30 April 2004

Report on non-OECD Countries'

Spam Legislation

Authors:
Petr Piškula, Electronic Communications Dpt., Ministry of Informatics, Czech Republic
Jana Klaschková, expert for the Ministry of Informatics, Czech Republic

This report was prepared for the OECD within the SPAM project funded by the Czech Republic. The opinions expressed in this report are those of the author and do not necessarily reflect the views of the OECD or its member countries.

1. Introduction

The OECD prepared study focused on identifying the characteristics of spam, the reasons why spam is increasing and several of the associated problems raised by spam. The study also aimed to provide a survey of member country initiatives in the area of spam to facilitate an exchange of information.

Spam is recognised to be an international issue overlapping territory of the OECD countries. Knowing that the OECD initiated project SPAM, which is focused on initiatives in the area of spam within selected non OECD countries. This study is (similarly) aimed to provide a survey of selected countries initiatives in the area of spam.

The following countries were selected for the survey:

- the EU accession countries (countries joining the EU in May 2004): Cyprus, Estonia, Latvia, Lithuania, Malta, Slovenia

- the EU candidate countries (countries planed to join the EU about 2007): Bulgaria, Romania,

- other countries – Russia, Ukraine

The selected countries were asked to fulfil similar forms as the OECD members were asked [see DSTI/ICCP(2003)10/FINAL].

Tab 1: Selected countries

Country	EU relationship	Country code
Bulgaria	Candidate	BG
Cyprus	Accession	CY
Estonia	Accession	EE
Latvia	Accession	LV
Lithuania	Accession	LT
Malta	Accession	MT
Romania	Candidate	RO
Russia	Non	RU
Slovenia	Accession	SI
Ukraine	Non	UA

As regards Ukraine, the respective bodies were contacted but it seems it will be very difficult to obtain some official data directly from administrative bodies now. Therefore data published on Internet were taken into account.
The report provides basic overview of legislation dealing with spam in selected countries.

Background

The authors' approach is based on OECD documents (mostly DSTI/ICCP(2003)10/FINAL). Spam is a relatively new phenomenon, so there exists no unified definition. This phenomenon is perceived in different ways in different countries. A number of countries have, however, adopted general working definitions. It is possible to trace some common features identifying SPAM. Table 2 shows the characteristics classified as either core or secondary. The *core* characteristics include unsolicited electronic commercial messages, sent in bulk. Most would consider that a message containing these core characteristics is spam. Some may include other messages as well, for example even if they lack a commercial element. The remaining characteristics identified above may be described as *secondary* characteristics that are frequently associated with spam, but not perhaps as necessary.

Tab 2. Core and secondary characteristics of spam

Core characteristics	Secondary characteristics
Electronic message	Uses addresses collected without consent or knowledge
Sent in bulk	
Unsolicited	Unwanted
Commercial	Repetitive
	Untargeted and indiscriminate
	Unstoppable
	Anonymous and/or disguised
	Promotes illegal or offensive content
	Deceptive or fraudulent intent

Source: OECD Secretariat (DSTI/ICCP(2003)10/FINAL).

What are the problems associated with spam? It means real costs – for individual users, companies, ISPs and e-mail service providers. It consumes network and computing resources, e-mail administrator and helpdesk personnel time, and reduces workers' productivity.

Spam means also breach of privacy. The collection of e-mail addresses is frequently made without the user's knowledge, much less with a specification of the purpose and consent. Such practices are likely inconsistent with the collection limitation and purpose specification principles in the OECD *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*.

There exist also several problems related to spam content. Sometimes it is fraudulent or deceptive, sometimes it contains pornographic materials, it can temporarily paralyse or even permanently damage personal computers by clogging computer systems. Some spam also contains destructive viruses and worms.

Another problem is identity theft. Every e-mail contains information regarding its origin, but current technology hardly guarantees whether the information on the header is correct or not. Spammers usually use some other business's IP address or conceal their own identity by using stolen or falsely labelled company identities. Others alter the header to falsify the sender or create an open relay through unsecured servers. Corporate identity theft can severely damage a company's brand worldwide. Corporations that are victims of identity theft have to spend significant time and resources recovering their lost image.

The major problem of spam is that it creates distrust in the digital economy that could have an adverse impact on the development of e-commerce. Spam can lead to consumer reluctance to participate in the Internet, *i.e.* online forums and Usenet groups, or remove their e-mail addresses from business and home pages for fear of having those addresses harvested and added to mailing lists. This can be a threat to the usefulness of the most successful tool of the Internet.

There are a number of approaches to reduce spam. The solutions can be based on legal and regulatory approaches, on self-regulation, education and awareness and technical approaches. However, the current regulatory, self-regulatory and technical solutions in place are not effective in and of themselves, and require further development and discussion. For overcoming the obstacles, a multi-dimensional approach is needed. International co-operation is also a critical factor.

