

**Spam Control Act
(CHAPTER 311A)**

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SPAM CONTROL ACT

(CHAPTER 311A)

(Original Enactment: Act 21 of 2007)

REVISED EDITION 2008

(31st July 2008)

An Act to provide for the control of spam, which is unsolicited commercial communications sent in bulk by electronic mail or by text or multi-media messaging to mobile telephone numbers, and to provide for matters connected therewith.

[15th June 2007]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Spam Control Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“address harvesting software” means software that is specifically designed or marketed for use for —

- (a) searching the Internet for electronic addresses; and
- (b) collecting, compiling, capturing or otherwise harvesting those electronic addresses;

“Authority” means the Info-communications Development Authority of Singapore established under section 3 of the Info-communications Development Authority of Singapore Act (Cap. 137A);

“business day” means any day other than a Saturday, Sunday or public holiday;

“dictionary attack” means the method by which the electronic address of a recipient is obtained using an automated means that generates possible electronic addresses by combining names, letters, numbers, punctuation marks or symbols into numerous permutations;

“electronic address” means an electronic mail address or a mobile telephone number to which an electronic message can be sent;

“Internet access service provider” means a person who provides a service to give the public access to the Internet;

“recipient”, in relation to an electronic message, means an authorised user of the electronic address to whom the message is sent, and where a recipient of an electronic message has one or more electronic addresses in addition to the

address to which the message was sent, the recipient shall be treated as a separate recipient with respect to each such address;

“sender”, in relation to an electronic message, means a person who sends the message, causes the message to be sent, or authorises the sending of the message;

“unsubscribe request” means a request by a recipient of an electronic message, requesting the sender to cease sending any further electronic messages to his electronic address.

[Aust Spam Act, s. 4; US CAN-SPAM Act, ss. 5(b)(1)(A)(ii), 3(14); Companies Act, s. 4(1)]

Meaning of “commercial electronic message”

3.—(1) In this Act, a commercial electronic message is an electronic message, where, having regard to —

- (a) the content of the message;
- (b) the way in which the message is presented; and
- (c) the content that can be located using the links, telephone numbers or contact information (if any) set out in the message,

it is concluded that the primary purpose of the message is —

- (i) to offer to supply goods or services;
- (ii) to advertise or promote goods or services;
- (iii) to advertise or promote a supplier, or a prospective supplier, of goods or services;
- (iv) to offer to supply land or an interest in land;
- (v) to advertise or promote land or an interest in land;
- (vi) to advertise or promote a supplier, or a prospective supplier, of land or an interest in land;
- (vii) to offer to provide a business opportunity or an investment opportunity;
- (viii) to advertise or promote a business opportunity or an investment opportunity;
- (ix) to advertise or promote a provider, or a prospective provider, of a business opportunity or an investment opportunity;
- (x) to assist or enable a person, by deception, to dishonestly obtain property

belonging to another person;

- (xi) to assist or enable a person, by deception, to dishonestly obtain a financial advantage from another person; or
- (xii) to assist or enable a person to dishonestly obtain a gain from another person.

(2) For the purposes of paragraphs (i) to (ix) of subsection (1), it is immaterial —

- (a) whether the goods, services, land, interest or opportunity exists; or
- (b) whether it is lawful to acquire the goods, services, land or interest, or take up the opportunity.

(3) Any of the following persons may be the individual who, or entity which, is the sender of the message:

- (a) the supplier or prospective supplier referred to in paragraph (iii) or (vi) of subsection (1);
- (b) the provider or prospective provider referred to in paragraph (ix) of subsection (1);
- (c) the first-mentioned person referred to in paragraph (x), (xi) or (xii) of subsection (1).

(4) Subject to subsection (5), a person who knowingly allows his product or service to be advertised or promoted by a sender shall be deemed to have authorised the sending by the sender of any electronic message that advertises or promotes that person's product or service.

(5) For the purposes of subsection (4), a person who takes reasonable steps to stop the sending of any electronic message that advertises or promotes that person's product or service shall be deemed not to have authorised the sending of the message.

[Aust Spam Act, s. 6]

Meaning of “electronic message”

4.—(1) In this Act, subject to subsection (3), an electronic message is a message sent to an electronic address.

(2) For the purposes of subsection (1), it is immaterial —

- (a) whether the electronic address exists; or
- (b) whether the message reaches its intended destination.