (such as the product that the UTC-M is advertising and the characteristics of the product) as provided by the complainant, the originating telephone number of the alleged UTC-M as found in the call detail record (CDR) and the explicit consent of the complainant to disclose his or her full name for the purposes of this CoP.
- (b) Upon receiving two or more complaints of UTC-M against the same sender (the “alleged UTC-M sender”) as identified by the telephone number, irrespective of whether the content of the UTC-M of each complaint is the same or not, within five days<sup>1</sup>, the terminating operator shall:-
  - i. liaise with the operator (OP-3) to whom the number block containing the telephone number of the alleged UTC-M sender has been allocated as shown in the “Numbering Plan for Telecommunications Services in Hong Kong” and OP-3 shall advise the terminating operator if the telephone number has been ported to another operator and if so, to which operator. In case OP-3 does not participate in the implementation of this CoP, the terminating operator can check with all operators participating in this CoP, as appropriate, whether the alleged UTC-M sender is their customer and such operators shall reply within two days; and
  - ii. forward the information as referred to in Paragraph 10(a) in respect of the complaints on behalf of the complainants and the surname and initial of the complainant to the originating operator (i.e. the service provider of the alleged UTC-M sender) for its investigation.

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<sup>1</sup> The word “days” refers to calendar days unless otherwise specified.

- (c) Upon receiving the information referred to in Paragraph 10(a) from the terminating operator in respect of the two or more complaints and provided that the originating operator is reasonably satisfied that UTC-M may have been sent to the complainants, the originating operator shall within five days notify (in writing if possible) the alleged UTC-M sender, request the alleged UTC-M sender to respond to the complaint and remind the alleged UTC-M sender that his service will be suspended or terminated if the complaint is substantiated. The originating operator may collect the call records of the alleged UTC-M sender (and of other telephone lines registered under the name of the alleged UTC-M sender), which would provide vital information to infer whether the alleged UTC-M sender is making UTC-M.
  - (d) The originating operator shall use reasonable endeavours to conclude its investigation of the complaints within twelve days after receiving the information in Paragraph 10(a) from the terminating operator in respect of the complaints. If the originating operator forms the reasonable opinion that it has sufficient grounds to show that UTC-M has been sent by the alleged UTC-M sender, the originating operator shall take action to suspend or terminate the provision of outgoing call service or such services as the originating operator deems necessary to the alleged UTC-M sender.
  - (e) In the event that the originating operator has not completed its investigation within twelve days, and the complaints against the alleged UTC-M sender accumulate (irrespective of the telephone number), the originating operator shall rigorously consider, unless it has already done so pursuant to paragraph 10(d), suspending the provision of outgoing call service to the alleged UTC-M sender or such services as the originating operator deems necessary for not less than 14 days or until the matter has been resolved, whichever is earlier.
  - (f) The originating operator shall notify the terminating operator accordingly of the results of its investigation if available and of the actions taken in writing within twelve days upon receiving the information in Paragraph 10(a) in respect of the complaints from the terminating operator. The originating operator shall give an interim reply to the terminating operator that a reminder has been sent to the alleged UTC-M sender if the investigation cannot be completed within the stipulated time and shall update the terminating operator of the status of the complaints and the actions taken every two weeks until the complaints have been resolved.
11. Where requested by the originating operator to support the suspension or termination of services under Paragraph 10(d), the terminating operator shall provide the full name of the complainant for the purposes of this CoP. However, the originating operator shall not disclose the name of the complainant to any third parties unless prior written consent is obtained from the complainant through the terminating operator.
12. Each operator shall establish a contact point with telephone number, facsimile number and e-mail address for referral of such complaints from other operators.
13. To the extent permitted under the relevant laws, both the originating and

terminating operators shall keep a record of each UTC-M complaint made or received for a period of not less than one year.

14. Operators acknowledge that when handling the UTC-M complaints, they may receive information, data and materials supplied by other operators which may contain personal data (as defined under the Personal Data (Privacy) Ordinance, Cap. 486 of the Laws of Hong Kong) of the complainant and which may be of a proprietary and/or confidential nature. Such information, data and materials shall be safeguarded and used in the strictest confidence for the sole purposes of this CoP including carrying out investigations of the UTC-M complaints and as evidence supporting any suspension or termination of services to the alleged UTC-M senders.

## **F. Participation**

15. This CoP is for voluntary participation by operators and does not legally bind the operators to its terms. The list of operators participating in the implementation of this CoP and their contacts are attached to Annex 1 and Annex 2 respectively.

## **G. Amendments**

16. This CoP shall take effect on the date written below and may be reviewed, amended or updated as and when necessary by OFTA after consultation with the operators concerned.

Office of the Telecommunications Authority  
5 June 2006

Annex 1

**List of Operators Participating in the Implementation of the CoP**

- 1 CM TEL (HK) Limited
- 2 Hong Kong Broadband Network Limited
- 3 Hutchison Global Communications Limited
- 4 New World Telecommunications Limited
- 5 PCCW-HKT Telephone Limited
- 6 Wharf T&T Limited
  
- 7 China Mobile Peoples Telephone Company Limited
- 8 Hong Kong CSL Limited
- 9 Hutchison Telephone Company Limited
- 10 Mandarin Communications Limited (SUNDAY)
- 11 New World PCS Limited
- 12 SmarTone 3G Limited
- 13 SmarTone Mobile Communications Limited
- 14 SUNDAY 3G (Hong Kong) Limited
  
- 15 China Motion Telecom (HK) Limited
- 16 China Unicom International Limited
- 17 China-Hongkong Telecom Limited
- 18 CITIC Telecom 1616 Limited
- 19 IMC Networks Limited
- 20 Telecom Digital Mobile Limited
- 21 Trident Telecom Ventures Limited

Annex 2

**Contacts of Operators**  
**(Restricted)**

This contact list is used exclusively by operators to facilitate communications among operators. The general public can call the customer services hotlines of operators to lodge complaints.