The spam issue could be divided into two levels or point of view with two different levels of solutions:

- problems connected to spammers as a source of spam (among selected countries Russia was - according to the www.spamhaus.org - the eighth country on the top 10 spam countries in December 2003) – solutions in identifying spammers and punishing them
- problems caused by spam itself in terms of economic costs and breaching the privacy – solutions in means to avoid spam to be distributed in the network or received by users (mainly special software).

2. Situation in selected countries

The level of importance of spam issues depends on usage level of means through which spam is distributed (i.e. mainly Internet, possible mobile services) as well as depends on e.g. economic development of respective country or sensibility of society to specific topics – pornography, advertisement, religion etc. but these issues are not object of this report.

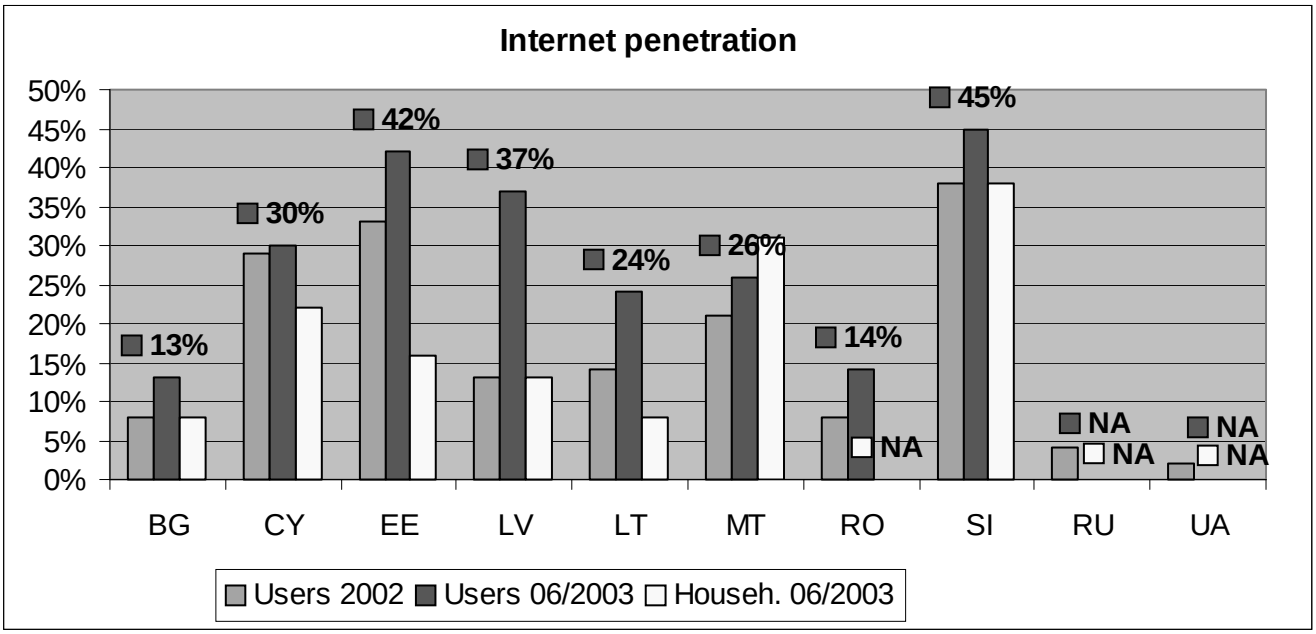
Number of people who are affected with spam is an important fact for government to take any action. It is largely accepted that the Internet is the main source of spam. It could be assumed that spam is problem for mobile environment depending on whether:

- there are some services connected with mobile services on Internet for free (sending SMS) provided in respective country or whether operators provide their customers with an e-mail address associated with their numbers
- there is development of new services which offer broader opportunities for spammers.

Also other minor facts (e.g. if there could be sent to mobile phones at least alerts to e-mails) are relevant in this respect. In the post-communist countries (except Malta and Cyprus, selected countries are former communist countries) is largely seen that mobile technology is much more developed and popular than fixed telephony. Therefore the selected countries were compared in some Internet indicator and indicators in mobile networks were compared as well. It should be added that main difference relating to spam between Internet and mobile networks is that originating short messages in mobile networks is much more expensive than sending e-mails. Nevertheless, the wireless sector is another potential (and in some OECD countries already existing) attractive area for spammers.

