



**The submissions of
Hong Kong CSL Limited and New World PCS Limited
in response to the consultation paper released on 7 September 2007
by the Telecommunications Authority entitled
“Code of Practice under
the Unsolicited Electronic Messages Ordinance (Cap. 593)
Public Consultation Paper”**

10 October 2007

1 Introduction

Hong Kong CSL Limited (“**CSL**”) and New World PCS Limited (together, “**we**”) are pleased to provide comments in response to the consultation paper entitled “Code of Practice under the Unsolicited Electronic Messages Ordinance (Cap. 593) Public Consultation Paper” issued by the Telecommunications Authority (“**TA**”) on 7 September 2007 (“**Consultation Paper**”).

2 Question 1: Are there any other matters or things which you consider should be included to provide more practical guidance to the senders of commercial electronic messages in relation to the presentation of sender information? If yes, please provide reasons for your proposed additions.

We understand from paragraph 6.4 of the draft Code of Practice under the Unsolicited Electronic Messages Ordinance (“**COP**”) that it requires “the contact

telephone number of the sender [to be] presented in the main text of the Short Message Service (“SMS”) message with a preceding label” (“EN” or “查詢” or “查詢 EN” or “EN 查詢” or a preceding label which means enquiry in the language given). The only exception is “if the address field of the SMS message already displays ... the sender’s contact telephone number (with or without the preceding label of “查詢 EN” or “EN 查詢”) ... [then] there is no need to repeat [the same telephone number] in the main text of SMS message”.

We also understand from paragraph 8.4 of the draft COP that it requires “the unsubscribe facility statement” to be “displayed in the main text of the SMS message with a preceding label” (“UN” or “取消” or “取消 UN” or “UN 取消” or a preceding label which means unsubscribe in the language given)”. The only exception is “if the address field of the SMS message already displays the telephone number serving as the unsubscribe facility (with or without the preceding label of “取消 UN” or “UN 取消”) ... [then] there is no need to repeat such number in the main text of SMS message”.

While we welcome the TA to specify the format for presenting the sender’s contact telephone number and the format for presenting the telephone number serving as the unsubscribe facility to fulfil the regulatory requirements under the Unsolicited Electronic Messages Ordinance (“**Ordinance**”) in view of the scarce number of character spaces in a single SMS message (70 character spaces if the SMS message is in Chinese and 160 character spaces if the SMS message is in English), we are concerned that the draft COP appears to suggest that if a telephone number is used for contacting the sender and the same telephone number is used for providing an unsubscribe facility then there is still the need to have the same telephone number stated twice in the main text of the SMS message, unless the same telephone number appears in the sender field of the SMS message. This may create a problem if a sender does not put their contact

telephone number in the sender field. In our case, we put our contact name or the company name in the sender field as illustrated in the following examples:

Assume the sender's contact telephone number (2888 1010) is also being used as the unsubscribe facility in the SMS message:

Case 1:Sender Field: CSL

Main Text: [We will need to state the contact telephone number (En: 2888 1010) and the unsubscribe facility (Un: 28881010) here within the main text.]

Case 2:Sender Field: 2888 1010

Main Text: [We will not need to repeat the contact telephone number and the unsubscribe facility here within the main text].

In view of this, we ask the TA to consider not requiring the same telephone number used for contact purpose and unsubscribe facility to be stated twice in the main text of the SMS message instead.

Moreover, we ask the TA to consider adopting a preceding label (“EN/UN” or “查詢/取消” or “查詢/取消 EN/UN” or “EN/UN 查詢/取消” or a preceding label which means enquiry and unsubscribe in the language given) to address the situation when the same telephone number is used for making enquiries about the name and address of the sender and also for making any unsubscribe requests by the recipient. No doubt, this will further assist in reducing the number of scarce character spaces used in the SMS message for regulatory purposes.

To provide an example of the two points described in the preceding paragraphs, we would suggest the following:

Case 3: Sender Field: CSL

Main Text: [We suggest to state the contact telephone number and the unsubscribe facility once by using a preceding label “En/Un” (En/Un: 28881010) here within the main text.]

3 Question 2: Are there any other matters or things, which you consider should be included to provide more protection to the recipients’ interests? If yes, please provide reasons for your proposed additions.

If our proposal in point 2 of this submission is not accepted then some SMS messages may need to be displayed in more than one single transmission. If the sender is required to state the same contact telephone number twice (one for making enquires and one for taking unsubscribe requests), this requirement will attenuate the marketing message and increase the number of messages a recipient would receive, in particular for an SMS message which has a length limitation. As a result, we believe by adopting our proposal stated in point 2 of this submission, it will provide more protection to the recipients’ interests.

For consistency purposes, we believe the use of a preceding label (“EN” or “查詢” or “查詢 EN” or “EN 查詢” or a preceding label which means enquiry in the language given) should not be confined to SMS messages only. In our view, the senders should have a choice to use the preceding labels in their facsimiles, e-mails and other types of messages that have the capability of including text labels.

4 Question 3: In relation to an SMS message, do you agree with the proposed format of presenting the sender’s contact telephone number? Furthermore, do you agree that, in case of a long SMS message that is split into two or more transmissions, the sender information must be included in the first transmission of the SMS message? If not, please propose amendments to this

paragraph and provide explanations to substantiate the proposed amendments.

