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International Telecommunication Union

Countering Spam

ITU-T Study Group 17
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What is 'Spam'?

- **Australia:** defined as "unsolicited commercial electronic messages" (though the word "Spam" is not specifically mentioned), judicial provisions are technologically neutral: legislation includes Email, SMS, MMS and instant messaging; while faxes and voice-to-voice telemarketing are excluded, no reference to bulk messaging - a single unsolicited commercial electronic message could be Spam.
- **EU:** term Spam is neither defined nor used, the term "electronic mail for the purposes of direct marketing" is used, judicial provisions are technically neutral: legislation includes Email, calling machines, faxes and SMS messages
- **USA:** term Spam is neither defined nor used, a FTC-definition of a "Commercial Electronic Mail Message" exists, judicial provisions not limited to Email: inclusion of mobile Spam subject to implementation (Action by the Federal Communications Commission on mobile Spam)

Spam makes all countries border each other

- December 2003: WSIS Plan of Action provides the mandate for international action against spam (paragraph C5, d)
- July 2004: ITU WSIS Thematic Meeting on Countering Spam
- April 2005: ITU in the framework of its countering spam activities conducted a **Survey on Anti-Spam Legislation Worldwide**

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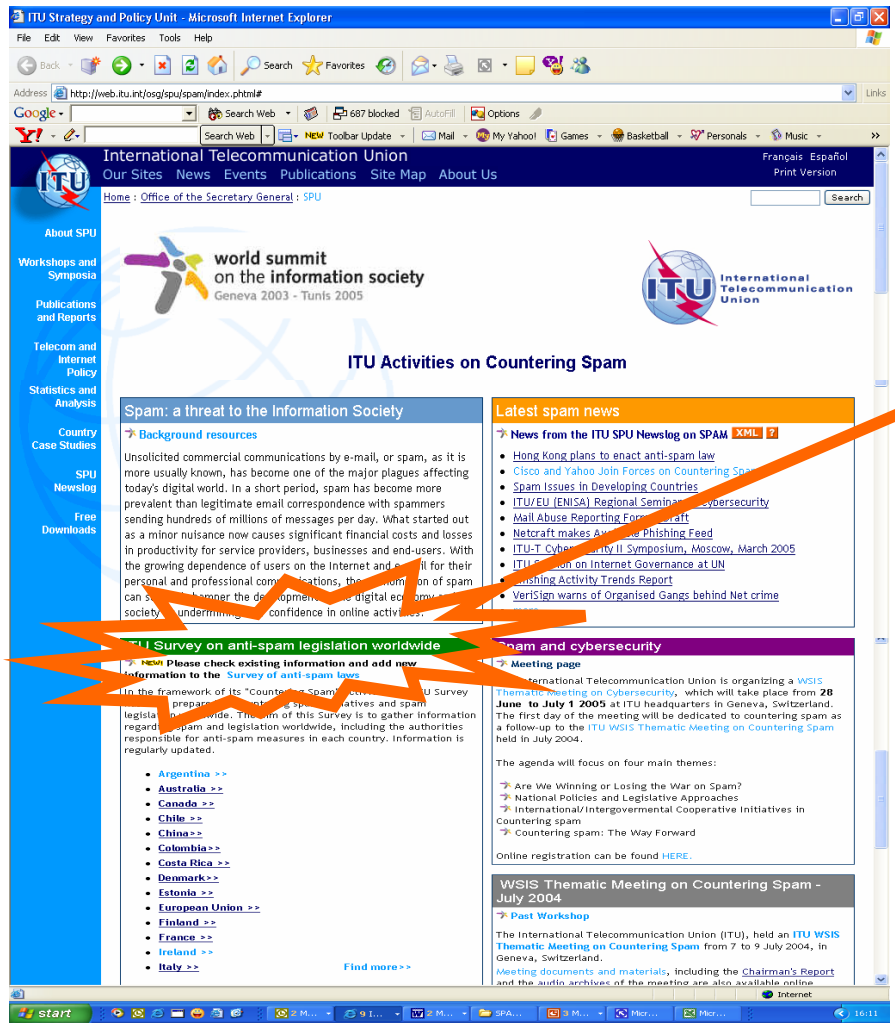
http://www.itu.int/spam



ITU Survey on anti-spam legislation worldwide

NEW! **Please check existing information and add new information to the** Survey of anti-spam laws

In the framework of its "Countering Spam" activities, an ITU Survey has been prepared on countering spam initiatives and spam legislation worldwide. The aim of this Survey is to gather information regarding spam and legislation worldwide, including the authorities responsible for anti-spam measures in each country. Information is regularly updated.

- Argentina >>
- Australia >>
- Canada >>
- Chile >>
- China>>
- Colombia>>
- Costa Rica >>
- Denmark>>
- Estonia >>
- European Union >>

Please help us in updating the ITU anti-spam survey!