Development of Internet

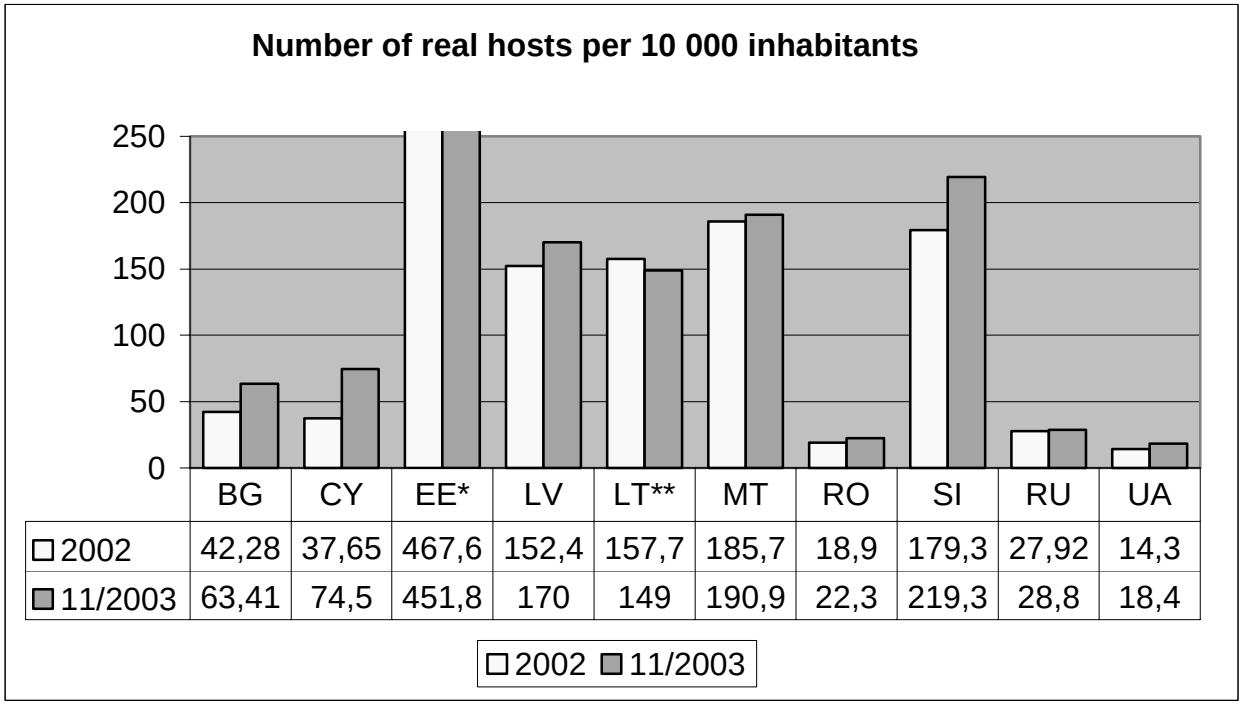
Chart 1: Internet Users and Households Penetration



Source: 4th Report on Monitoring of EU Candidate Countries (Telecommunication Services Sector) (for users 06/2003 and households ITU (for 2002) available at http://www.itu.int/ITU-D/ict/statistics/at_glance/Internet02.pdf

Although data related to Internet use are not precise and even not very comparable due to different definitions, the chart 1 could indicate differences between countries and together with other data related to Internet it could be expected e.g. that in Slovenia there is more need to address spam issue than in Bulgaria. As low penetration countries could be significant source of spam this indication is not absolute.

Chart 2: Number of real hosts



Source: ISC – RIPE, http://www.ripe.net/ (for 11/2003)
ITU (for 2002) available at http://www.itu.int/ITU-D/ict/statistics/at_glance/Internet02.pdf
* out of scale
** data for Lithuania are from 06/2003 instead of 11/2003 because of some inconsistency

The number of Internet real hosts is an additional indicator that describes the level of development of the Internet.

