

# LEGISLATION AND SPAM CONTROL IN BOLIVIA

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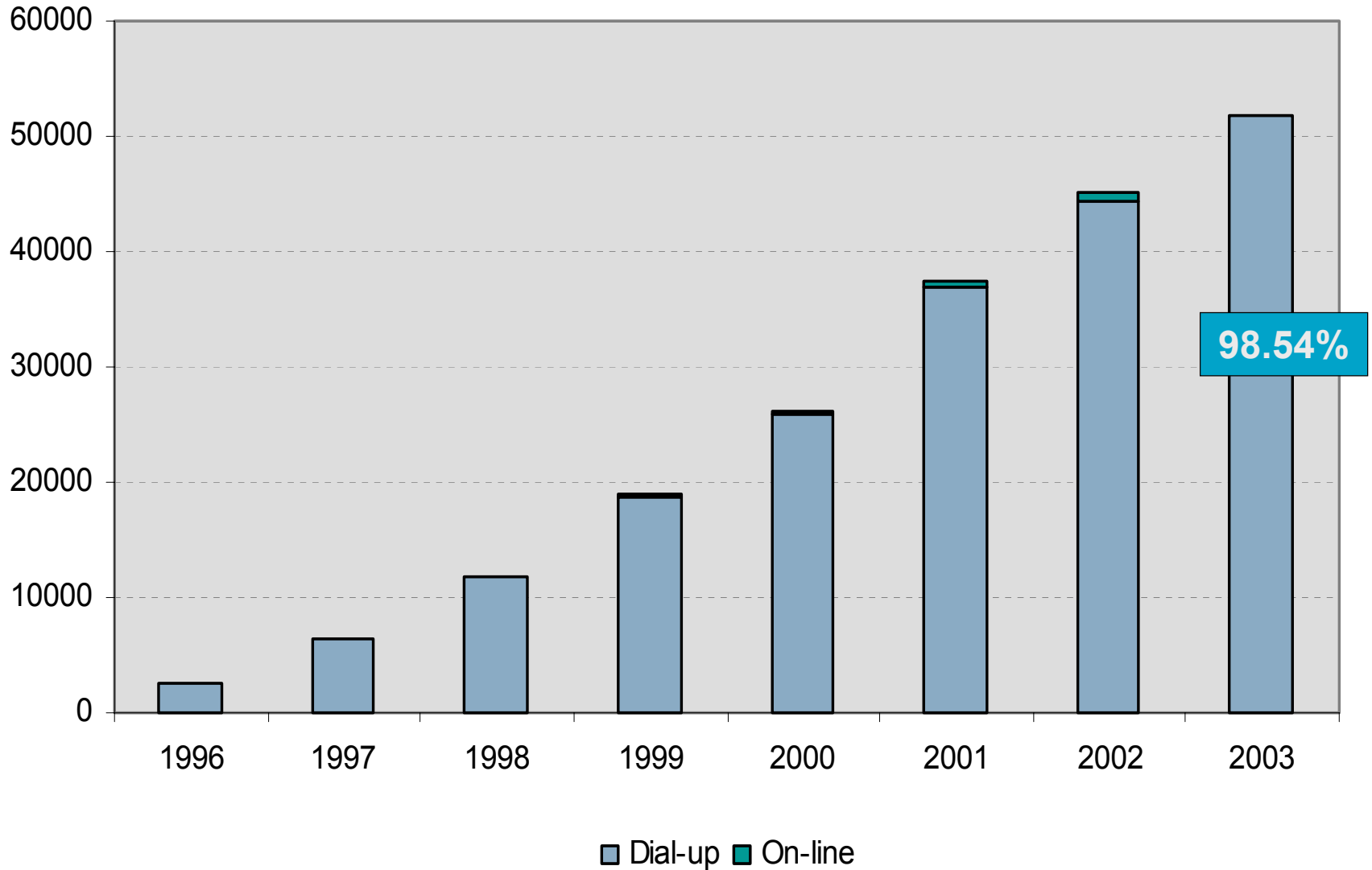


