

Legislation alone will not solve the spam epidemic

Any attempt to tackle spam via legislation is doomed to failure

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If we can address issues of junk physical mail, junk fax and unsolicited telephone calls via legislation, why can spam not be addressed in the same way? Why can legislation not be used to address the growing problem of spam?

The answer involves both the global nature of the Internet, and the economics concerned with marketing via bulk email and other media.

The economics of spam

Quite simply, direct marketing via email and the Internet is virtually free. It cost very little to buy a database of several million addresses. It also costs next to nothing to send an email to each of these addresses advertising your product, whatever it is. The economics mean that it is cost effective to produce tens of millions of marketing email and get very low response rates.

This extremely low cost makes bulk advertising via email fundamentally different from fax, physical mail or telephone. For each of these other media, it simply doesn't make economic sense to adopt a scattergun approach to direct marketing. The cost is simply too high. Without a fundamental change in the cost structure of the Internet whereby email is charged to the sender on a per delivery basis, these economics are not going to change.

So if the economics aren't going to change and this form of direct marketing remains the most cost effective, why can we not legislate against it?

Legislating against spammers

The global nature of the Internet seriously impacts the likelihood that legislation will succeed. Because the Internet does not respect national borders, any legislation is only going to be as good as its weakest link. Most generators of spam now use services providers or relay in Russia, China and other Eastern European and Far East countries to propagate their bulk email runs. In order to be effective, legislation must cover these countries. Even then, the economics are so attractive that spammers will continue to seek out the least regulated (or least enforced) area from which to perform their direct marketing. Regulation will only succeed if it is implemented globally, enforced globally, and the penalty for violation is sufficiently high. This is unlikely to be feasible in a timescale short enough to stem the tide.

In order to stop the growing tide of spam, the fundamentals of the economics must change. Neither legislation nor a change in the cost structure of the Internet is likely to achieve this in the short-to-medium term.

Technology approaches

The only other variable that can affect the economics is to reduce the response rates to spam. Ultimately, bulk email marketing will simply not be worthwhile, if no one responds to it. So how do we do this?

Unfortunately it will never be possible to stop a proportion of the recipients of such email responding to it. There is a genuine market for Internet pornography, there will always be someone taken in by the latest get rich quick scheme, and some of this spam email may be advertising

products that are genuinely of interest to the recipient. The best way to reduce the response rates is to stop the spam email arriving.

If by use of appropriate technology we can reduce the arrival rate by an order of magnitude (i.e. remove more than 90% of spam before it arrives in the inbox) then the economics of spamming change significantly. This in itself may tip the balance and make it un-economic to market via bulk unsolicited email. If we can filter out an even larger percentage, then the argument becomes even more compelling.

The current generation of spam filtering software is capable of achieving these high catch rates, without catching legitimate email in the process. If everyone deploys effective spam filtering technology marketing via spam will simply not be worth it.

Challenges with technology

There are, of course, challenges with a technology-based approach. One of the fundamental tenets of email is that “provided that someone knows your email address, they can send you an email”. By filtering out spam, we are subtly changing this to be “provided you have my email address, and I don’t think what you are sending me is spam; I will accept your email”. This is a subtle, but important change. It is a bit like screening your phone calls using an answering machine, except that the technology is judging whether to accept the call on your behalf. If the technology is not up to scratch the email screening/filtering will result in legitimate emails being stopped. Spammers are also very quick to adapt, so the filtering software must be equally adaptive to keep up.

Other approaches make more radical changes to the assumptions about email, and in many ways change the fundamental nature of the

communication. Some systems allow you to reject any email from people who you have not specifically approved (or white-listed). While this certainly does stop spammers sending you messages, it changes the basic nature of the communication mechanism. Anyone can write to me if they have my physical mail address, and anyone can phone me if they have my telephone number, but under this scheme they cannot email me just by having my email address. The scheme can be extended using “challenge/response” or “permission based email” techniques. In this approach, when a mail is received from someone not on the white list, they are asked to fill out some sort of form or respond to a challenge in order to get added. This is fine in principle, and restores the basic email model, but anything sent from an automatic address will never be received, and the process often confuses senders.

Conclusions

Legislation will only succeed if it is global in reach, universally enforced, and has real teeth for punishing offenders. This is not achievable in anything but the long-term. In the short-term, well-implemented dynamic filtering techniques for spam work. If enough people adopt such techniques, unsolicited bulk email (spam) marketing will become uneconomic. The most likely way to succeed in the fight against spam is therefore promotion of the universal adoption of anti-spam technology.