



## **Annex I**

### **Worldwide authorities and legislative frameworks addressing spam [draft in progress]**

The International Telecommunication Union, in the framework of its “Countering Spam” initiative, is preparing a platform which will gather information regarding spam and legislation worldwide, including the authorities responsible for anti-spam measures in each country. Information will be regularly updated, and will be available online at <http://www.itu.int/spam/>.

If you have any comments, or would like to provide any additional information, please contact the ITU Strategy and Policy Unit (SPU) at [counteringspam@itu.int](mailto:counteringspam@itu.int).

## Argentina

In 2001, anti-spam legislation ("*Anteproyecto de Ley de Regulación de las Comunicaciones Publicitarias por Correo Electrónico*") was proposed to combat the problem of spam. In November 2003, the Federal Court heard its first spam case. The judge issued an injunction relying on the 2000 Personal Data Protection Act, particularly its Article No. 25. Under the injunction, the spammer standing on trial was ordered to stop sending e-mails after an opt-out was requested. It was also ordered that the spammer could not give the addresses to a third party under other parts of the Act. If the spammer is convicted, the final sentence has to be communicated to the National Direction for Personal Data Protection (DNPDP). The DNPDP is the authority in charge of Data Protection within the Ministry of Justice- the National Directorate for the Protection of Personal Data.

In 2004, the national legislator introduced in Congress a new Bill allowing Government to block IP and cancel domain names of spammers. The Bill proposes an opt-out system. ("Proyecto de ley para regular el Spam en Argentina" of 11 May 2004).

An AntiSpam Forum took place in Buenos Aires, Argentina on 3 June 2004.

### Laws:

- Argentine Constitution, Section 43
- Decree 995/2000.
- Decree 1558/2001
- Data Protection infringements and penalties. 1/2003.

**The European Commission.** Article 29 Data Protection Working Part Opinion 4/2002 on adequate level of protection of personal data in Argentina.

**The Commission of the European Communities.** Decision C(2003) 1731 on adequate protection of personal data in Argentina.

### News:

- Data Protection Law and Spam, First Spam case in Argentina. 21/11/2003
- Judge in Argentina Orders Halt to Spamming in First E-Mail Junk Case 24/11/2003

### Contacts:

#### **National Direction for Personal Data Protection (DNPDP):**

<http://www.jus.gov.ar/minjus/DPDP/faco/default.htm>

E-mail: [infodnpdp@jus.gov.ar](mailto:infodnpdp@jus.gov.ar)

Sarmiento 329 4° piso (anexo), (C1041AAG)

Ciudad Autónoma de Buenos Aires,

Tel. +54(11) 4394-2786

## **Australia**

The 2003 Spam Act and associated Spam (Consequential Amendments) Act 2003 were passed by Parliament in 2003. The two Acts came into effect on 10 April 2004, and are due for review within two years. Legislation will be administered by the Australian Communications Authority (ACA). In addition to a set of industry codes and standards, under the Spam Act ACA has the ability to pursue a number of enforcement options.

As part of the changes, The National Office for the Information Economy becomes the Australian Government Information Management Office, with some functions transferring to the Department of Communications, Information Technology and the Arts' Information Economy branch.

**Regime:** Opt-in

### **Laws:**

The Australian Communications Authority - The Spam Act's "Watchdog"

Spam Regulations 2004 No. 56 - List of Regulations

### **International Cooperation:**

Memorandum of Understanding between the Korea Information Security Agency and the Australian Communications Authority and the National Office for the Information economy of Australia concerning cooperation in the regulation of Spam.

Memorandum of Understanding on Mutual Enforcement Assistance in Commercial Email Matters among the following Agencies of the United States, the United Kingdom, and Australia.

### **News:**

Spam is off the menu 11/04/2004

Australia set to enact anti-spam law 19/12/2003

### **Contacts:**

An online complaint form is available at: [https://www.aca.gov.au/secure/complaint\\_form.htm](https://www.aca.gov.au/secure/complaint_form.htm)

## Canada

The Privacy Commissioner of Canada, is an Officer of Parliament who reports directly to the House of Commons and the Senate as an advocate for the privacy rights of Canadians. In May 2004, the Economic Development Agency of Canada for the Regions of Quebec, launched an Anti-Spam Action Plan and announced the creation of a ministerial task with Electronic Commerce Branch of Industry Canada to combat spam.

