

The DTC Association

(The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies)

存款公司公會 (香港有限制牌照銀行及接受存款公司公會)

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Our Ref.: 00/08/00, 20/01/00 & 11/00/00

9th February, 2011 (Wed)

eMail Header:

Pages Transmitted (including this page): 6

→ To: **All Members of the DTC Association**

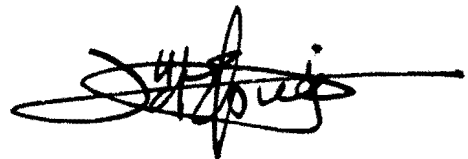
→ From: Pui Chong LUND, *Association Secretary*, **The DTC Association**

→ Subject:

Voluntary Code of Practice for Person to Person Marketing Calls¹

Further to our circular of 22nd November, 2010 (Mon), *The Hong Kong Association of Banks* (HKAB) have received comments that paragraph 13 of the voluntary Code of Practice for Person to Person Marketing Calls ("P2P Code") should be revised so as to more closely align it with the recommendations in the Guidance Note on the Collection and Use of Personal Data in Direct Marketing issued by the *Office of the Privacy Commissioner for Personal Data* in October 2010. In consultation with the P2P Code Subgroup under the *Code of Banking Practice Committee* (COBP) and the COBP's lawyer, I enclose a copy of the revised P2P Code, which is supported by Office of the Telecommunications Authority, with immediate effect.

Yours sincerely



Pui-Chong LUND
Association Secretary

Enclosure:-

1. Code of Practice On Person-to-Person Marketing Calls. (5 pages)

¹ The present circular is a parallel one to that issued by the Hong Kong Association of Banks' to their Association members of reference:- Circular no. S/11/025 dated 9th February, 2011 [Wed]

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Incorporated Under the Companies Ordinance of Hong Kong and Limited by Guarantee

根據香港公司條例成立之有限保證法團

**Code of Practice
On
Person-to-Person Marketing Calls**

Preamble

1. This Code of Practice (“CoP”) is issued jointly by the Hong Kong Association of Banks (“HKAB”) and the DTC Association (“DTCA”) for the purpose of providing guidance to their members (collectively Authorised Institutions (“AIs”)) in making person-to-person telephone calls for marketing activities (“person-to-person marketing calls”).
2. This CoP applies to all person-to-person marketing calls to be made or authorised to be made by an AI, regardless of whether there is any business relationship between the AI and the called party. An AI, which has arranged the making of person-to-person marketing calls through another party, should advise the involved party of the recommendations in this CoP and request it to this CoP. By the same token, an AI which is authorised to make person-to-person marketing calls for other parties should make necessary arrangements with the concerned parties to ensure compliance with this CoP.
3. This is a non-statutory CoP issued on a voluntary basis. HKAB and the DTCA expect their respective members to take into account the recommendations set out in this CoP in the setting and review of their policies and procedures covering person-to-person marketing calls.
4. For the avoidance of doubt, nothing in this CoP shall absolve any person from complying with the Unsolicited Electronic Messages Ordinance (Cap. 593), the Personal Data (Privacy) Ordinance (Cap. 486) or other applicable laws in Hong Kong.

Interpretation

5. In this CoP, unless the context otherwise requires -

“called party” means a member of the public or an organisation;

“calling line identification information” means telecommunications network information generated and transmitted by the calling party’s telecommunications network for the purpose of enabling the called party’s telecommunications network to identify the telephone number of the calling party;

“marketing” means advertising or promoting goods, services, facilities, land, a business opportunity or an investment opportunity;

“organisation” includes—

- (a) a Hong Kong company;
- (b) any other company or body corporate, wherever incorporated or otherwise established; and
- (c) a partnership or other unincorporated body of persons, whether formed or established in Hong Kong or elsewhere;

“principal” means an individual or organisation who has authorised the making of person-to-person marketing calls;

“telemarketer” means:

- (a) an individual or organisation engaged in the practice of marketing via person-to-person marketing calls;
- (b) employees of the principal engaged in the practice of marketing via person-to-person marketing calls;
- (c) an individual or organisation who is authorised by a principal to make person-to-person marketing calls for and on behalf of the principal, if the principal has contracted out part or whole of the marketing campaign to that individual or organisation; and
- (d) employees of the individual or organisation of item (c) above;

“unsubscribe request”, in relation to a person-to-person marketing call, means:

- (a) a message to the effect that the user of the telephone number to which the call is made does not wish to receive, at that telephone number, any further person-to-person marketing call from or authorized by that principal; or
- (b) a message to similar effect.

