

Name: Elizabeth Hunter

Q1. What are the considerations that should determine whether a communication is solicited or unsolicited?

A1. Proposed definition is good

Q2. What are the considerations that should determine whether a communication is commercial?

A2. Any communication which has the intent of direct financial benefit to the sender, other than between private individuals

Q3. Should there be exclusions from the definition of spam?

A3. I would disagree with the proposed exclusions of religious, charitable and factual information. Unsolicited emails requesting donation are objectionable regardless of the source, and it would be very difficult to fine-tune the "factual information" to avoid spammers hiding behind this. An obvious example is spam which gives unsolicited stock market advice, which is very common. This may not have a direct commercial message, but as the intent is to manipulate the stock markets, it should be under the scope of the legislation.

Q4. Do you agree that the proposed legislation should apply to all e-mail messages regardless of the technology used to access them?

A4. While accepting the argument of considering other types of unsolicited communication such as SMS separately, it may be preferable to include these in the current legislation in order to cover them in the future. However, if the result would be a delay in legislation, then it is better to treat email alone. It definitely shouldn't restrict to single technologies - email spam received through the phone via GPRS or equivalent is even more costly to the recipient than spam through a standard PC client.

Q5. Do you agree that the proposed legislation should apply only to spam transmitted in bulk?

A5. Yes, for the reasons as given in the discussion document.

Q6. What are the considerations that determine whether e-mail messages have been transmitted in bulk?

A6. Total number sent (to avoid the spammer attempting to bypass legislation by sending in small batches)

Q7. Do you agree that the proposed legislation should apply to spam sent from or received in Singapore?

A7. Yes, for the reasons as given in the discussion document.

Q8. Do you agree that the person commissioning or procuring spam should also be liable under the proposed legislation?

A8. Yes, for the reasons as given in the discussion document.

Q9. Would you agree that an opt-out regime for spam control is more beneficial to Singapore as a regional IT and commercial hub?

A9. Unsure, but the reasons given in the discussion document sound reasonable.

Q10. What is a reasonable time period for compliance with opt-out requests?

A10. 24 hours, regardless of the automation levels

Q11. Are these minimum standards sufficient?

A11. Yes

Q12. Are the recommended labelling requirements sufficient? Is '[ADV]' an appropriate label? Should there be any other requirement?

A12. Yes, this is sufficient

Q13. Do you agree that ISPs should be empowered to commence legal action for unlawful spam?

A13. Yes, but I also think that there should be a legal avenue for action by a member of the public against a company providing direct internet access and/or email services. This could either be through the courts or via IDA. While the major ISP's are presumably going to co-operate fully with this legislation, the liberalization of the market means that there are or will in the future be smaller companies who have responsibilities in this area.

Particular scenarios may include

- Hosting and/or email service providers who do not act on complaints by their users, or complaints by people spammed by their customers, because they don't want to TOS a spammer who is paying for their services.
- Losses incurred by law-abiding people who find themselves blacklisted by ISPs in other countries because their email service provider has not taken appropriate steps to resolve spamming problems.

Q14. What would be an appropriate quantum for the computation of statutory damages? For instance, would \$1 for every unlawful spam e-mail sent be adequate? Should there be a cap on the quantum of statutory damages that can be awarded by the court?

A14. No opinion

Q15. Do you agree that ISPs should be allowed to take legal action against the spammer who uses dictionary attacks or automated spamming tools without having to prove that the e-mails fail to comply with the minimum requirements?

A15. Yes.

Q16. Who do you think should draft the code of practice?

A16. The ISP's, but with overall right of approval/veto by IDA

Q17. What should the code of practice cover?

A17. As stated in the discussion document

Q18. Who should enforce the code of practice?

A18. IDA and, ultimately, the courts