

A Brief Guide For Sending Bulk Electronic Messages in Lingnan University

Background

To contain the problem of unsolicited electronic messages, the Unsolicited Electronic Messages Ordinance (UEMO) and the Unsolicited Electronic Messages Regulation (UEMR) have been enacted in HKSAR in 2007.

The UEMO regulates the sending of Commercial Electronic Messages (CEMs) with a “Hong Kong link” and the UEMR prescribes detailed requirements relating to “sender information”, “unsubscribe facility”, and “unsubscribe facility statement” to be included in messages. The Ordinance covers any electronic messages being sent as text or pre-recorded voice messages to telephones, to fax machine or to email addresses, with a purpose of advertising, promoting or offering any goods, services, business opportunities or the organization themselves (Frequently Asked Questions and Answers are available at the Education Bureau http://www.edb.gov.hk/attachment/en/sch-admin/admin/about-sch/unsolicited-electronic-messages-ordinance-ch593-note/faq_e_28.2.2008.pdf).

As UEMO and UEMR may affect Lingnan University (thereafter referred as LU) members who need to send bulk electronic messages such as those for promoting courses to prospective students or inviting audience for attending seminars/conferences, this brief guide serves to remind LU members to observe and comply with the relevant provisions under the UEMO and UEMR.

Application to LU

The following criteria are created to assist faculties / schools / departments / offices assess whether they are involved in sending unsolicited electronic message as defined under UEMO:

Criterion 1 – Message Type

The UEMO covers all types of electronic messages, i.e. messages in any form sent over a public telecommunications service to an electronic address, including:

- pre-recorded voice / video messages sent to telephones (but interactive person-to-person calls are exempted);
- short messages sent to fixed line or mobile phones or MMS messages;
- faxes; and
- emails.

Public telecommunications service means a telecommunications service which is offered for use to the general public. As such, messages that are sent within the intranet are not regulated under the UEMO.

Criterion 2 – Message Content

The UEMO covers CEMs with a purpose to

- offer to supply, or to advertise or promote, goods, services, facilities, land or an interest in land; or
- advertise or promote a supplier or prospective supplier of goods, services, facilities, land or an interest in land,

in the course of or in the furtherance of any business.

Examples are (For more examples which extracted from Education Bureau, please refer to **Appendix 1**):

- Invitation to outsiders on professional sharing / seminars / workshops
- Invitation for tendering / quotation for goods and services
- Invitation / electronic publication to alumni / schools / members of the community to fund-raising activities, open days, etc., irrespective of the activities are free of charge or not

Notices informing details of school events, e.g. examination timetable, school term dates, and announcing school’s policy, special arrangement. e.g. cancellation of examination because of bad weather are NOT considered as CEM under UEMO as such messages are directly related to routine students’ affairs, which do not have any promotional element.

Criterion 3 – Message Connection with Hong Kong

The UEMO regulates the sending of CEMs with a “Hong Kong link”. The CEM has a Hong Kong link if it

- originates in Hong Kong,

- is sent to Hong Kong,
- or is sent to a Hong Kong telephone or fax number.

Action required

- To ensure that LU members comply with the relevant provisions under the UEMO and UEMR, faculties / schools / departments / offices should assess whether their existing communication / correspondences with students, alumni and members of the public, etc. fall within the ambit of CEMs under UEMO. A list of examples of documents/messages usually issued by schools which extracted from the Education Bureau is attached in Appendix 1 for easy reference.
- Faculties / schools / departments / offices should seek prior consent from their target stakeholders, e.g. students, for communications with them via electronic messages. (Sample consent letter which extracted from the Education Bureau is attached in **Appendix 2** and sample consent form which extracted from the Education Bureau is attached at **Appendix 3** for reference)
- Faculties / schools / departments / offices should designate an officer to oversee the dissemination of electronic messages so as to ensure the need for and the frequency of dissemination of electronic messages are appropriate and well monitored.
- When sending CEMs with a Hong Kong link, senders should ensure that:
 - (a) accurate sender information is included in the message (section 8 of the UEMO);
 - (b) unsubscribe facility and unsubscribe facility statement are included in the message (section 9 of the UEMO);
 - (c) unsubscribe requests are honoured within ten working days after the request has been sent (section 10 of the UEMO);
 - (d) the CEMs are not sent to any telephone or fax number listed in the Do-not-call Registers starting from the tenth working day of users' registration, unless consent has been given by the registered user of the relevant telephone or fax number (section 11 of the UEMO);
 - (e) email messages are not sent with misleading subject headings (section 12 of the UEMO); and
 - (f) calling line identification information is not hidden when sending messages to telephone or fax numbers (section 13 of the UEMO).