“unsubscribe list” means the information maintained by a telemarketer pertaining to individuals who have made unsubscribe requests to the telemarketer in relation to person-to-person marketing calls.

6. In this CoP, the singular includes the plural and vice versa, and words importing a gender include every gender.

Hours of Calling

7. Generally, person-to-person marketing calls should only be made between Hong Kong time 9:00am and 10:00pm, unless the called party has advised that a call at another time would be more convenient and acceptable or a call outside this period is allowed under the guidelines published in accordance with the Banking Ordinance (Cap.155), the Supervisory Policy Manual of the Hong Kong Monetary Authority (“HKMA”) or other regulatory requirements applicable to AIs.

Identity and Purpose

8. A telemarketer who makes a person-to-person marketing call should not purposely conceal or withhold from the called party the calling line identification information of the sending telephone number, or issue any instruction in connection with making the call that has the same effect.
9. At the commencement of a person-to-person marketing call, the following information should be provided to the called party:
 - (a) the name of the principal that authorised the making of the call; and
 - (b) the purposes of the call.
10. Upon request, the telemarketer should provide to the called party a telephone number (“Contact Telephone Number”) which he can call during normal business hours to lodge complaints in respect of the person-to-person marketing calls made or authorised to be made by the principal or to make enquiries with the principal.

Unsubscribe Request

11. A telemarketer should not make any further person-to-person marketing calls to an individual, be it prospective or existing customer, after the individual has made an unsubscribe request to him or to his principal (refer to paragraph 13).
12. A telemarketer should accept an unsubscribe request made during a person-to-person marketing call, as well as an unsubscribe request made when a person calls at the Contact Telephone Number as mentioned in paragraph 10 above. A telemarketer may choose to offer other additional channels for the called party of the public to make an unsubscribe request.
13. A telemarketer and a principal should ensure that the unsubscribe list is properly maintained and updated regularly; in the case of lists maintained and distributed on a computer network, this should be done as soon as the unsubscribe request is received and in other cases updates should be circulated to telemarketers at least once per week.
14. An individual may make a request to a telemarketer to delete him from the unsubscribe list. A telemarketer, however, should not initiate contact with the individuals on the unsubscribe list to ascertain whether they would like to start to receiving person-to-person marketing calls within the first two years after the individuals have first been included in the unsubscribe list.

Complaints

15. A telemarketer and a principal should keep a proper record of complaints in relation to person-to-person marketing calls, and provide statistics of complaints to the HKMA and the Office of the Privacy Commissioner for Personal Data upon request.

Use of Automated Dialing Equipment

16. Telemarketers using automated dialing equipment should allow at least 5 seconds or four rings before disconnecting an unanswered call.

17. Calls which are disconnected by the called party ultimately due to non connection to a live agent after the call has been answered are considered as abandoned calls. Telemarketers should frequently review the percentage of abandoned calls and make every endeavour to minimise such percentage.
18. The automated dialing equipment deployed should be capable of generating relevant statistics for monitoring and ensuring compliance with this CoP.

Called Party Who is Travelling Overseas when the Call is Made

19. If a telemarketer, when making a person-to-person marketing call, is aware that the called party is travelling overseas, he should endeavour to disconnect the call immediately (if the call has not yet been answered by the called party) or terminate the conversation as soon as practicable (if the call has been answered by the called party).

Effective Date

20. This CoP is subject to review and revision from time to time. Unless otherwise shown, the CoP is effective from 29 November 2010. AIs should endeavour to meet all requirements as soon as practicable from the effective date but are allowed up to 6 months from the effective date to implement those provisions which require system changes.

The Hong Kong Association of Banks
The DTC Association
9 February 2011