Development of mobile services

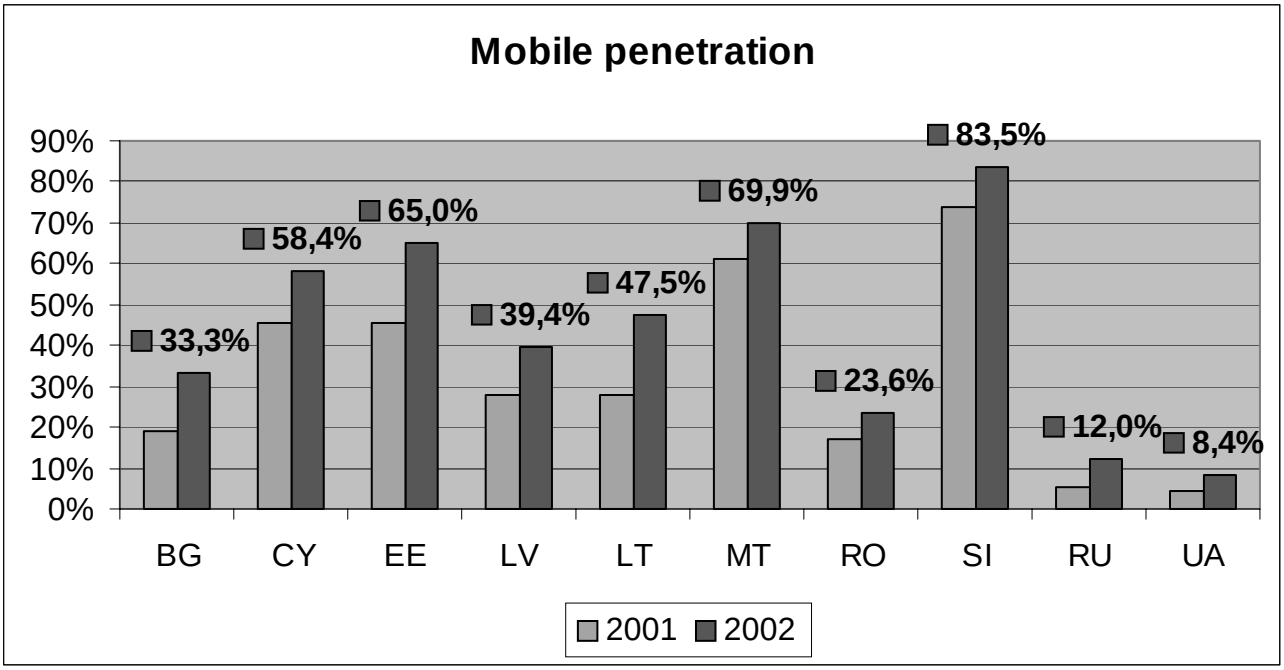


Chart 3: Mobile penetration

Source: ITU, available at http://www.itu.int/ITU-D/ict/statistics/

EU legislation

As there were selected the EU accession countries it should be expected that addressing spam issue within these countries is mainly related to the EU directives. In case of the accession and candidate countries, an obligation to approximate their laws to EC legislation exists. The accession countries are expected to have law implemented by the day of accession (1st May 2004). The candidate countries are further confronted to their commitments and achieved steps under screening and Commission's report. The relevant EC law is Directive 2002/58/EC, as well as Directive 2000/31/EC.

Directive 2002/58/EC generally requires (member) states to adopt opt-in approach in case of direct marketing by means of automatic calling machines, facsimile machines or electronic mail. There is however an exception for legitimate direct marketing with an existing customer service relationship. Companies will be allowed to send unsolicited commercial mails where they have received the e-mail address directly from the consumer in the context of a purchase and on conditions that the unsolicited e-mail only concerns their own similar products and that the consumer is given the opportunity to object free of charge in an easy manner.

Other forms of direct marketing that are more costly for the sender and impose no financial costs on subscribers and users, such as person-to-person voice telephony calls, could be covered either by opt-in or opt-out approach at decision of (member) state. Moreover, directive 2002/58/EC requires (member) states to ensure that unsolicited communication does not disguise or conceal the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease.

Directive 2002/58/EC contains also provisions, which could be used in dealing with open proxies and relay servers, as it requires to safeguard security under article 4.

Even if article 7(2) of directive 2000/31/EC was made obsolete by directive 2002/58/EC there is still article 7(1) requiring (member) states to ensure kind of labelling of unsolicited electronic mails.

Countries overview

Summary of review provided is available in Annex to this report.

Bulgaria: no explicit regulation for unsolicited e-mail but regarding spam seems some provisions opt-in in Personal Data Protection Act, no legislation on the process, in future implementation of EC law

Unsolicited e-mail is not a subject to legal regulation in Bulgaria. No bills are pending. Relatively recently in the Criminal Code was introduced a group of computer crimes but the spam was left outside of these felonies. Having regard to the EU Directives dealing with the spam and the obligations assumed under the European Association Agreement between the EU and Bulgaria, most likely the opt-in approach will be introduced in the future when the directives will be transposed in the national legislation.

Spammers can be pursued only through civil litigation. Up to now no case of successful prove of sustained damages as results of spam had been reported. In some instances the employer can punish the employee if acting inappropriately when sending spam.

The body responsible for spam issue is the Ministry of Transport and Communications.

As regards availability of information about spam in Bulgarian there are some provided on: moshelnik.orbitel.bg.

According to www.the-dma.org/antispam/spamlaws.shtml Bulgaria has an opt-in law (Personal Data Protection Act).

Cyprus: opt-in,

The body responsible for spam issue is the Ministry of Communications and Works.

According to www.the-dma.org/antispam/spamlaws.shtml Cyprus has an opt-in law (Processing of Personal Data (Protection of Individuals) Law 2001)

Estonia: no regulation, opt-in legislation implementing EC law in the process

There are no specific laws in force. Estonia is going to introduce legislation related to spam by May 1, 2004.

The body responsible for spam issue is the Ministry of Economic Affairs and Communications.

According to www.the-dma.org/antispam/spamlaws.shtml Estonia has an opt-out law (Personal Data Protection Act)

Latvia: opt-in legislation implementing EC law in the process

There is an opt-in approach in Latvia. Unsolicited e-mails, calls and faxes for advertising purpose are regulated by Consumer Protection Act. Requirements for labelling, real ID, address and opt-out in messages have not been implemented yet, but implementation is in process (directive 2000/31/EC). Use of spamware is not prohibited. There are no initiatives dealing with open proxies and open relays.

