

**Unsolicited Electronic Messages Ordinance (Chapter 593) and
Unsolicited Electronic Messages Regulations
Frequently Asked Questions and Answers**

- Q1. What messages are covered by the Unsolicited Electronic Messages Ordinance (UEMO)?
- A1. The UEMO covers any messages:
- (a) with a commercial purpose (for details, please see Q.2 below);
 - (b) sent over a public telecommunications service (e.g. pre-recorded telephone messages, SMS messages, faxes, emails); and
 - (c) with a Hong Kong link.
- Q2. What are “commercial electronic messages” (CEMs)?
- A2. “Commercial electronic messages” (CEMs) are defined as electronic messages with purposes to offer goods, services, facilities, business opportunity or advertise or promote a supplier of goods, services, facilities, business opportunity etc., in the course of or in the furtherance of any business.
- Q3. What electronic messages issued by schools are regulated by the UEMO?
- A3. In principle, the UEMO covers CEMs which includes messages to advertise or promote goods, services, or facilities in the course of, or in the furtherance of, any business. In the day-to-day operation of schools, quotation invitation letters to service suppliers through fax machines or to email addresses are one type of CEMs regulated under UEMO. Besides, invitations to other schools on professional sharing/seminar/workshops are considered as promotion of “services” of schools and therefore they are also regarded as CEMs. For the same reason, invitation to other schools/parents/alumni to school functions such as Fund-raising Activities, Open Days, School Concerts etc, are also considered as CEMs.
- Q4. Are circular letters to parents informing details of examination arrangements regarded as CEMs?
- A4. Messages relating to routine students’ affairs or school administrative matters are not commercial in nature as defined under the UEMO and therefore fall outside the ambit of the UEMO.

Q5. Will a message sent by a school (which is a non-profit making organization) be exempted or considered falling outside the scope of the CEMs under the UEMO?

A5. Whether a message is commercial in nature has to be determined by the purpose and content of the concerned message. The nature of the sending organization is not a factor that would be considered. If the purpose (or one of the purposes) of the message involves advertising or promoting a supplier of goods, services, facilities, business opportunity; or offering goods, services, facilities, business opportunity etc, in the course of or in the furtherance of any business, the message would be considered as a commercial message.

Q6. What are unsubscribe facilities? What are the statutory requirements related to unsubscribe facilities?

A6. The UEMO requires senders of CEMs to provide an unsubscribe facility for recipients to make unsubscribe request. According to section 9 of the UEMR, the unsubscribe facility must be capable of receiving an unsubscribe request transmitted from the telecommunications device used by the recipient to access the CEM. For example, if the CEM is a fax, the sender must provide a Hong Kong fax number as the unsubscribe facility. Besides, a CEM should include a clear and conspicuous statement to the effect that the recipient may use an electronic address or other electronic means specified in the message to send an unsubscribe request to the individual or organization who authorized the sending of the message. For practical guidance on the choice of unsubscribe facility, please refer to the Code of Practice, which can be downloaded at <http://www.ofta.gov.hk/en/code/cop20071126.pdf>.

Q7. What are the rules for schools when sending of CEMs under the UEMO as related to schools' compliance with the unsubscribe facility requirement?

A7. In a CEM, schools should:

- (a) include accurate sender information for the recipients to contact them;
- (b) contain unsubscribe facility for the recipients to make unsubscribe requests;
- (c) honour unsubscribe requests within 10 working days after the request has been sent;
- (d) not send CEMs to the telephone/fax numbers listed in the do-not-call registers;
- (e) not send email CEMs with misleading subject headings; and
- (f) not conceal the calling line identification information when sending messages to telephone or fax numbers.

Q8. Is it a must for schools (the senders) to seek consent from recipients (e.g. parents, service suppliers, other schools, etc) before sending CEMs?

A8. With a recipient's consent, the sender of CEMs can be exempted from observing rule (d) specified in A7 above, i.e. vetting the sending list against the do-not-call registers. However, it should be noted that a recipient's consent will *NOT* absolve a sender from complying with the UEMO. In other words, the sender is still required to comply with the other 5 rules, i.e. (a)-(c), (e) and (f). Obtaining consents of the target recipients of CEMs can save the effort of senders in vetting the sending lists against the do-not-call registers.

Q9. If the fax number of a recipient has been registered in the do-not-call register but consent for receiving CEMs from the recipient is also given to schools, can schools send CEMs to that recipient?

A9. Regardless of the time of giving his/her consent to a sender, a consent from the recipient overrides the registration in the do-not-call register unless the recipient withdraws his/her consent.

Q10. What should schools consider if they send out invitations to other schools by email only?

A10. If the schools send out CEMs by email only, do-not-call registers would not apply. However, schools should still comply with the other five sending rules, i.e. (a)-(c), (e) and (f) as specified in A7 above, namely:

- include accurate sender information in the CEM for the recipients to contact the sender;
- contain unsubscribe facility in the CEM for the recipients to make unsubscribe requests;
- honour unsubscribe requests within 10 working days after the request has been sent;
- not to send email CEMs with misleading subject headings; and
- not to conceal the calling line identification information when sending messages to telephone or fax numbers.

Q11. How should schools record the unsubscribe requests?

A11. According to section 9(3) of the UEMO, schools (message senders) should retain a record of unsubscribe requests in a format in which they were originally received, or in a format that can be demonstrated to represent accurately the information originally received, for at least 3 years after their receipt.

Q12. Where can schools obtain more information on unsolicited electronic messages?

A12. For further information on the UEMO, the UEMR, the Code of Practice, the Industry Guide as well as the do-not-call registers, please visit the [OFTA's website](#) or contact OFTA at 2961 6333.

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