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THE ASIA DIGITAL MARKETING ASSOCIATION'S RESPONSE TO OFTA'S PUBLIC CONSULTATION ON: "PROPOSALS TO CONTAIN THE PROBLEM OF UNSOLICITED ELECTRONIC MESSAGES"

Summary

The Asia Digital Marketing Association clearly realizes that legislation is not the only part of the solution, but one of the key pillars in the fight against spam, alongside industry self-regulation, education, technological solutions, and prosecution of spammers.

Possible Solutions Discussed in Consultation Paper

The extent of the problem

A survey, conducted by the Hong Kong Internet Service Providers Association in January 2004, revealed that 50% of all e-mail traffic in Hong Kong is spam. Today estimates show that spam is out of control and costs Hong Kong businesses HK\$13 per employee everyday, of which lost productivity alone could be as much as HK\$6 billion. According to Brightmail, as of April 2004, the volume of spam as a percentage of all e-mail traffic in Hong Kong is 81%. Even though large volumes of spam originate from overseas, there are increasingly more local spammers who are sending Chinese-language junk

mail targeted at consumers in Hong Kong and elsewhere in the region. According to the Register of Known Spam Operations (ROKSO), maintained by Spamhaus, Hong Kong is home to 25 of these spammers.

Spam is probably the single greatest threat to our digital marketing industry. As much as 40% of all legitimate, opt-in marketing e-mail is tagged as spam. Legitimate e-mail messages erroneously blocked as spam are expected to cost online marketers \$419 million in 2008, according to a research firm. Marketers last year lost \$230 million from spam filters blocking messages that were sent with the receivers' permission, Jupiter Research said.

E-mail is a powerful marketing tool, but the e-mail marketing environment is now in jeopardy. Spam hampers the efforts of legitimate digital marketers to effectively reach their audiences with permission-based campaigns. Until action is taken to substantially diminish the volume of spam and boost consumer confidence in the Internet, the effectiveness of the digital marketing industry will remain under threat.

The largest volume of spam, and the most offensive or fraudulent content, seems to come from around 200 spammers worldwide. Therefore, the business needs of legitimate on-line marketers are perfectly aligned with those of consumers.

Industry Cooperation

The industry is committed to promote global best anti-spam practices as part of the solution in fostering effective industry self-regulation. ADMA participates in many industry activities, co-founded the Hong Kong Anti-Spam Coalition, and co-organised two large scale anti-spam events so far in 2004.

In response to the problem, ADMA issued voluntary guidelines for marketers that underscore the critical importance of making all e-mail marketing permission-based in order to help fight spam and help assure that consumers only receive information that is relevant and of interest to them.

The ADMA has determined the key attributes of e-mail end users may wish to receive:

- Anticipated - the recipient looks forward to hearing from them
- Personal - The messages are directly related to the recipient
- Relevant - The marketing is about something the recipient is interested in
- Opt-out - the recipient has the option to unsubscribe at any time

Here are the ADMA's guidelines for responsible email marketing.

ADMA'S GUIDELINES FOR RESPONSIBLE EMAIL MARKETING

1. Marketers must not send e-mail to individuals without consent/permission* or a prior business or personal relationship* (*see next page for definition).
2. E-mail marketing messages must be anticipated and relevant according to the individual's preferences, target segment or e-mail purpose.
3. Marketers must not falsify the sender's domain name, use open-relay servers or use a non-responsive IP address.
4. Marketers must not falsify the subject line to mislead readers about the content of the e-mail message.
5. E-mail senders, list owners, or list managers must give the recipient an opt-out/unsubscribe option from receiving future marketing messages. The opt-out feature must be reliable, functional and prompt.
6. All e-mail marketing messages must include (or link to) a data privacy policy, which should be written in clear language with the key points easily understood by a casual reader. The data privacy policy must inform respondents for what marketing purpose their e-mail address will be used when their e-mail address is collected online or offline.