# ISP Regulation

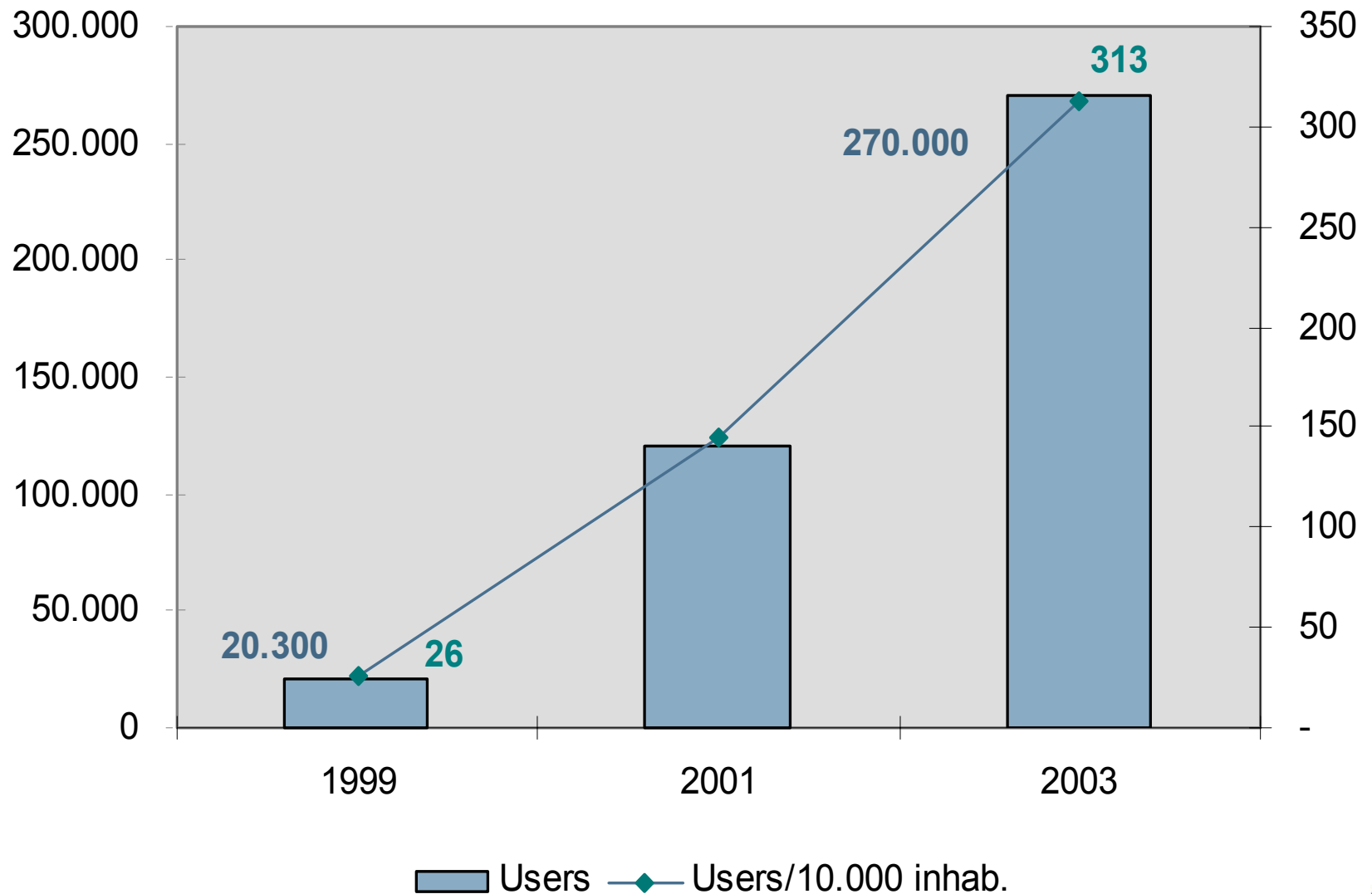
- Access to Internet Service considered Value Added Service
- Regulator's functions
  - Grant enabling titles
  - Supervise correct service provision
  - Hear controversies and complaints
  - Sanction infractions to legal regulatory framework
  - Propose guidelines and regulations to the Executive