### Laws:

- Privacy Act 1980-81-82-83, c. 111, Sch. II "1": The aim of this Act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.
- For matters relating to personal information in the private sector, the Commissioner may investigate complaints under Section 11 of the Personal Information Protection and Electronic Documents Act.

### News:

- A recipe for battling spam in Canada 05/03/2004
- Canada eyes world treaty to deal with spammers 12/05/2004

### Contacts:

Email: [info@privcom.gc.ca](mailto:info@privcom.gc.ca)  
112 Kent Street, Place de Ville,  
Tower B, 3rd Floor,  
Ottawa, Ontario, K1A 1H3.  
Phone: +1(613) 995- 8210  
Fax: +1 (613) 947-6850

## European Union

The European Commission (EC) has identified five directives that are relevant in regulating Spam.

### Laws:

- E-Privacy Directive: Directive 2002/58/EC Concerning the Processing of Personal Data and the Protection of Privacy in the Electronic Communications Sector, 2002 O.J. (L 201) 37
- E-Commerce Directive: Directive 2000/31/EC on Certain Legal Aspects of Information Society Services, in Particular Electronic Commerce, in the Internal Market, 2000 O.J. (L 178) 1
- Telecommunications Privacy Directive: Directive 97/66/EC Concerning the Processing of Personal Data and the Protection of Privacy in the Telecommunications Sector, 1998 O.J. (L 024) 1 (repealed and replaced by Directive 2002/58/EC)
- Distance Contracts Directive: Directive 97/7/EC on the Protection of Consumers in Respect of Distance Contracts, 1997 O.J. (L 144) 19
- Data Protection Directive: Directive 95/46/EC on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data, 1995 O.J. (L 281) 31

**Regime:** Opt- in

### News:

- European anti-spam laws lack bite 28/04/2004
- Europe drags heels in war on spam 27/04/2004
- EU members ignore spam directive 27/04/2004

### International Cooperation:

- Commissioner Liikanen's "Opening remarks at the OECD workshop on spam" OECD Workshop on Spam Brussels, 2nd February 2004.
- OECD Workshop on Spam, February 2004.
- War on Spam: EU calls for International Cooperation

## France

The competent authority is the “ *Commission Nationale de l'Informatique et des Libertés* “ (CNIL), an independent administrative agency which enforces the Data Protection Act enacted in 1978 and other related laws. In July 2002 it created a Spam Mailbox to combat Spam.

In July 2003 a Contact Group was established by the Government within the “*Direction du Développement des Médias*” to fight against Spam.

**Regime:** Opt-in

### Laws:

- Loi 78-17 du 6 janvier 1978 relative à l'informatique, aux fichiers et aux libertés.
- Loi pour la confiance dans l'économie numérique, Décision n° 2004-496 DC du 10 juin 2004
- Convention 108
- Directive européenne 2002/58/CE du 12 juillet 2002
- Deliberation n. 02- 075 du 24 Octobre 2002 portant denonciation au parquet d' infractions a la loi du 6 Janvier 1978.

### News:

- Une condamnation exemplaire d'un spammeur français 06/15/2004
- LCEN: le Conseil constitutionnel censure l'"amendement Devedjian" 15/06/2004

### Contacts:

More information to appeal against spam

[http://www.ddm.gouv.fr/dossiers\\_thematiques/documents/spam\\_fiche1.html#autorite](http://www.ddm.gouv.fr/dossiers_thematiques/documents/spam_fiche1.html#autorite)

Legal solutions can be found at: <http://www.cnil.fr/index.php?id=1278> .

## Japan

In April 2002, the Japanese government passed the “Law on Regulation of Transmission of Specified Electronic Mail”. This law addresses “Specified Electronic Mail”, which is defined as e-mail for advertisement purposes sent to users who have not opted in for the service. The law controls spam disseminated by anyone under the jurisdiction of the Ministry of Public Management, Home, Affairs, Posts and Telecommunications (MPHPT), which includes the entire country and the solitary islands. In July 2002 MPHPT established a body “Japan Data Communications Association” to determine appropriateness of sending specified e-mail messages.

