

New SPAM legislation

Michael Nowlan
IS Services
Trinity College Dublin



Introduction

- Looking at legal responsibilities and recourse to the Law regarding SPAM
- General Summary of Legislation
- Summarize different SPAM approaches
- Look at some incidents
- Look at effectiveness
- Local legislation mostly Data Protection



Costs of SPAM

- Estimated as €2 Billion/year in Ireland
- ... Plus employer liability
- ... Plus possible fraud
- ... Plus secondary breaches in security



Where does it come from ?

- 56.7% USA
- 6.8% Canada
- 6.2% China & Hong Kong
- 5.8% South Korea
- 2.1% The Netherlands
- 2.0% Brazil
- 1.3% UK, Germany, France
- 30% sent by compromised machines



Summary of Legislation

- EU Data Protection Directives and local enactments
- Criminal Damage Act, 1991
- Child Trafficking and Pornography Act, 1998
- Non-Fatal Offences Against the Person Act, 1997



Summary of Legislation

- Copyright and Related Rights Act, 2000
- Computer Misuse Act 1990
- Regulation of Investigatory Powers Act 2000 & Lawful Business Practice Regulations



Local Regulation

- Advertising Standards Organizations
- Marketing Associations



Europe v USA

- Europe has strong privacy legislation
- Europe works by regulation
- Europe tends towards opt-in
- USA delegates privacy
- USA minimizes regulation
- USA tends towards opt-out



Europe – EU Directive

- Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector
- Generally include EEA and Accession States but only enacted in 9 of the 15 EU



EU Directive

- Retention of detailed telephone records
- Calling Line Identification , or “Caller ID”
- Public telephone directories
- Direct marketing
- Enforcement and compliance



Data Protection Regulations

- National “Opt Out” Register – Personal
- National “Opt Out” Register – Company
- Automatic Dialing Machines – SPAM fax
- SPAM text messages SMS
- Companies can SPAM customers
- Covers storage of “cookies”



Who can SPAM you

- Anybody at your work address
- Suppliers at your home address
- Others by prior consent



National Opt-Out Register

- Register is meant to exist for people who wish not to receive marketing information
- Well developed in the UK
- IE: An Post for post
- IE: COMREG
- IE: REGTEL



Data Protection Enforcement

- Mostly by the Data Protection Commissioner
- Some enforcement by COMREG
- Some enforcement by industry associations



Dealing with Unwanted or Unsolicited Direct Marketing

- Legal Right to be Removed from a Direct Marketing Database
- Mailing Preference Service (MPS)
- Read Conditions and forms carefully
- Marketing by Telephone, fax, SMS or e-mail



Industry Action

- Bill Gates has promised to make eliminate SPAM in two years
- ... just like he promised secure operating systems



SMS – Text SPAM

- 10+ advertising Texts per week not unusual
- Report all Text SPAM
- Report to COMREG and REGTEL



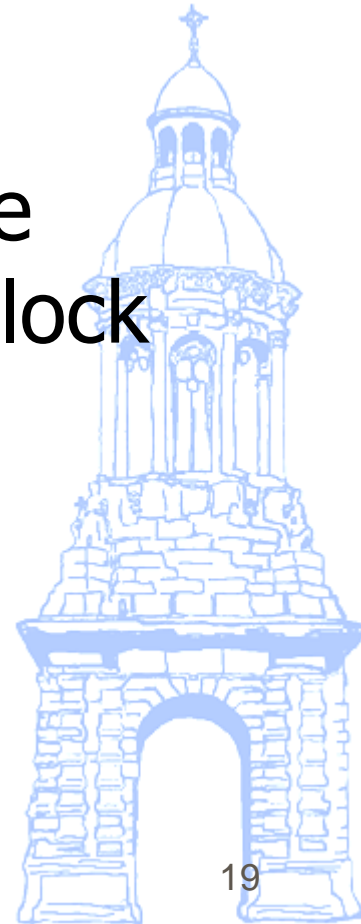
SMS – Text SPAM

- O2: Forward to 50455
- Vodafone: Forward to 50005
- Meteor: “Dictate” to helpline 1905
- SMS easier to track
- Some cases pending through DPC



Future SPAM

- RFID
- IT Security group “RSA Security” are working on a spamming device to block RFID signals without authorisation



Industry Action Jan-04

- The UK's Advertising Standards Authority issued a ruling against a marketer who sent unsolicited commercial e-mail without the explicit consent of recipients and with misleading e-mail headers, in breach of the CAP Code.



SPAM Legal Actions 23-Jan

- A Danish telecoms equipment firm has been fined a record DKR 400,000 for sending unsolicited commercial e-mails – otherwise known as spam. The conviction is one of the first in Europe to use the anti-spam provisions of the EU Directive.



SPAM Legal Actions 13-Feb

- Spammers who promised e-mail users a free Sony Playstation and then redirected their internet connections onto premium rate telephone lines charging \$3.99 a minute, have settled complaints by US consumer watchdog the Federal Trade Commission.



SPAM Legal Actions 19-Feb

- The UK watchdog for premium rate phone numbers this week slapped a £75,000 fine on a New York company for sending spam e-mails that encouraged users unwittingly to connect to a premium rate dial-up service.



SPAM Legal Actions 20-Feb

- AOL has filed an action targeting four Florida junk e-mailers who conspired with international spam operators based in Thailand.
- Earthlink's suit targets a multi-state spam ring in which 16 individuals and corporations sent out more than 250 million illegal junk e-mails.



SPAM in Italy

- Very strong legislation
- Must have authorisation from each user
- All expenses paid by originator
- Can claim for each SPAM received
- Usually each case is awarded €500 per email



Only in the USA!

- Enlargement Firms Sued
- Class action against international companies
- Claims that the products don't work
- Feels he has been cheated!



Conclusion

- Legislation is in place
- ... in places
- Ineffective in a global environment
- Self regulation does not work
- State regulation does not work
- Must be a cost on the sender



Conclusion

- Secure the servers
- Secure the software
- Spammers rely on insecure systems



Queries etc

- Send all your email queries to

Michael.Nowlan@tcd.ie

