

Posted to news.admin.net-abuse.email
cc: FTC

To the Federal Trade Commission
Regarding the FTC Spam Forum April 29 - May 2, 2003

Spam is the malaria of the internet, a plague, an infection, a pox, festering boil, it's germs acting in no interest but it's own at the expense of it's victims. But like malaria in the wild, without a carrier it's virtually harmless. Malaria relies on mosquitoes to carry them to the unwitting victims and infect their bodies with their presence. Spammers rely on providers who are willing to look the other way, often for a price, and supply them the connections to the body of the internet in order to continue their parasitic presence on the net. Stopping the spread of malaria requires drying up the area of the places the mosquitoes breed. Similarly, ridding the internet of spammers requires drying up the dark corners and cesspools their providers hide in. The problem isn't so much the spammers as the ISPs who harbor them. Those ISPs should be held just as responsible as someone creating a garbage dump in their back yard is held responsible for creating a health hazard by attracting and harboring other pests. The internet is sick, spam is the disease, spammers the infection, the ISPs who harbor them are the carriers.

I noticed that the forum has on it's panels a number of spammers and several large spam harboring ISPs as well. I wont name them here, they know who they are and if they don't the thousands of newsgroups postings discussing them make it clear enough. At least two panelists have hosted many spammers' email drop boxes for years ignoring complaints all the while. Several of the others are long term spammers, who's "businesses" are based solely on theft and abuse, and who's "advertising" is illegal in most states. Having the perpetrators of the abuse seated on panels to discuss dealing with the problem is similar to the FBI seating Al Capone and John Dillinger on panels to explore possible actions to fight crime.

These spammers have an obvious goal. They see the writing on the wall, they know the backlash against their horrific levels of abuse is coming. They want to continue the abuse with an air of ligitimacy while the laws and regulation drive away other spammers to lower the volume. That should not be allowed to happen. There is no "legitimate" way to steal. Honoring removes are meaningless and valid forms are irrelevant and both are unenforceable. ISPs are not common carriers and no one, no ISP if forced to accept traffic from another. If the FDA takes a position that some spammers are not common thieves and their hosts aren't aiding and abetting, then it will be simply left to the world's internet communities to deal with the resulting

flood of abuse the FTC has "legitimized". That will, of course, be done with far more aggressive blocking of entire ISPs as it will be necessary to protect ourselves and our customers from the abuse friendly ISPs to whom you have given a green light even if by default.

Their hosts have a similar goal. They don't want to lose the lucrative payments made to them by the abuser, but they need something in place to protect them from taking responsibility for their willing participation in the abuse. If there are 'official' rules in place regarding what spam is acceptable, they assume blocking their traffic, including their legitimate users will be less of a threat. To put it bluntly, they want an excuse and they are hoping the FTC will give it to them. It is my hope that this will not happen. Please consider history as an example. In May of 1999, the US congress debated and rejected a bill, HR 1910, E-Mail User Protection Act. Although rejected, four years later spammers are still referring to it as making their abuse somehow legitimate. Any ruling by the FTC or any other government agency or department calling Unsolicited Broadcast Email (often called Unsolicited Bulk or Commercial Email, UBE/UCE) is anything other than theft and harassment will be used by the spammers and their providers as an excuse to continue.

I use "Broadcast" above because that's the nature of the abuse. Email was never structured for or intended to be a broadcast medium. Spammers use it as a broadcast medium, except that unlike legitimate broadcasters, they have unwilling parties pay the costs, and because it doesn't function as a broadcast medium, it chokes the system. There are legitimate Bulk emails and there are legitimate commercial emails, what all three definitions have in common are solicitation. Solicitation makes it a personal communication from one party to another with the costs agreed upon by the parties involved. Solicitation draws the line between use and abuse, between legitimacy and theft. Any ruling, any agreement, any regulations or proclamations by the FTC resulting from this forum has to include in unadulterated terms that solicitation is absolutely a requirement in differentiating legitimate email from the illegitimate theft of resources and harassment known as spam if it is to have any effect other than to make the problem worse.

The ISPs have to be held responsible for the abuse they knowingly allow and choose to host. And that will certainly be held responsible one way or another. If they refuse to police themselves, and the FTC failed to police them, then the rest of the internet will eventually and rightfully do so with increasingly aggressive blocking. We have already seen the rise of aggressive email blocking by users of so-called "blacklists" like spews. Those who use them deny email traffic from the abuse friendly ISPs without regard to which specific

IPs are currently being used by spammers and which are being used by the abusing ISPs non-spamming customers. Should the problem continue, you can expect to see expansion to other traffic, including web traffic and outgoing email, effectively making the all the abusing ISPs disappear entirely from large segments of the internet. If that's the only solution, then so be it. Certainly, any apparent legitimization of unsolicited junk from spammers is no solution.

William R. James

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