The body responsible for spam issue is the Ministry of Transport.

According to www.the-dma.org/antispam/spamlaws.shtml Latvia has an opt-out law (Personal Data Protection Act)

Lithuania: opt-in legislation implementing EC law in the process

There is opt-in system implemented in Lithuanian law.

Spam is regulated by Law on Telecommunications of the Republic of Lithuania (came into force on July 5, 2002), Law on Legal Protection of Personal Data of the Republic of Lithuania (came into force on January 1, 2001), Law on Advertising of the Republic of Lithuania (came into force on July 31, 2000), Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of the sale and supply contracts negotiated by the means of telecommunication facilities (came into force on August 24, 2001) and Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of regulations on provision of particular services of information society especially services of electronic commerce in the internal market (came into force on April 10, 2002).

Directive 2002/58/EC and issues of unsolicited communications (or spam) as well are implemented in draft law on Electronic Communications, which will come into force on May 1, 2004.The new law on Electronic Communications is going to come into force on May 1, 2004.

Business information which belongs for services of information society must be clearly recognizable. Juridical or natural person identification by which business information is sending is required. Opt-out in messages will be required by the draft law on Electronic Communications. Correct information in sent messages is required.

There are no prohibitions of spameware. There do not exist any initiatives dealing with open proxies and open relays.

By the law on Advertising punishment for legal persons for sending “spam” can be from 290 EURO to 2900 EURO and for natural persons, who infringed the Law on Advertising penalty by Administrative code is from 140 to 570 EURO (both penalties can only be imposed after administrative penalty – warning).

Infringing the Law on Legal Protection of Personal Data, the Law on Telecommunications by sending "spam" can be fined by Administrative code from 140 to 570 EURO.

The body responsible for spam issue is the Ministry of Transport and Communications.

According to www.the-dma.org/antispam/spamlaws.shtml Lithuania has an opt-in law (Law on Legal Protection of Personal Data)

Malta: opt-in (EC law implemented)

There is an opt-in legislation implemented. Spam is regulated by several laws and decrees: Electronic Commerce Act, Distance Selling Regulations, Legal Notice 16 of 2003. Directive 2000/58 is implemented. Labelling is required. Also real ID and address are required, opt-out in messages as well. False information in headers and messages is prohibited. Use of spamware is illegal.
There are pecuniary punishments for sending spam (under Data Protection Legislation).

The body responsible for spam issue is the Malta Communications Autority.

Romania: opt-in (EC law implemented)

Romanian legislation puts forward an opt-in approach. There is no dedicated anti-spam law, but there are legal provisions against spam in the e-commerce legislation. Unsolicited e-mail is regulated by Law no.365/2002 on the electronic commerce and Government Decision no.1308/2002 for the approval of the Methodological Norms for the application of the Law no. 365/2002 on the electronic commerce.

Labelling and real ID are required. The commercial communications must contain at least the following information referring to the person on whose behalf are undertaken:

a) the full name;

b) the domicile or headquarters;

c) the phone and fax numbers;

d) the electronic-mail address.

Opt-out in messages is not required.
Unauthorised introduction, modification or erase of electronic data or unauthorised restriction of the access to such data, resulting in false data, for the purpose of using them to produce legal effects, shall be punished by 2 to 7 years of imprisonment.

Use of spamware is prohibited as a consequence of the prohibition of spam.

The deed of the service provider that undertakes commercial communications by electronic-mail without the prior consent of the recipient constitutes contravention, when not committed under such conditions as to constitute criminal offence, according to the criminal law, and is to be punished with fine from ROL 10,000,000 to ROL 500,000,000 (Art.22, Law no.365/2002)

The body responsible for spam issue is the Ministry for Communications and Information Technology.

The Russian Federation: no regulation, legislation adopting opt-in currently in the process

Federal level

There is no explicit regulation on unsolicited e-mail in the Russian Federation.

According to Russian Civil Code (Article 309: 'Obligations shall be discharged in the proper way in conformity with the terms of the obligation and with the requirements of the law and of the other legal acts,

and in the absence of such terms and requirements - in conformity with the customs of the business turnover or with the other habitually presented demands'), a solution in form of contracts between ISP and user as well as developing of "good practice" codes for ISP's offer some possibilities to address spam. Such a "good practice" exists e.g. in the form of OFISP-008 - document developed by Open Forum of ISP – non-governmental organization of Russian ISP's [this document e.g. contains sentence: "It's inadmissible ... to distribute high volume of messages by e-mail or other means of personal communication services (including SMS, IRC etc.)] without initiative of recipients". In addition to that Federal Law 'On Communications' states that 'user of communication networks may send, receive and reject receiving message' (Article 62). So ISP's have the right to terminate spam distribution and cancel relations with spammers - e.g. terminate service contracts.

