

Good Day,

To answer some of the questions posed in the consultation paper,

A communication is considered solicited if the person has given direct, specific consent for the request. It is unsolicited if the consent is not given or derived from a general consent that the provider has the right to send communication which is deemed suitable (surveys, cookies picked up from the sites that a person visits) for the person. It is considered commercial if there are advertisements or pickup lines for providing service, product or links to sites with electronic shopping.

There should not be any exclusion from the definition of spam as it would be difficult to differentiate should the content of the message contains half advertisement and half personal communication. Also there should not be any differentiation on the technology that is used to access e-mail messages where there is spam existing. Spam in e-mail messages do not change when someone chooses to use PDA or mobile phone to view them in place of a PC. It does slow down mobile devices for the same size of spam that is downloaded on to them as compared to a PC.

The proposed legislation should not only apply to spam transmitted in bulk. Transmission in bulk is a subjective term that is prone to dispute. The nature or content of spam should suffice to come under legislation control. Even spam transmitted singly or scattered can have a similar effect to bulk spam to the user. Whether e-mail messages that are transmitted are considered in bulk depends on the individual user. For some, 50 messages in 24 hours are sent in bulk, while others consider anything less is still in bulk so long it exceeds their normal daily threshold of junk messages. The legislation must apply and target spam sent from or received in Singapore in order to fix the problem of local spam. After that then the users and industry can manage the problem of spam and tracing it to the originator. It should also target the person commissioning or procuring spam as the person can perpetuate spam with other spammers so long as the law does not apply to him/her. The source of spam has to be targeted otherwise spam control will not work.

The choice of opting-in or opting-out for spam should not lie with the industry or regulator. The consumer or user must have the choice of selection based on his/her discretion. Having an opting-out regime for spam control in Singapore puts the commercial entities in priority and the individual user at the shorter end of the stick. We are told and been taught that we should not reply to links to unsubscribe spam. In addition, double standards apply to electronic commerce as the user is not given a choice to \choose in which otherwise in other methods of commerce, it is the equivalent of coercion. A reasonable time period for compliance with opt-out requests would be an acknowledgement within an hour or less and complete cessation of communication within 24 hours for automated services. Due consideration for time, say 48 hours (working hours) should be given to non-automated systems. These minimum standards should cover the general interest of the user receiving the commercial e-mail.

The recommended labelling for advertisement is appropriate in the context that people

may know what it means. There may be instances that [ADV] is misled into thinking that it is an acronym for something. There is also the chance that long subject title of the e-mail masking the identity of the advertisement.

ISPs should be empowered to commence legal action for unlawful spam as they are able to consolidate its case against spammers found to have attacked users of their services. The expenses paid for compensation should include the damage wrecked on traffic and disk space consumption. The quantum of \$1 per message up to a limit of \$1 million is feasible. ISPs should be allowed to commence legal action against spammers for dictionary attacks as it can be thought of as an intrusion of it addresses and causing large numbers of e-mails to be transmitted to ISP users. ISPs should be able to base the intrusion to take legal action against the spammer.

Lastly, the industry needs to be regulated by a code of practice. The industry players, users, regulator, interest parties should draft the code of practice that is acceptable to all. It should cover acceptable use of advertising, spam, unsolicited commercial e-mail, standards of sending and receiving, policy reviews, etc. It should be a self-regulated tool to be enforced by the regulator when it fails to meet acceptable standards.

Regards,
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