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By post and fax : 3155 0956

Office of the Telecommunications Authority
 29/F Wu Chung House
 213 Queen's Road East
 Wanchai
 Hong Kong

Attention: Ms Helen Lai, Senior Regulatory Affairs Manager
 (Communications Technology)

Dear Sirs

**Code of Practice on Sending Commercial Electronic Messages under
 the Unsolicited Electronic Messages Ordinance (UEMO)**

We welcome the practical guidance on the rules for sending Unsolicited Electronic Messages (UEMs) in the form of a code of practice published by OFTA for public consultation in September 2007.

The draft code of practice generally strikes an appropriate balance between the ease for recipients of UEMs to refuse further UEMs and the practicability of the requisite requirements to be observed by UEM senders. In particular, we support the practical approach adopted in the draft code of practice for dealing with UEMs in the form of SMS messages in view of their length limitation. As we understand, if the sender name is shown in the address field or the main text of the SME message and provided that the address field also displays a telephone number to enable the recipient to make enquiries and unsubscribe requests with the sender, the requirements to include sender information (i.e. the sender's address) and the unsubscribe facility statement in the main text of the SMS message are deemed to have been satisfied.

We would like to put forward the following suggestions for the consideration by OFTA to facilitate compliance of the code of practice:

- Examples or templates to illustrate how the 'sender information' and 'unsubscribe facility statement' should be displayed for various forms of UEMs should help senders to more easily understand the requirements specified in paragraphs 6 and 7 of the code of practice.

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Chairman Standard Chartered Bank (Hong Kong) Ltd
Vice Chairmen Bank of China (Hong Kong) Ltd
 The Hongkong and Shanghai Banking Corporation Ltd
Secretary Florence Hui

主席 渣打銀行(香港)有限公司
 副主席 中國銀行(香港)有限公司
 香港上海匯豐銀行有限公司
 秘書 許聯盛



- Paragraph 6.4 suggests a label of either 'ENQ' or 'EN' preceding the contact telephone number of the sender for inclusion in SMS messages. As 'ENQ' would be more easily associated with 'Enquiry', it might be preferable to use this acronym instead of 'EN'.
- The requirement in paragraph 8.6 for the sender not to 'drop' or 'busy out' more than 10% of the incoming calls over a period of 24 hours per day for 5 consecutive calendar days seems harsh. In practice, it would be difficult to monitor the level of requests to unsubscribe as their volume may vary from time to time. Furthermore, the obligation on the sender implicit in the proposed performance level is that the hotline must be operated on a 24-hour basis rather than a shorter servicing hour aligning with normal business / banking hours. We consider that the requirement in section 9(3)(b) of the UEMO Regulations that the unsubscribe facility must be convenient to use and must be readily available for use by the recipient of the message should already serve as a reasonable standard to be observed by UEM senders.

Taking this opportunity, we would also appreciate to receive OFTA's responses to the following issues of common concern to our members towards their preparation for compliance with UEMO:

- Do-not-call register – Ready access to the register is critical for compliance with the UEMO. Our members would therefore wish to know details of the register as soon as practicable to tailor their own system enhancements. Such details should include how the register will be operated, how frequent it will be updated and whether the daily changes, in addition to the full list, will be made available for downloading.
- Public education on suspected e-mails – Through continued education, e-banking customers are generally vigilant against suspected fraudulent or scam messages in protecting their personal data. When the Government publicises the UEMO, it is important for the public to be reminded to continue such vigilance even if a message on the surface contains the sender information and the unsubscribe facility statement.
- Language of information to identify sender and unsubscribe facility statement – Our interpretation of sections 6(2) and 9(2) of the UEMO Regulations is that it is permissible for the bank to provide the required information in the same language chosen by the customer for accessing ATM banking services, where the customer has not specifically indicated any choice of language to a bank. We would appreciate guidance from OFTA on our interpretation.
- UEMO Ordinance, Schedule 1, Table 2 – Again, we would appreciate guidance from OFTA on how 'information' in item 1 and 'primary purpose' in items 2, 3 and 4 should be interpreted, preferably illustrated with examples.



We hope that OFTA will find the above input helpful in finalising the draft code of practice and the recommendation to the Government on the effective date of phase 2 of UEMO. For any questions, please feel free to contact me at [REDACTED].