There doesn't exist specific legal penalty for spammers. The recipient of spam may require the compensation of expenses for receiving spam from spammers. Russian legislation doesn't concern spam as a crime so special services haven't formal right to investigate such cases.

Federal Bill 'On electronic commerce' was submitted to Russian Parliament (Duma) which in clause 4 of article 18 reads: 'the information uncoordinated with the client (not requested) or the proposals for making offers, addressed to natural person or legal entity by e-mail, should be easily and precisely determined while being received'. From this provision it is not clear whether there is required labelling in the subject field as regards e-mails.

There is a project AntiSpam running in Russia which is aimed at dealing with spam by legal, ethical and technical means. This project started in June 2003, was initiated by UNESCO IFAP (Information for All Programme) National Committee of Russia (works under Ministry of Culture and Mass Media) and by Commission of the Russian Federation on UNESCO Affairs (part of the Ministry of Foreign Affairs). Most of the top Russian specialists in IT and law, representatives of relevant state institutes and special services (Ministry of Internal Affairs of Russia and Special Communication Federal Service of Russia), Russian Parliament (Duma), civil society and mass-media are participating in AntiSpam project. Main task is now to draft anti-spam legislation which is supposed to be based on opt-in approach. (Web site of AntisSpam project: www.ifap.ru/as/)

Formally spam issue comes under competency of the Ministry for Transport and Communication of the Russian Federation.

There are in place some anti-spam sites (e.g. www.antispam.ru) which provides definitions of spam, other information and also applications dealing with spam for download (all in Russian). The sites are maintained by private sector.

Slovenia: not clear – seems opt-in, opt-in legislation implementing EC law in the process

There is an opt –in approach in Slovenia. Spam is regulated by Law on consumer protection (Published OJ RS, 110-531/2002 on 18.12.2002, since 17.1.2003 in force). Unsolicited commercial message sent by means of automated dialling system, fax machine or e-mail is regulated and it could be sent only with approval of individual consumer, to whom the message is sent. If consumer in any contact, made by means of communications that use personal messages, states that he doesn't want to receive any more messages, the company may not send him any messages offering a deal for purchase of any goods or services.

There is also draft Law on electronic communications, which is planed to be introduced in May 2004. It is not in the perliamentary procedure yet.

Real ID and address are required, opt-out in messages as well.

The body responsible for spam issue is the Ministry of Information Society.

According to www.the-dma.org/antispam/spamlaws.shtml Slovenia has an opt-in law (Personal Data Protection Act).

Ukraine: no data

No data available. It seems no data on Internet are available, too.
Russian antispam sites could be regarded as serving also to users from Ukraine because the information is in Russian.

The body responsible for spam issue is the State Committee of Communications and Informatization of Ukraine.

Tab 3: Opt-in/Opt-out overview

Country	Opt-in	Opt-out
Bulgaria	Partially	
Cyprus	Y	
Estonia	In the process	
Latvia	Y	
Lithuania	Y	
Malta	Y	
Romania	Y	
Russia	In the process	
Slovenia	Y	
Ukraine	NA	NA

Annex

Spam Matrix – Part I							
Country	**1.Laws / decrees on spam?**	**2. Title/ effective date of the laws / decrees?**	**3. If no laws / decrees currently exist on spam, do you plan to introduce legislation? If so, when?**	**4. Definition / scope of spam?**	**5. Do you have, or anticipate having, an opt-in opt-out approach or none?**	**6. Do you have, or would you have any exceptions to opt-in or opt-out?**	**Comments?**
Bulgaria	No	N/A	No plans for the time being	There is no official adopted definition	There is no officially adopted opt-in or opt-out approach	N/A	See at the and of the table
Cyprus							
Estonia	No laws/decrees.	No laws/decrees.	We have to introduce legislation at the latest on 01.05.2004.	No laws/decrees.	No laws/decrees.	No laws/decrees.	
Latvia	Yes	Consumer protection Act		Unsolicited e-mails, calls, faxes for advertising	Opt-in	Pre-existing relationship	
Lithuania	Yes	Law on Telecommunications of the Republic of Lithuania came into force on July 5, 2002*; Law on Legal Protection of Personal Data of the Republic of Lithuania came into force on January 1, 2001*; Law on Advertising of the Republic of Lithuania came into force on July 31, 2000. Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of the sale and supply contracts negotiated by the means of telecommunication facilities came into force on August 24, 2001. Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of regulations on provision of particular services of information society especially services of electronic commerce in the internal market.	new law on Electronic Communications will come into force on May 1, 2004	There is no precise definition of spam.	There is opt-in system implemented in Lithuanian law.	In general there are no exceptions.	See at the end of the table