**Regime:** Opt- out

### Laws:

- The Law for Appropriate Transmission of Specified Emails (Law No.26 of 2002).

### News:

- MPHPT implements orders of measures against violators of the Anti-Spam Law, 13/11/2003.
- MPHPT announces defensive measures against spam sent to mobiles, 19/01/2004.
- MPHPT issued an administrative order against violator of the Anti-Spam Law 16/04/2004.
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### Contact:

International Policy Division,  
International Affairs Department Telecommunications Bureau Ministry of Public Management,  
Home Affairs, Posts and Telecommunications  
Tel: +82 (03) 5253-5920  
Fax: +82(03) 5253-5924

## Ireland

The Irish Government has formally signed a law outlawing spam. The law gives effect to new EU regulations banning the sending of unsolicited e-mails or text messages to the general public. Ireland passed the self-titled European Communities (Electronic Communications Networks and Services) (Data Protection and Privacy) Regulations 2003. Regulation 13 is about spam, and it starts strong with mandatory opt-in for unsolicited spamming. Regulation 19 grants enforcement powers to the Commission for Communications Regulation (abbreviated as "Regulator" in the regulations). The Regulator, in consultation with the Data Protection Commissioner, may also specify the form and any other requirements regarding the obtaining, recording and rescinding of consent of subscribers for the purposes of these Regulations. The punishment granted to the Commission is a warning.

### Laws:

- Data Protection Act, 1988
- EC Directive on Privacy and Electronic Communications, Directive 2002/58/EC
- Statutory Instrument, S.I. No. 535 of 2003, European Communities (Electronic Communications Networks and Services) (Data Protection and Privacy) Regulations 2003

**Regime:** Opt-in

### News:

- Ireland's E-commerce Regulations now in force 03/04/2004
- Govt signs law outlawing e-mail 'spam' 11/10/2003

### Contacts:

The Data Protection Commissioner,

<http://www.oasis.gov.ie/utilities/redirect.php?url=http://www.dataprivacy.ie>

E-mail: [info@dataprivacy.ie](mailto:info@dataprivacy.ie)

Block 4, Irish Life Centre, Talbot Street, Dublin 1.

Tel: + 353 1 874 8544

Fax: + 353 1 874 5405

[More about making a complaint to the Data Protection Commissioner](#)

[Complaint form](#)



## Italy

Italy has enacted a tough anti-spam law that makes spamming a criminal offence and is punishable by up to three-years imprisonment. The Italian Data Protection Authority is an independent agency created to ensure personal data protection and deal with Spam problems.

**Regime:** Opt- in

### Laws:

- **DL 675/1996** on privacy protection states, *inter alia*, that a company must have an authorization from each user whose personal data (like e-mail) they want to use.
- **DL 171/1998** (deriving from the European Community directive 97/66/CE) on telecommunications privacy protection: this put outlaws all automatic systems to call a user and says that all the expenses of an advertising must be paid by the company and not the user (faxes and e-mails are instead paid also by the user)
- **DL 185/1999** (deriving from the European Community directive 97/7/CE) on customer protection in respect of long-distance contracts: this obliges companies to seek permission of the user for virtual or telephone sales.
- **DL 196/2003** Personal Data Protection Code
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### News:

- Italy Goes Opt-in, Law States Senders of Unsolicited Bulk Email Now Face Jail 04/09/2003
- Spamming, prima sentenza di risarcimento danni 24/06/2004

### Contacts:

E-mail: [garante@garanteprivacy.it](mailto:garante@garanteprivacy.it)

Il Garante per la protezione dei dati personali

Piazza di Monte Citorio n. 121

00186 ROMA

Fax: +39 06.69677.785

Tel: +39 06.69677.1

## **New Zealand**

The Office of the Privacy Commissioner is an independent Crown entity established by the Privacy Act. The Government has issued a discussion paper to outlaw unwanted Spam. The Privacy Commissioner's principal powers and functions include promoting the objects of the Privacy Act 1993, monitoring proposed legislation and government policies, dealing with complaints at first instance, approving and issuing codes of practice and authorizing special exemptions from the information privacy principles, and reviewing public sector information matching programmes.