# Internet subscribers



# Internet Penetration



# Internet rates

## Dial - Up

Unlimited 18 \$US/month

Per-use dial-up 0,01 \$US/minute

0,09 \$US/call

## ADSL

128 kbps 55 \$US/month

256 kbps 100 \$US/month

512 kbps 200 \$US/mes



# Backdrop

- Low ICT penetration
- Lack of Digital Agenda
- Lack of Internet legislation - information crimes
- No Consumer Protection Law, no Competence Law, No Data Protection Law
- Non-explicit telecom authority and competencies in these matters
- ISP define own use of service policies and come to telecommunications regulator to seek solutions.
- ISP subscribers present complaints to telecommunications regulator.



# Internet use policies

Catalogue of prohibited abusive actions

With respect to contents

- Publishing or publicising harmful or illegal content.

With respect to service security

- Hacking server, network or user account authentication and security
- Breaking system, network or server security
- Interrupting Internet communications
- Altering routing information



# Internet Use Policies (cont.)

Catalogue of prohibited abusive actions:  
With respect to e-mail

- Affecting the rights of individuals, groups, companies, or organizations
- Spamming containing commercial or political propaganda without explicit and request.
- Sending messages to saturate a determined user or server.



# Applicable Legislation

## Article 306 of the Regulations of the Telecommunications Law

“In case of danger to the network, imminent or present, the operator of a Public Network may request, under an expedited process, permission from the Telecommunications Superintendence to cut the service of the user causing it...”



# Legislation Guidelines

SPAM: Unsolicited commercial or political email, of a duplicating nature

- As an electronic commercial tool SPAM is not illegal per se.
  - Spam-associated activities are illegal
  - Publicity costs are charged to the ISP & user, with minimum cost for Spammers.
  - Other's resources are used (servers, CPU).
- } Preventive measures
- } Penalties
- } Redress

# Legislation Project

Requisites for propaganda email:

- a) PUBLICITY or PUBLI in reference field.
- b) ADULT.PUBLI when contents are only appropriate for those over 18
- c) Legal name, complete address and e-mail address of mail issuer.
- d) Inclusion of valid e-mail answer address to unsubscribe.
- e) Accurate information permitting identification of origin and transmission route.



# Legislation Project (cont.)

Commercial mail will be considered illegal when:

- a) It does not comply with established requisites.
- b) The answer address contains a false name, or unauthorized third party domain name.
- c) Contains false origin and routing information
- d) Is sent to an addressee that requested no publicity mailings
- e) Contains false or deceitful information in the reference field
- f) Is sent in violation of ISP established policies.



# Legislative Project (cont.)

Exceptions will be made:

- a) When the recipient has a commercial or pre-existing relationships with the e-mail sender
- b) When the recipient has expressly accepted the message sent.
- c) When receiving electronic commercial mail is an ISP condition for granting a free account to users.



# Legislative Project

## Other dispositions:

- The recipient harmed will not have the right to initiate action against the ISP transmitting unsolicited mail.
- The possibility is being analysed of setting indemnities for recipient and ISP .
- Penalties and sanctions will be in the hands of the telecommunications regulator.



# Challenges

- Determine control mechanisms for illegal conducts.
- Prepare good email practices guidelines.
- Control and sanction Spoofing, which requires specific categorization among information crimes.
- Prepare international norms agreements on Spamming.





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