Country	1.Laws / decrees on spam?	2. Title/ effective date of the laws / decrees?	3. If no laws / decrees currently exist on spam, do you plan to introduce legislation? If so, when?	4. Definition / scope of spam?	5. Do you have, or anticipate having, an opt-in opt-out approach or none?	6. Do you have, or would you have any exceptions to opt-in or opt-out?	Comments?
Malta	Laws and Decrees	Electronic Commerce Act Distance Selling Regulations. Legal Notice 16 of 2003		Unsolicited Communications in line with Directive 2002/58	We have an opt in approach	Yes inline with article 13 (2) of directive 2002/58.	Ad 1) The parts dealing with Spam are transposed.
Romania		Law no.365/2002 on the electronic commerce (published in the Official Journal of Romania, Part I, no.483 of July 5th, 2002) - entered into force on the date of its publication and became applicable after 3 months from its entry into force Government Decision no.1308/2002 for the approval of the Methodological Norms for the application of the Law no. 365/2002 on the electronic commerce (published in the Official Journal of Romania, Part I, no.877 of December 5th, 2002) - entered into force on the date of its publication		There is no explicit definition of "spam" as such, but the legislation prohibits the undertaking of commercial communications by electronic-mail without the prior consent of the recipient (Art.6.1, Law no.365/2002).	Romanian legislation puts forward an opt-in approach.	There are no exceptions.	See at the end of the table
Russia	Not yet		yes, we plan to introduce legislation during 2004	We scrutinized European and USA legislation on spam and noticed big difference in approaches. Our approach currently not based on definition of spam. In most cases spam concerned as advertising. In accordance with current Russian law we propose to forbid 'distribution of advertising by communication networks without prior permission of recipients'. I guess it may sound strange but it will work in Russia.	opt-in only	none planned	See at the end of the table
Slovenia	Yes	Law on consumer protection Published OJ RS, 110-531/2002 on 18.12.2002, valid since	Also: Draft Law on electronic communications, planed to be introduced in May 2004 (not yet in the parliamentary	Allowed only advertisment with consent of addressee in advance	Opt-in		

Country	1.Laws / decrees on spam?	2. Title/ effective date of the laws / decrees?	3. If no laws / decrees currently exist on spam, do you plan to introduce legislation? If so, when?	4. Definition / scope of spam?	5. Do you have, or anticipate having, an opt-in opt-out approach or none?	6. Do you have, or would you have any exceptions to opt-in or opt-out?	Com-ments?
		17.1.2003 Article 45a Article 77	procedure, not published in the O.J.) Draft Article 107 Draft Article 148				
Ukraine							

Bulgaria

Ad 1) Currently Internet is a business in the Bulgarian telecom sector, which is not regulated and doesn't need licensing.

Specifically the unsolicited mail is not subject to legal regulation as of the time being and no bills are pending. Relatively recently in the Criminal Code was introduced a group of computer crimes but the spam was left outside of these felonies.

Ad 4) Some definitions:

1. The definition of MAPS (www.mail-abuse.org):

Any mail which yields higher benefit to the sender than to the recipient.

2. an RBL operator's definition of Spam:

An electronic message is "spam" IF:
(1) the recipient's personal identity and context are irrelevant because the message is equally applicable to many other potential recipients; AND
(2) the recipient has not verifiably granted deliberate, explicit, and still-revocable permission for it to be sent; AND
(3) the transmission and reception of the message appears to the recipient to give a disproportionate benefit to the sender

Ad 5) **It is up to ISPs or organization's mail administrators.**

Having regard to the EU Directives dealing with the spam and the obligations assumed under the European Association Agreement between the EU and Bulgaria, most likely the opt-in approach will be introduced in the future when the directives will be transposed in the national legislation.

Lithuania

Ad 1) Directive 2002/58/EC and issues of unsolicited communications (or spam) as well are implemented in draft law on Electronic Communications, which will come into force on May 1, 2004.

Ad 2) Planning that the new law on Electronic Communications will come into force on May 1, 2004.

* Date when law amendment, concerning direct marketing (or in general "spam") was made.

Ad 4) "Spam" can be described as the use of electronic communications (phone, fax, e-mail and others) for the purposes of direct marketing without prior consent of subscriber.

"Direct marketing"- an activity intended for offering goods or services to individuals by post, telephone or any other direct means and/or inquiring their opinion about the offered goods or services.By the ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of regulations on provision of particular services of information society especially services of electronic commerce in the internal market "spam" can be described as business information witch belongs for services of information society or is a part of it witch sent without consumer prior consent.

By the Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of the sale and supply contracts negotiated by the means of telecommunication facilities, when agreement is concluding by the communications, "spam" can be described as information connected with agreement sent by the electronic communications tools without consumer prior consent.

Ad 5) Generally it says that the use of electronic communications (phone, fax, e-mail and others) for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.

Ad 6) Draft Law on Electronic Communications sets opt-out as it is stated in directive 2002/58/EC article 13, 2 chapters.

Romania

Ad 1) There is no dedicated anti-spam law, but there are legal provisions against spam in the e-commerce legislation.

