

Internet spam – the ongoing battle

By Eugene Oscapella

AS THE GLOBAL STRUGGLE with unsolicited e-mail continues, *PL&B International* takes a look at the latest developments around the world.

Australia – The National Office for the Information Economy (NOIE) has completed its interim report on countering spam. NOIE is seeking public and industry comments on the report, which was originally requested by the federal Minister for Communications, Information Technology and the Arts. It is particularly interested in the public's views on the proposed development of a widely accepted working definition of spam, and on the legislative options examined in the report.

European Union – Meanwhile, the EU Electronic Communications Privacy Directive (2002/58/EC), which entered into force on July 31st, introduces specific provisions against spam. Recital 40 of the directive asserts the need to provide safeguards for individuals against the intrusion on their privacy by unsolicited commercial communications – in particular by automated calling machines, faxes, e-mails, and SMS messages.

“For such forms of unsolicited communications for direct marketing,” continues the recital, “it is justified to require that prior explicit consent of the recipients is obtained before such communications are addressed to them.”

Article 13 of the directive refers directly to unsolicited communications. Among its provisions: “The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.”

Even so, many industry observers suggest that the directive may not stem the flood of spam, much of which originates from outside the jurisdiction of the EU. Furthermore, companies that have an existing relationship with individuals will be permitted to send them marketing communications, provided that they are given the opportunity to opt-out.

Japan – Two new laws regulating the use of unsolicited commercial e-mail were introduced at the beginning of July. Businesses are required to notify consumers that the message is unsolicited, reveal their identity, and provide a means to opt-out from further communications (see p.20 for full story).

Netherlands – A Dutch judge has dismissed a case brought against a Dutch company seeking payment of 50 euros to an Internet Service Provider (ISP) every time the company sent customers an unsolicited e-mail. Online newswire, *The Register*, reported that the judge felt these sanctions were out of proportion with any offence committed. The judge also considered that, in general, spam was not a significant nuisance.

South Korea – A July 30th information bulletin from South Korea's Ministry of Information and Communication (MIC) reported that overseas complaints about Korea-relayed spam have significantly diminished since May. *PL&B International* had earlier reported the growing concerns over the use of Asian-based Internet servers (including

those in South Korea) to relay unsolicited e-mail (*PL&B Int*, April 2002, p.9).

The MIC attributed the decline in reported complaints to new measures it began enforcing in May. According to the MIC, these were designed to block unsolicited commercial e-mails and prevent foreign spammers from using Korea as a relay station for junk mail.

The MIC added that the ministry had conducted a “massive inspection” of PC systems at various schools, companies and software manufacturers to detect systems that are vulnerable to foreign hacking. By the end of July, it reported having checked almost 7,000 schools and 16,000 small businesses for server security. Some 2,500 unstable servers were detected and repaired.

However, *The Korea Herald* reported on July 30th that mobile telephone handsets were being inundated with spam. According to the newspaper, spammers want to exploit the millions of SMS messages that mobile phone users collectively receive through their handsets. MIC officials have warned spammers that they face severe punishments for sending unsolicited messages to mobile handsets.



For more information on spam laws across the globe, visit:
www.spamlaws.com