We welcome the proposed format for presenting the sender's contact telephone number. We prefer using the preceding label "EN" more than the preceding label "ENQ" as the acronym of "enquiry".

We also welcome that when SMS messages are too long to be displayed in one single transmission and are therefore split into two or more transmissions the TA does not require senders to display the sender information in each transmission comprising the SMS message. By not requiring the senders to state the same message in each of the SMS message, it will allow the messages to be easily read and also reduce the number of SMS messages needing to be sent by senders in order to meet the regulatory requirements.

5 Question 4: Do you agree with the unsubscribe facilities proposed? If not, please explain in details and make alternative proposal(s).

Please see our comments as stated in point 2 of this submission which relate to both enquiries and unsubscribe facilities.

6 Question 5: Are there any other matters or things which you consider should be included to provide more practical guidance to the senders of commercial electronic messages in relation to the presentation of unsubscribe facility statement? If yes, please provide reasons for your proposed additions.

Please see our comments as stated in point 3 of this submission which relate to both enquiries and unsubscribe facilities.

- 7 Question 6: Are there any other matters or things which you consider should be included to provide more protection to recipients' interests. If yes, please provide reasons for your proposed additions.**

For consistency purposes and for reasons stated in point 3 of this submission, the use of a preceding label (“UN” or “取消” or “取消 UN” or “UN 取消” or a preceding label which means unsubscribe in the language given) should not be limited to SMS messages. We believe the senders should have a choice to use the preceding labels in their facsimiles, e-mails and other types of messages that have the capability of including text labels.

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- 8 Question 7: In relation to an SMS message, do you agree with the proposed format of presenting the telephone number which serves as the unsubscribe facility? Furthermore, do you agree that, in case of a long SMS message that is split into two or more transmissions, the unsubscribe facility statement must be included in the first transmission of the SMS message? If not, please propose amendments to this paragraph and provide explanations to substantiate the proposed amendments.**

We welcome the proposed format for presenting the telephone number which serves as the unsubscribe facility. We prefer using the preceding label “UN” more than using the preceding label “CNL” as the acronym of “unsubscribe”.

We also welcome that when SMS messages are too long to be displayed in one single transmission and are therefore split into two or more transmissions the TA does not require senders to display the unsubscribe facility statements in each transmission comprising the SMS messages. By not requiring the senders to state the same message in each of the SMS message, it will allow the messages to be

easily read and also reduce the number of SMS messages needing to be sent by senders in order to meet the regulatory requirements.

- 9 Question 8: Do you agree with the performance level of the unsubscribe facility specified i.e. should not drop or busy out more than 10% of incoming calls to the telephone or fax number measured over a period of 24 hours per day for 5 consecutive calendar days? If not please proposed amendments to the performance level and provide explanations to substantiate the proposed amendments.**

We disagree that there should be a mandatory performance pledge of the unsubscribe facility. We believe the performance pledge should be optional and should be set by businesses and service providers. Our reasons are as follows:

- (a) Performance pledge should be set by individual businesses and service providers**

Businesses and service providers are in the best position to decide on their capabilities and capacities in answering unsubscribe requests since different businesses and service providers may have different capabilities and capacities. A uniform mandatory 10% performance pledge may be unrealistic.

- (b) No reliable data to justify the performance pledge should be set at 10%**

There are uncertainties as to the volume of unsubscribe requests that the customers may call. The volume of such unsubscribe requests may not be uniform. The volume of unsubscribe requests received by different business sectors may vary. Only when the businesses and service

providers have started to accept unsubscribe requests will the businesses and service providers have the data to consider an appropriate performance pledge. It is too premature at the moment for any businesses and service providers to decide on what is the right level of performance pledge.

(c) External factors attributing to call drops and busy out

In our experience as mobile telecommunications operators, there are many external factors that are attributable to call drops or busy out such as the network performance of the caller's telecommunications network, the coverage of the caller's telecommunications network and the handset battery the caller uses.

(d) A uniform mandatory 10% performance pledge for different unsubscribe facilities is unjustifiable

We understand from the draft COP that the TA wishes to adopt a uniform mandatory 10% performance pledge for different unsubscribe facilities such as e-mails, facsimile, SMS messages, telephone calls, postal mail and etc. We do not believe there should be a uniform mandatory 10% performance pledge for different unsubscribe facilities as there are different external factors affecting the performance of different unsubscribe facilities.

For example, if an e-mail is used as the unsubscribe facility then one of the external factors affecting the performance concern will be the way the Internet operates. If one link of the Internet is down then the transmission could still reach the destination via another route but it may prolong the time of sending out the e-mail unsubscribe request by the recipient and receiving such unsubscribe request by the sender. This external factor may

not apply to a different unsubscribe facility such as one that uses postal mail.

Due to the above reasons, we believe it is best for businesses or service providers to set their own performance targets for now.

10. Confidentiality

We do not regard any part of this submission as confidential and have no objection to it being published or disclosed to third parties, however, this submission in its entirety is made on the basis that is without prejudice to our rights and the rights of our associated corporate entities.

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