

Statement by the Hong Kong Direct Marketing Association

Bills Committee on personal Data (Privacy) (Amendments) Bill

My name is Eugene Raitt and I am the Chairman of the Hong Kong Direct Marketing Association. The HKDMA represents almost all of the leading companies in Hong Kong engaging in direct marketing activities, including direct mail, text messaging, DRTV, outbound telemarketing, email, online/digital marketing, and other various media channels and distribution strategies. To be successful, these companies depend upon maintaining their reputations. This begins with delivering the promises relative to the products and services they offer, and includes a laser-like focus on protecting customer data, i.e. data security and privacy. A well-educated and well-protected consumer is their biggest collective asset and thus is treated with the respect and value that it deserves, and this includes each and every customer equally.

Each member company has a compliance department headed by a chief compliance officer, often an attorney specializing in compliance related matters. Some companies retain external compliance experts to monitor and manage their compliance programs. All these compliance departments take an aggressively conservative stance on interpreting the Privacy Ordinance, often to the charging of the marketers. Privacy and data security are NOT taken lightly in our industry.

All the actual evidence in hand, as opposed to anecdotal stories that are offered from time to time, suggests that the current privacy ordinance is working very well indeed. Complaints from the public on privacy related matters are a tiny fraction of the total number of transactions taken each year. In fact, 99% of all complaints are handled in a timely and mostly amicable manner directly between the company and the consumer. That leaves an even smaller number of complaints that reach the office of the privacy commissioner, and of those a very small number actually result in an enforcement action.

At the company level, complaints (of all kinds, not just privacy) as a percentage of transactions rarely is above 2% and is normally below 1% of all transactions. In fact, most complaints have nothing to do with privacy.

At the level of the office of the privacy commissioner, the total number of complaints as a percentage of the total industry transactions barely registers and is very far below 1%. Additionally, since the Octopus incident, which

caused an anomalous and very temporary spike in complaints and opt-out requests, the percentage of people opting out is below the level prior to the Octopus incident according to internal association surveys. Additionally, according to the commissioner's OWN numbers the total complaint level has returned to at or below pre-Octopus numbers.

In order to provide a real context for the number of complaints in Hong Kong it is necessary to look at the holistic picture of total transactions as the denominator, and total complaints as the numerator. We already know the total complaints, i.e. for 2009 it was 1,001, 2010 it was 1,179, and is running flat this year. Approximately 25% of those complaints were directed against public rather than private entities, making the number under discussion smaller still. All this according to the official reports.

If we make conservative assumptions about HK consumers, we would estimate that there are approximately 4MM persons eligible to receive various solicitations for products and services by direct marketing practitioners. We can further assume that each consumer has at least one telecommunications provider and an average of 4 credit cards. If each one of those entities solicited their customers twice per year we would have 40MM transactions, and this does not include all the estate agents, independent insurance agents, and other banks, credit card companies and telecommunications providers that will solicit those individuals for business.

If we take even the lowest assumptions on transactions and divide that by the total number of complaints it's easy to see that percentage wise it almost doesn't register. Does that mean we don't take each and every complaint seriously? Of course not. However, when viewed as a whole, one can easily see that the system is working, and working very well.

All of Hong Kong, including the office of the privacy commissioner and members of Legco should be proud of the outstanding job our industry and our government are doing on behalf of the Hong Kong consumer. This is a success story that should be celebrated, not criticized and questioned by asking for more and harsher regulations and industry-killing changes to the opt-out scheme.

Finally, there are a small number of marketers, some operating close by Hong Kong but offshore, and others operating "sweat shops" in Hong Kong on a week-to-week basis, always one step ahead of the law and irate customers. These bad actors will always be there, and will always be operating REGARDLESS of any changes to the law or ordinance. These rogue players represent less than 1% of our industry. Does it make any sense to severely

punish and put out of business 99%+ of the legitimate, law-abiding, ethical, and vigilant companies because of the actions of the less than 1% who will continue in any event? NO, it does not.

We implore the government and the privacy commissioner to stop trying to fix something that is not broken and instead focus on consumer education and consumer responsibility in learning about their rights and obligations. The last thing we need now is another layer of bureaucracy that would add absolutely no value to the existing system, but would add great costs to all practitioners which would ultimately be passed along to consumers in the form of higher prices.

Let's allow common sense to prevail over manufactured hysteria.

Thank You.

A handwritten signature in black ink, appearing to read "E. Raitt". The signature is fluid and cursive, with a large initial "E" and a long, sweeping tail.

Eugene Raitt
Chairman
HKDMA