

Consumer Affairs Victoria

eCommerce Factsheet

Spam

May 2004

Spam is the junk mail that clogs up your inbox. It can be annoying, time-consuming and sometimes offensive. It's also becoming an increasing problem; spam now accounts for approximately 50% of all emails received.

Need more information?

Call Consumer Affairs Victoria Helpline on 1300 55 81 81

Quick Tip

UCE (Unsolicited Commercial Email) – refers only to spam with commercial content.

What is electronic spam?

Spam is any message that is:

- 1. Sent to a large number of recipients**
- 2. Most or all of whom have not requested these messages.**

It doesn't matter what the content of the message is – advertisement, request for a donation, or religious pitch - if it meets these two criteria, it is spam.

What's the harm in it?

An abuse of privacy

Spam poses serious problems about the way in which personal information such as email addresses is collected and handled. Address collectors "harvest" email addresses off the Internet, collect them as you visit certain Internet sites (if you do not take security precautions) or even buy and sell them in bulk without your consent.

Spam can cost you

Spam also comes at a cost to the consumer. The more mail you have, the more time you spend downloading it. Since most Internet Service Providers (ISPs) in Australia charge either according to time online or data downloaded, this translates into higher monthly costs for users. Further, because most ISPs are unable to distinguish legitimate from bulk email, spam significantly increases their processing and storage requirements (and thus operating costs). This cost is passed onto the user in the form of higher subscription fees.

Unwanted goods

Spam often peddles illicit wares. Much of it promotes pornography, illegal online gambling services, medical cures, investment scams or get rich quick schemes.

Is spam illegal?

Certain types of spam are outlawed by the Spam Act 2003. This law covers commercial messages sent using email, short message service (SMS), multimedia message service (MMS), and instant messaging. Faxes are not covered by the Act. Messages are not considered to be spam if you are said to have given consent. This consent can be given by indicating you wish to receive messages by signing up to a mailing list or ticking a box when making an online purchase. It is also said to be inferred when you put your e-mail address on a Web page or business card, or by already being a customer of the sender. Non-commercial messages from groups like charities and political parties are not considered to be spam.

However, all commercial messages that are not considered spam under the Act must contain: accurate information about the sender; and a way for you to unsubscribe from the mailing list. Unsubscribe facilities must be available for 30 days after a message is sent, and unsubscribe requests must be honoured within 5 days.

How do I avoid spam?

1. Try not to display your email address in public.

That includes newsgroup postings, chat rooms, websites or online service's membership directory. You may want to opt out of member directories for your online services; spammers may use them to harvest addresses. If you must publicise an email address, consider using a disposable or temporary address rather than your main email account.

2. Use a unique email address. Your address may decide how much spam you will receive.

Spammers use "dictionary attacks" to sort through possible name combinations at large ISPs or email services, hoping to find a valid address. Thus a common name such as jsmith may get more spam than a more unique name like js81x03mith. Of course, the downside is that it's harder to remember an unusual email address.

3. Read and understand the entire form before you transmit personal information through a website.

You may have to uncheck a box, rather than check it to opt out of receiving further emails.

4. Check the privacy policy when you submit your address to a website.

See if it allows the company to sell your address. You may want to opt out of this provision, if possible, or not submit your address at all to websites that won't protect it.

5. Use an email filter.

Check your email account to see if it provides a tool to filter out potential spam or a way to channel spam into a bulk email folder. You might want to consider these options when you're choosing which Internet Service Provider (ISP) to use.

6. Use anti-virus software.

Viruses can be concealed in spam messages. Use anti-virus software to protect your computer from infected attachments. Ensure you keep the software updated.

What if I receive spam?

DO NOT hit the reply button on your email. Unscrupulous marketers will just take this as a confirmation that your address exists and is current. For the same reasons, it is best not to use the "remove" facility spammers frequently offer.

1. Telephone the company.

If you recognise the company sending unwanted email, call them and ask for your address to be removed from the mailing list.

2. Make a complaint to the Australian Communications Authority.

If the unwanted message appears to advertise an Australian business or come from within Australia, forward the email, including the full email header, to

Australianspammers@aca.gov.au.

For other messages, forward to reportingspam@aca.gov.au.

3. Complain to the sender's Internet Service Provider (ISP).

The Acceptable Use Policy of most ISPs expressly forbids spamming. This allows the ISP to terminate the account of any customer who sends spam. When complaining to the ISP, be sure to include a copy of the spam, along with the full email header. The Spam Act 2003 does not nullify an ISP's Acceptable Use Policy. Senders still need to comply with such a policy, which may be stricter than the Act.

4. Report spam to other agencies when applicable.

Spam is often the vehicle for illegal content and fraudulent activity. The content of spam may be misleading and deceptive, for example. Suspected illegal activity should be reported to the relevant agency

Date of Issue:
October 2003

Useful Contacts

The Coalition Against Unsolicited Email, Australia (CAUBE.AU)

CAUBE.AU provides comprehensive practical and legal information on spamming. Visit their site at www.caube.org.au.

The Australian Communications Authority

ACA has information for consumers at http://www.aca.gov.au/consumer_info/spam/consumerinformation.htm.

The Office of the Federal Privacy Commissioner

The Privacy Commissioner has a site at http://www.privacy.gov.au/privacy_rights/index.html

More information

Information on eCommerce is available from:

Consumer Affairs Victoria Victorian Consumer & Business Centre

113 Exhibition Street
Melbourne 3000
Telephone: 1300 55 81 81
Website www.consumer.vic.gov.au

Further reading

Consumer Affairs Victoria has a range of eCommerce related factsheets:

- Buying a Computer
- Domain names
- Internet service providers
- Online auctions
- Online privacy
- Online scams
- Online security
- Shopping online
- Spam
- Tips for business
- Top 10 tips for shopping online



The information contained in this fact sheet is of a general nature only and should not be regarded as a substitute for a reference to the legislation or professional advice. Authorised by the Victorian Government, 121 Exhibition Street, Melbourne, Victoria, 3000. eC-10-02