### **Laws:**

- Legislating against Spam: discussion document

### **News:**

- Spam law in front of House this year, Cunliffe hopes 02/03/2004
- Public can have say on spam 17/05/2004

### **Contacts:**

E-mail: [spamsubmissions@med.govt.nz](mailto:spamsubmissions@med.govt.nz)

IT and Telecommunications Policy Group

Resources and Network Branch

<http://www.med.govt.nz/pbt/infotech/spam/discussion/discussion-05.html>

Ministry of Economic Development

PO Box 1473

Wellington

## Singapore

The Infocomm Development Authority of Singapore (IDA) is a statutory board of the Singapore Government. It operates under the Ministry of Information, Communications and The Arts (MITA).

Spamming per se is currently legal but the Singapore Government is proposing to enact an anti-spam law. To reduce e-mail Spam, Singapore is currently considering the creation of an Anti-Spam legislation.

**Regime:** Opt-out (proposed)

### Laws:

- Singapore Anti- Spam resource Center to provide a central anti-spam repository for the public and industry.
- Multi-Pronged Measures Developed To Curb E-Mail Spam in Singapore
- Proposed Legislative Framework for the Control of E-mail Spam

### News:

- Singapore considers antispam legislation 25/05/2004
- Singapore drawing up new anti-spam laws 25/05/2004
- Singapore to make spammers pay - literally 26/03/2004

### Contacts:

Policy and Competition Development Group

<http://www.ida.gov.sg/idaweb/pnr/infopage.jsp?infopagecategory=infoecon:pnr&versionid=1&infopageid=I2883>

E-mail: [antispam\\_submissions@ida.gov.sg](mailto:antispam_submissions@ida.gov.sg)

Fax: +65 6211 2207; or

by post (a diskette containing a soft copy would be appreciated) to  
Policy and Competition Development Group

Infocomm Development Authority of Singapore

<http://www.ida.gov.sg/idaweb/aboutida/index.jsp>

E-mail: [info@ida.gov.sg](mailto:info@ida.gov.sg)

8 Temasek Boulevard

14-00 Suntec Tower Three

Tel: +65 6211 0888

## Republic of Korea

Korea Spam Response Center was constituted within the KISA (Korea Information Security Agency), which is an agency of the Ministry of Information and Communication, to deal with problems regarding spam.

**Regime:** Opt- out

### Laws:

- Anti-Spam Regulations in Korea
- Act on Promotion of Information and Communication and Communications Network Utilization and Information Protection of 2001
- Revised Act, 18/12/2002

### News:

- KISA introduced the "Best Practice" for blocking Spam in Korea 04/02/2004
- South Korea mulls spam curfew 27/02/2004
- Spam falls after South Korea strengthens e-mail law 12/09/2003

### Contacts:

Korea Spam Response Center  
[http://www.spamcop.or.kr/eng/m\\_1.html](http://www.spamcop.or.kr/eng/m_1.html)  
4F, IT Venture Tower, 78,  
Garak-Dong, Songpa-Gu,  
Seoul 138-160, Korea  
Fax: +82 2 405 5329

- How to report Korean Spam
- Korean Spam Report – Report Guidance

## United States

On 1 January 2004, the Can-Spam Act, which stands for “Controlling the Assault of Non-Solicited Pornography and Marketing Act”, came into effect in the United States. This law puts specific requirements on senders of commercial e-mail and places enforcement in the hands of the Federal Trade Commission and State Attorney's General.

**Regime:** Opt-out

### Laws:

- “Controlling the Assault of Non-Solicited Pornography and Marketing Act”- 117 Stat. 2699 Public Law 108- 187- Dec. 16, 2003.
- Memorandum of Understanding on Mutual Enforcement Assistance in Commercial Email Matters among the following Agencies of the United States, the United Kingdom, and Australia.

### News:

- United States set to Legalize Spamming on January 1, 2004 01/01/2004
- US anti-spam law still not making a difference 04/02/2004
- War on Spam Reaches Global Proportions 01/05/2004

### Contact:

If the e-mail message received violates Washington’s law: State’s Attorney General:  
Junk Email Complaint Form

In other cases the Federal Trade Commission:

FTC Complaint Form

For more information:

<http://www.ftc.gov/bcp/online/pubs/buspubs/canspam.htm>.