



# CONSUMERS ASSOCIATION OF SINGAPORE

## 新加坡消费者协会

செய்துப் பண்புள்ளவர்கள் கூடம்

PERSATUAN PENGGUNA-PENGGUNA SINGAPURA

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3 Oct 2005

**Andrew J Haire (Mr)**  
**Assistant Director General (Telecoms)**  
**Infocomm Development Authority of Singapore**  
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### CASE's Response to Proposed Spam Control Bill

1. We refer to the invitation IDA sent out to a briefing on spam control development held on 9 Sept 2005.
2. We thank you for the invitation and regret that we were unable to attend that briefing. However, we wish to take this opportunity to put across our views on the Proposed Bill, as follows.

### ADOPT AN OPT-IN, RATHER THAN OPT-OUT, METHOD

3. We note that the current arrangement in the Bill is an opt-out scheme for the consumers to unsubscribe from spam messages, rather than an opt-in one. This appears to give businesses the right to spam, because the onus then lies on consumers to opt-out while the business is free to spam so long as they follow the conditions specified in the Bill. We feel that the Bill is actually proposing a can-spam law, rather than an anti-spam law.

The Bill does not appear to provide substantial help to the individual. In fact, the individual is left very much to defend himself given the opt-out arrangement that is being mooted.

The Bill in fact gives the business the right to spam by putting the onus on consumers to opt-out, while the business is free to spam as long as they follow the conditions specified in the Bill. We are concerned that with this legitimacy, businesses will become bolder in organising themselves to take advantage of this low-cost method of pushing their products and services.

In any event the first instance of spam from the business will be allowed through to the consumer. Only after receiving the spam will the consumer then have to opt-out from receiving further spam.

Moreover the opt-out method is cumbersome to the consumer who will be hard put to keep records of the advertisements and services he has opted-out of. Silence should not mean consent to receive spam. Consumers will be overwhelmed over time and would have difficulty remembering what he has opted-out of and which he has not, if he even has the time to opt-out.



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CASE is of the view that a fairer way is to allow consumers to opt-in or give their permission to receive such mail instead. The opt-in method should be adopted. Consumers should be given the right to decide whether he wants to receive such spam in the first place. The fairer way is to adopt the opt-in method. If a person did not request for the advertisements he should not be forced to receive them.

### INDIVIDUAL'S RIGHT TO COMMENCE CIVIL ACTION

4. Although the individual is given the right to commence civil action against spammers, in practice it would not be easy for the individual to exercise this right.

It boils down to whether the individual has the financial resources to commence action. Litigation is an expensive matter and it is likely that many individuals will not exercise this right due to the prohibitive cost of instituting legal action. Most of them will end up suffering in silence.

CASE proposes that the Bill provides for individuals to commence class action against spammers. This will decrease legal costs for each person and allow the individual confidence in commencing civil action as he is not alone in taking action against spammers.

### SPECIFIED INDEPENDENT BODY APPOINTED TO COMMENCE ACTION

5. The Bill should provide for the appointment of, and funding of, a specified independent body to represent the public interest and take action against spammers flouting the rules to task. Although Internet Service Providers (ISPs) can commence civil action, they too are businesses themselves, and so are many of their clients. Hence, the ISPs may not be the correct parties to protect the interests of individuals.

### MOBILE PHONE SPAMMERS

6. The Bill has taken into account the increasing use of targeting mobile phone users for spamming. We believe this is a step in the right direction. As technology improves at a fast pace, we recommend that the Bill take this further by also covering other methods of spamming besides the Internet and mobile phones. **The Bill should be able to cover new methods of spamming as and when it occurs, without having to amend the Act every now and then to cover new spamming devices.**



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7. We look forward to discussing the above with IDA during our scheduled meeting on Monday, 3 Oct 2005, 10am, at the IDA office.

Yours sincerely,

**Seah Seng Choon**  
**Executive Director**  
**Consumers Association of Singapore**