

25 October 2004

The Public Affairs Manager (Consumer & Corporate Affairs)
Office of the Telecommunication Authority
29/F Wu Chung House
213 Queen's Road East
Wanchai, Hong Kong

Dear Sir / Madam,

Re: Comments on Consultation Paper

"Proposal to Contain the Problem of Unsolicited Electronic Messages" I am writing to express some views on the captioned consultation paper.

In US, since the enactment of CAN-SPAM, those anti-spaming solution providers have shown no sign of slowing down their growth and prosperity, making them appearing as one of the benefited parties of the law. This clearly emphasize that technical solutions are a more fundamental solutions and laws would not provide an effective extra protection on top of it.

The effectiveness of a technical solution over a legal one is more prominent given the fact that the majority of Hong Kong spam problem is Hong Kong as a spam victim rather than as a spam originator.

Anti-spaming, just like other sub-fields of computer security, is an ongoing process. The philosophy, framework, technical specification, approaches and tricks of combating spam are ever changing. By making anti-spaming laws, conducting mandatory campaigns or creating mandatory measures, the core of anti-spam effort of the general public community, business entities and individuals will be moved out of their own control and be forcibly removed to the dependency on a third party. While this organization, be it quasi-government or privately own, has to serve each and every members of the public, it will be next to impossible for it to be quick, effective, flexible, adaptable to change, fulfilling each single one's anti-spam needs and standards, nor can it be unbiased to all parties of the general public or each business entity. This will result in a more chaotic situation against spam while individuals can no longer fight spam effectively since they were mandated by law to be dependent on someone else. The case that in US, SPF and Sender ID technology, which were speculated to be working with CAN-SPAM, is being rejected as a public standard due

to its reliance on a privately own patent, can serve as a reference. In Australia, political e-mail is exempted from their spam law. In US, political & charity e-mail are exempted from their spam law. Spam filtering is full of exception handling, which no single one acceptable unified standard can be drawn for all aspect of the general public. Even each individual business undertaking has their very own and very different acceptability. A new spam law in Hong Kong will be inevitably be introduced numerous exceptions, which in turns creates loophole for spammers and raising controversy.

Hong Kong's ultimate competitive edges over the region rely on the free flow of information. Business people have the genuine need of getting exposed of unexpected information so to be aware of the external business circumstances, opportunities and threats for greater fairness and competitiveness. OFTA's indispensable effort in maintaining a healthy market with minimal legal intervention constitutes to securing an advantageous position of Hong Kong in the global market in terms of telecommunication.

Thank you very much for your kind attention to this matter.

Best regards.

Yours faithfully,

Axel Hung
System Executive
Tiglion Consultancy Company Limited

Dated 25 October 2004