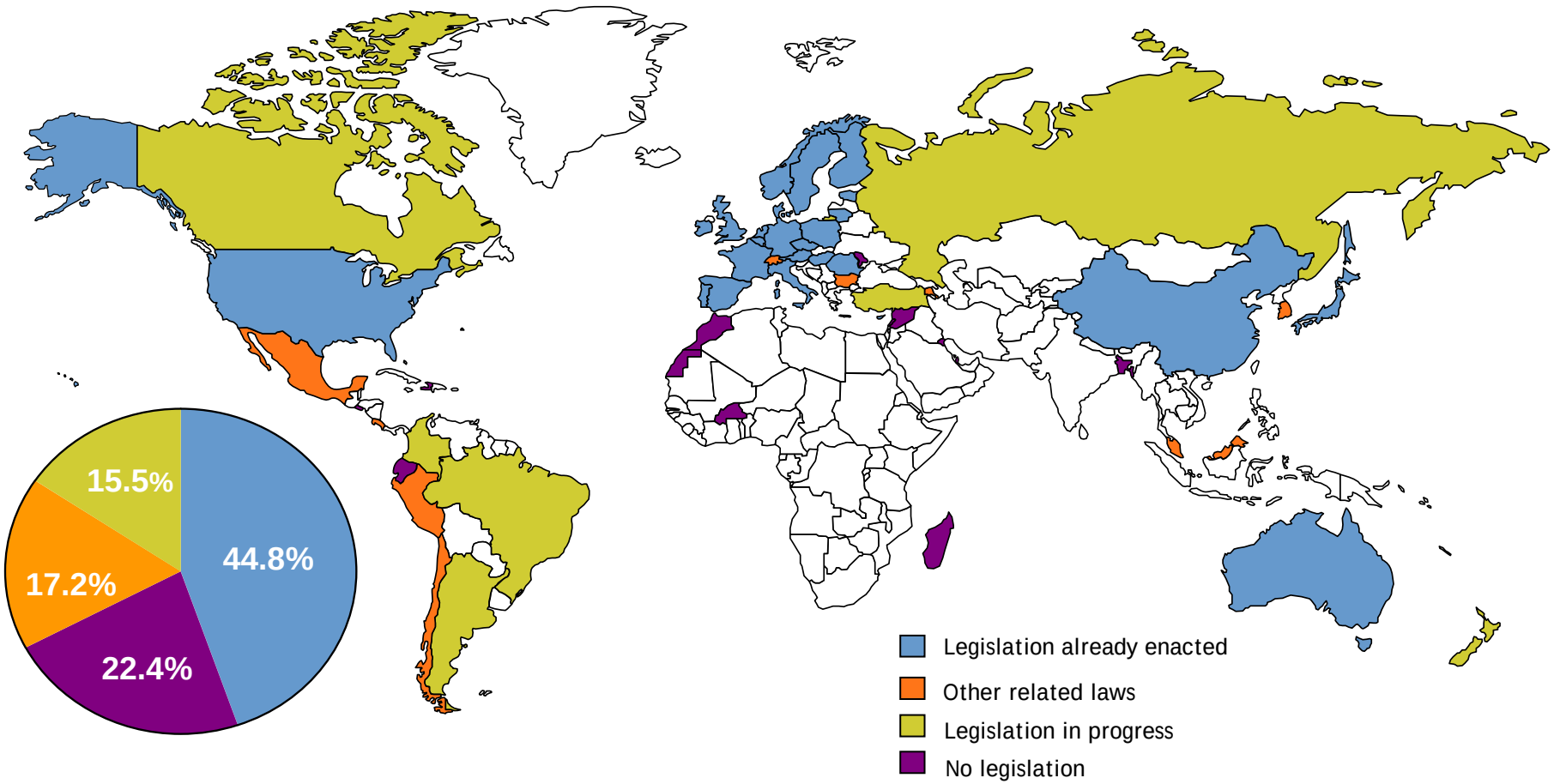
We asked for....

- Brief description of the ongoing anti-spam **activities** and **related laws** applicable to spam in each country
- A list of the main **international anti-spam activities**
- Name and contact details of the **entity responsible** for combating spam

Survey Results – 58 Countries

- Several countries (44,8%) have **already enacted** anti-spam legislation such as Australia, US, EU, Japan
- Others (15,5%) are **in the progress** of creating anti-spam laws, for example New Zealand, Singapore
- Although some (17,2%) countries do not have **any specific** anti-spam legislation, they are using alternative laws to cope with spam issues, such as Data Protection Laws, Consumer Protection Laws, Telecommunications Act, etc. These are e.g. Malaysia, Mexico, Peru
- Others (22,4%) don't have **any anti-spam legislation**, or any laws applicable to spam, e.g. Burkina Faso, Lebanon

Survey results



Emerging key legislative issues…

- **Types of spam covered by the various legislations**
  - Wireless spam, 'Spim', spam viruses and worms – spam to diffuse viruses and spyware, spam and frauds – spam that contains deceptive or fraudulent content (i.e. 'phishing'), and 'Spit'- spam over Internet Telephony
- **Opt-in or opt-out**
  - The consent issue: the eternal debate…
- **Transparency and privacy issues**
  - Sender identity
  - Address harvesting
  - Misleading information in subject line
  - Labels
  - Software harvesting

Emerging key legislative issues...