Definitions

Forms of consent/permission that can be obtained from an individual include:

Tier 1:

Opt-in: At the point of email address collection, a person has actively elected to be included on an email list to receive e-mail marketing messages. No confirmation e-mail is sent and the person is not required to take further action to be included on the list.

Tier 2:

Confirmed Opt-in: At the point of email address collection, a person has actively elected to be included on an email list to receive e-mail marketing messages. An e-mail is subsequently sent to the person, notifying the person that their e-mail address has been added to the list. The person is not required to take further action to be included on the e-mail list. The confirmation e-mail includes the opportunity to remove their subscription.

Tier 3:

Double Opt-in: At the point of email address collection, a person has actively elected to be included on an email list to receive e-mail marketing messages. An email is subsequently sent to the person, notifying the person that some action is necessary before their email address will be added to the email list.

Marketers who implement permission-based campaigns generally have higher response rates and lower complaint rates and blocking issues.

ADMA recommends its members to adopt the first tier of opt-in as a minimum standard.

Business or personal relationship is defined as any previous correspondence, transaction activity, customer service activity, personalized marketing message, third party permission use, or offline contact.

Consumer Education

ADMA believes that consumer education and awareness plays an important role in combating spam. As part of its participation in the Hong Kong Anti-Spam Coalition and as the industry body for the digital marketing industry in Asia Pacific, it has taken a leading role in developing and presenting education materials, speaking engagements at public seminars, media discussions and other such activities.

ADMA has also issued spam prevention tips to help consumers prevent spam from reaching their inboxes. Recommendations include effective use of filtering software, selection and management of e-mail options, and understanding data privacy policies. The full tips can be found at <http://www.asiadm.com/adma/resources/guidelines.asp>

ADMA is committed to continuing its involvement in activities of this kind and also encourages other industry, trade associations and governmental bodies to add their support.

Technical Solutions

ADMA fully supports technical solutions as part of a comprehensive and effective solution to the problem.

Legislation

Legislation is a critical component of a comprehensive and effective solution to the problem, and as has been proven elsewhere in Asia, can provide strong levers for enforcement. The prosecution of spammers, and even the threat of possible prosecution have had a positive effect on diminishing spam.

Appropriate legislation would demonstrate Hong Kong's desire to combat spam and allow it to keep pace with other IT leaders in the region, as well as prevent Hong Kong from becoming a 'safe haven' for spammers. Additionally, a seamless web of legislation worldwide is needed to ensure that there are mechanisms for effective international cooperation in fighting spam.

ADMA recommends the definition of permission-based e-mail marketing as defined in ADMA's guidelines for responsible email marketing to be included in the wording of the legislation to clearly differentiate between the activities of spammers and legitimate marketers.

About The Asia Digital Marketing Association

The Asia Digital Marketing Association (ADMA) is the voice of, and advocate for, the digital marketing industry in Asia (excluding Japan). ADMA is an umbrella organization, guided by senior executives in the industry, and charged with gaining consensus and formulating a powerful point of view on all key industry issues. The role of the organization is to promote the strengths of digital marketing and counter misperceptions with clear, compelling information about cost effectiveness, impact and real-world success stories.

ADMA members are responsible marketers who are building ways to make consumers experiences with online marketers relevant, personal and trustworthy. Members include Intel, eBay, MSN, Cathay Pacific, DoubleClick, and a whole range of content, technology and marketing communications companies.

ADMA has also been a vigorous participant in the Hong Kong Anti-spam Coalition, formed during the summer of 2003. The coalition brought together a group of concerned industry participants such as the Hong Kong Internet Service Providers Association (HKISPA), the Asia Digital Marketing Association (ADMA) and business leaders from a variety of organisations including Microsoft and Time Warner. The Coalition aims to make a real difference to consumers, businesses and government by bringing together powerful local market knowledge and contacts to foster effective industry self-regulation, legislative solutions, information sharing, and other global best anti-spam practices. A copy of the coalition White Paper "Legislation: One of the key pillars in the fight against spam" can be found at

<http://www.asiadma.com/adma/resources/guidelines.asp>