It should be noted that this brief guide serves as general reference only. LU members should visit the website of the Office of the Communications Authority (http://www.ofca.gov.hk/en/industry_focus/uemo/index.html) or contact the Office at 2961 6333 for further information on the UEMO, the UEMR, the Code of Practice, the Industry Guide as well as the Do-not-call Registers.

Appendix 1 - Examples of Electronic Documents/Messages

Types of Electronic Documents/Messages	Within the scope of Commercial Electronic Messages (CEMs) under UEMO?
Circulars/letters/notices informing details of school events (such as examination arrangement) and announcing school's policy, special arrangements, etc.	Not considered as CEM under UEMO. Such messages are directly related to routine students' affairs (e.g. school term dates, holiday arrangement, examination timetable, administrative matters and related information) which do not have any promotional element.
Invitation to other schools on professional sharing/seminars/workshops, e.g. good practices on school administration matters, learning and teaching and student support, etc.	Yes, considered as CEMs and be regulated under the UEMO. As the messages aim at promoting sharing sessions, seminars and workshops, they are considered as promotion of "services" of schools.
Invitation for tendering/quotation for goods and services, e.g. school bus services, school cleaning services, etc.	Yes, considered as CEMs and be regulated under the UEMO. These messages are considered as offering business opportunities and commercial in nature.
Invitation/electronic publication to parents/alumni/other schools/members of the community to fund-raising activities, open days, school concerts, irrespective of the activities are free of charge or not.	Yes, considered as CEMs and be regulated under the UEMO. The messages/publications are considered as having a promotional nature.
Invitation to parents to activities organized by/co-organized with outside bodies e.g. Seminars on student Development, irrespective of the activities are free of charge or not.	Yes, considered as CEMs and be regulated under the UEMO. The invitational messages are considered as promoting the services of the outside bodies and the school concerned.

Appendix 2 – Sample Consent Letter for Seeking Consent from Recipients

Dear Sir/ Madam,

Consent on Sending Commercial Electronic Messages as Defined in Unsolicited Electronic Messages Ordinance (UEMO) (Chapter 593)

The Unsolicited Electronic Messages Ordinance (UEMO) and the Unsolicited Electronic Messages Regulation have been enacted in 2007. The UEMR prescribes detailed requirements relating to sender information and unsubscribe requests to be included in the Commercial Electronic Messages (CEMs) under regulation.

At present, our school has, from time to time, sent you faxes, emails or other types of electronic messages for _____(purpose)_____. These faxes or emails would fall within the category of CEMs as defined in Section 2 (extract at **Annex A**) of UEMO and be regulated under this ordinance, i.e. your consent is required for us to send to you the aforesaid faxes or emails.

I am therefore writing to advise you that if you would like to continue to receive from our school the aforesaid information and other similar information by fax or email in future, please provide us with your consent under Section 5 of the UEMO (extract at **Annex A**) by completing the proforma at **Annex B** and return it by fax to me **on or before** __ (date) _____. You may wish to note that you could at any time withdraw this consent by expressly advising our school. If you do not give us consent under Section 5 of the UEMO, we will have to cease to fax or email you the aforesaid information and other similar information in future.

For any enquiry, please feel free to contact (person) at (Contact Tel. No.).

Yours faithfully,

(Name of person and school)

Appendix 3 – Sample Consent Form

_____[Name of school (sender)] _____

(Fax No.: _____)

Consents for Sending Commercial Electronic Messages as Defined in Unsolicited electronic Messages Ordinance (Cap. 593)

by _____[Name of school (sender)] _____

I refer to your letter of _____.

As the registered user of the following electronic address(es).

1. _____ (fax number)
2. _____ (email address)
3. _____ (other types, if any)

☐ I **hereby give consent** to _____ under Section 5 of the Unsolicited Electronic Messages Ordinance (Cap. 593) for receiving electronic messages falling within the definition of commercial electronic messages from _____ with immediate effect.

☐ I **would not give consent** to _____ under Section 5 of the Unsolicited Electronic Messages Ordinance (Cap. 593) for receiving electronic messages falling within the definition of commercial electronic messages from _____ with immediate effect.

(please tick in the appropriate box)

I understand that I may withdraw this consent at any time by expressly advising _____[Name of school (sender)] _____

Signature: _____

Name: _____

Organization: _____

Date: _____

Contact Tel. No.: _____