



RESPONSE TO PDPC'S PUBLIC CONSULTATION ON
MANAGING UNSOLICITED COMMERCIAL MESSAGES
AND THE PROVISION OF GUIDANCE TO SUPPORT
INNOVATION IN THE DIGITAL ECONOMY

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PDPC's Public Consultation on Managing Unsolicited Commercial Messages and the Provision of Guidance to Support Innovation in the Digital Economy

Question 1: What are your views on the proposed scope and applicability of the DNC Provisions and the Spam Control Provisions?

Question 2: What are your views on including commercial text messages sent using IM identifiers under the Spam Control Provisions?

Response: We agree that the objective of the new legislation to enable an individual to avoid having to receive unsolicited marketing messages is necessary and timely in order to keep up with new technology and commercial communications landscape and include commercial text messages sent using IM identifiers.

Although PDPC has listed platforms like Facebook and WeChat as examples, we request PDPC be specific about platforms proposed to be in-scope or provide detailed characteristics of such platforms. For example, is PDPC contemplating that marketing text messages sent within a mobile app or website, would be in the purview of this proposal; simply because the marketing solution would use an individual's log-in credentials as identifier? (Example in-app offers, Push Notification, Post log in online banking banners)

Question 3: What are your views on the proposed reduction of the period for effecting withdrawal of consent to 10 business days, in line with the period to effect an unsubscribe request under the Spam Control Provisions?

Response: Whilst we appreciate that the alignment of the withdrawal of consent period would remove confusion, the cost of compliance for organisations (which is already not insignificant) would increase substantially and therefore respectfully ask PDPC reconsider the real benefit to individuals in light of the unduly burdensome impact to organisations. We understand that like us, for most organisations, a substantial part of the compliance process for DNC is still manual (e.g. searching the DNC registers, circulation/updating of marketing call leads, preparing and launch of text messages with vendors), unlike for the SCA; and reducing the time to effect a withdrawal of consent to 10 days would increase the burden of compliance.

Separately, could PDPC clarify if the "prescribed duration" would be reduced from 30 days to 10 days as well?

Question 4: What are your views on prohibiting the use of dictionary attack and address harvesting software for sending of commercial messages to all telephone numbers, IM identifiers and email addresses?

Question 5: Should B2B marketing messages be subject to the requirements under the DNC Provisions, in alignment with the coverage under the Spam Control Provisions?

Response: Could PDPC clarify how it will implement this proposal? Will there be a new DNC register set up specifically for B2B messages?

We respectfully submit that there is no need to extend the scope (and protection) of the DNC regime to businesses. We also ask PDPC consider the significant cost of compliance for organisations.

Question 6: What are your views on the proposal for the DNC Provisions to be enforced under an administrative regime?



Question 7: What are your views on the proposed obligation to communicate accurate DNCR results, and liability on third-party checkers for any infringements of the DNC Provisions resulting from inaccurate information they provided?

Response: We are supportive of the proposal as it promotes accountability and would fairly place the responsibility of compliance on appropriate party.

Question 8: What are your views on the proposed prohibition of resale of results of telephone numbers checked with the DNCR?

Response: We believe that if third parties (aside from the organisation) would be held responsible for infringement of the DNC provisions, it would curb the key concerns relating to resale of telephone number lists.

Question 9: What are your views on the proposed deeming provision?

Response: Could the PDPC clarify (i) what is the standard of proof that an organisation rebutting this presumption required to satisfy; and (ii) what is PDPC's position on liability of an organisation if it had not (in fact) authorised the sending of the specified messages (e.g. the sending was a mistake, the sending resulted from a hacking attack)?

Question 10: What are your views on the proposed Enhanced Practical Guidance framework?

Response:

- (i) Could PDPC give a sense of what would be the likely fee structure.
- (ii) Can a flat fee structure be considered?



Conclusion

We welcome the proposed merger of **DNC Provisions** and the **SCA** into a single legislation ("New Act") governing all unsolicited commercial messages. We acknowledge that some key overlapping requirements could be effectively streamlined into one single legislation. The new legislation will enable individuals to avoid receiving unsolicited marketing messages from marketing tools such as social media and instant messaging platforms.

The proposal is necessary and timely to keep up with new technology and commercial communications landscape and include commercial text messages sent using IM identifiers. We have provided our response to some of the questions listed by PDPC in the public consultation paper. We hope our feedback will add value to the proposed guidance. We look forward to further updates from PDPC.