- **Enforcement**
  - Who may bring an action?
  - There is a diversity of agencies with responsibility over spam
  - These agencies have varied powers to investigate, initiate enforcement action and impose sanctions.
- **Penalties**
  - The penalty options include the imposition of a civil pecuniary penalty (e.g. Australia) and the imposition of a fine or a term of imprisonment (e.g. United States)
- **Extraterritorial application**

WSIS Thematic Meeting on Cybersecurity 28June –1July 2005

- In framework of its activities to implement the Plan of Action, ITU recently hosted a WSIS Thematic Meeting on Cybersecurity
- Event website at www.itu.int/cybersecurity/ provides links to final agenda, background papers, presentations, electronic contributions, Chairman's Report and complete audio archives of meeting
- June 28: Countering Spam Day
  - Considered developments since June 2004 Thematic Meeting on Countering Spam
- CD-ROM provides materials from both 2004 Countering Spam and 2005 Cybersecurity/Spam Thematic Meetings as well as a related materials from ITU's daily work programme on these topics

General Points from Chairman's Report

- No clear consensus as to whether we are winning or losing war on spam.
- Spam under constant mutation from annoyance to general cybersecurity threat
- Threat vector shifting to new platforms such as mobile and Voice over Internet Protocol (VoIP) networks.
- Spam should be seen in broader context of "unwanted or unsolicited communications".
- Suggests a generic policy and regulatory approach will eventually emerge

Legislation

- On the legislative front, a great deal of experience has been gained as to the commonality, differences and effectiveness of different approaches of national anti-spam legislation.
- ITU commissioned study prepared by Harvard Law School entitled A Comparative Analysis of Spam Laws: the Quest for Model Law analyzes the level of consensus and differences among extant laws and made some preliminary recommendations for inclusion in national spam legislation.
- As spam has evolved into a more criminal activity, legislation is not particularly helpful unless tied to effective enforcement
- This enforcement is often expensive, complex, and cross-jurisdictional in nature.

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PrepCom3 19-30 September 2005

Chapter 3: Spam

- Chapter Three: Internet Governance, 3b) Public Policy Issues Related to the Use of the Internet
  - *We resolve to deal effectively with the significant and growing problem posed by spam. We take note of current multilateral, multi-stakeholder frameworks for regional and international cooperation on spam, for example, the APEC Anti-Spam Strategy, the London Action Plan, the Seoul Melbourne Anti-Spam Memorandum of Understanding and the relevant activities of the OECD and ITU. We call upon all stakeholders, to adopt a mult-pronged approach to counter spam that includes, inter alia, consumer and business education; appropriate legislation, law enforcement authorities and tools; the continued development of technical and self regulatory measures; best practices; and international cooperation.* (Agreed)

Recent international anti-spam activities

- **Operation Spam Zombies**
  - FTC and and 36 government partners
- **Seoul-Melbourne Anti-Spam Agreement Enlarged**
  - Twelve Asia-Pacific communications and Internet agencies have joined the Australian Communications Authority (ACA) and the Korean Information Security Agency (KISA) in signing a multilateral memorandum of understanding (MoU) on cooperation in countering spam
- **Nineteen French speaking African countries**
  - CAPTEF (Conférence des administrations des postes et des télécommunications d'expression française) adopted a Declaration in the fight against spam

Conclusions

- **Spam is a cross-sectoral problem**, therefore different stakeholders need to be involved in different countries.
- **There is no unique solution** to spam. A multi-layered approach is necessary
- **International cooperation**, on both technical (standardization) and policy (legislation and enforcement) sides has been recognized as a key element to solving the problem.
- **Developing countries** are also dealing with the problem of spam, which has even more dramatic consequences on Internet access than in developed economies.

Links and References

- ITU Activities on Countering Spam and Thematic Meeting
  - **www.itu.int/spam**
- ITU Activities related to Cybersecurity and Thematic Meeting
  - **www.itu.int/cybersecurity**
- ITU-T Activities on Spam (Study Group 17)
  - **www.itu.int/ITU-T/studygroups/com17**
- ITU-D Activities on Spam
  - **www.itu.int/ITU-D/treg/**
  - **www.itu.int/ITU-D/e-strategies**
- Anti-spam laws and authorities worldwide
  - **http://www.itu.int/osg/spu/spam/law.html**
- World Summit on the Information Society
  - **www.itu.int/wsis**

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Thank you for your attention