Ad 2) Law no. 365/2002 on the electronic commerce transposes Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

The aim of this Law is to establish the conditions for the provision of the Information Society services, as well as to label as criminal offences certain deeds committed in relation to the security of domains used in the electronic commerce, to the issuance and use of the electronic payment instruments and to the use of identification data for the purpose of undertaking financial operations.

Ad 4) A *commercial communication* is defined as any form of communication intended to promote, directly or indirectly, the goods, services, image, name or logo of a person pursuing a commercial activity or exercising a regulated profession; the following do not in themselves constitute commercial communications: information allowing direct access to the activity of a natural or legal person, in particular a domain name or an electronic-mail address, communications relating to the goods, services, image, name or brands of a natural or legal person, made by a third party which is independent of that person, particularly when these are free of charge (Art.1.8, Law no.365/2002).

Two peculiarities of the legal regime of spam should be highlighted:

- the Romanian legislation prohibits only the commercial type of spam, while the non-commercial type is unregulated;
- the legal provisions do not require spam to have a duplicative character (i.e. to be sent as part of a larger collection of messages, all having substantially identical content).

Ad 5) The undertaking of commercial communications by electronic-mail is forbidden, except in cases where the recipient has previously expressed his/her consent to receive such communications (Art.6.1, Law no.365/2002). The recipient can always withdraw his/her consent and unsubscribe to spam (Art.9, Methodological Norms for the application of the Law no.365/2002).

Russia

Ad 1) draft amendments is in progress by ‘AntiSpam Project’ under UNESCO IFAP National Committee of Russia

Ad 4) Further amendments concerns the sequence of investigation and penalty for spammers. Please note, that nowadays we don’t plan to propose special ‘law on spam’ - just amendments to current legislation.

Spam Matrix – Part II									
Country	**7. Labelling required?**	**8. Real ID, address required?**	**9. Opt-out in messages required?**	**10. Do-not-spam list required?**	**11. False information in header and messages prohibited?**	**12. Use of spamware prohibited?**	**13. Do you have any initiatives that deal with open proxies and/or open relays?**	**14. Any punishment for sending spam? If so, what kind?**	**Comments**
Bulgaria	No	No	No	No	No	No	Implementation of RBL (Realtime Blackhole List / Relay Blocking List)	Spammers can be pursued only through civil litigation. Up to now no case of successful prove of sustained damages as results of spam had been reported. In some instances the employer can punish the employee if acting inappropriately when sending spam.	Ad 11) How to determine which is "false"? Ad 13) There are may be Open Relay Lists as well, but I don't have information
Cyprus									
Estonia	No laws/decrees.	No laws/decrees.	No laws/decrees.	No laws/decrees.	No laws/decrees.	No laws/decrees.	No laws/decrees.	No laws/decrees.	
Latvia	No, in progress 2000/31/EC	No, in progress 2000/31/EC	No, in progress 2000/31/EC	No, in progress 2000/31/EC	No, in progress 2000/31/EC	No	No	Administrative and criminal responsibility	
Lithuania	Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of regulations on provision of particular services of information society especially services of electronic commerce in the internal market require that business information witch belongs for services of information society must be clearly recognizable.	Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of regulations on provision of particular services of information society especially services of electronic commerce in the internal market requires juridical or natural person identification by witch business information is sending.		No requirements.		No prohibitions.	No initiatives.	By the law on Advertising punishment for legal persons for sending "spam" can be from 290 EURO to 2900 EURO and for natural persons, who infringed the Law on Advertising penalty by Administrative code is from 140 to 570 EURO (both penalties can only be imposed after administrative penalty – warning). Infringing the Law on Legal Protection of Personal Data, the Law on Telecommunications by sending "spam" can be fined by Administrative code from 140 to 570 EURO.	See at the end of the tabe
Malta	Yes	Yes	Yes	No	Yes	Yes	Not as yet	Yes under Data Protection Legislation and there are pecuniary punishments	
Romania	We do not have any valid requirements for it.	Yes	Yes	No	Yes	Yes	N/A	Yes	See at the end of the table
Russia	Probably wil be drafted	Probably wil be drafted	Probably wil be drafted	no	yes	yes	yes	yes, fine for spammers and spam-advertisers	See at the end of the table

Slovenia		Yes	Yes		Yes		Law on consumer protection Article 77	Law on consumer protection Article 77	
Ukraine									

Lithuania

Ad 8) The same requirement is implemented in the draft law on Electronic Communications as well.
Ad 9) The draft law on Electronic Communications requires opt-out in messages.
Ad 11) The draft law on Electronic Communications requires right sender address.
Ordinance of the Ministry of Economy of the Republic of Lithuania on the approval of regulations on provision of particular services of information society especially services of electronic commerce in the internal market requires correct information in sent messages.

Ad 14) Punishments can be from 145 EURO to 2900 EURO.

Romania

Ad 7) The subject line of the e-mail messages constituting commercial communications must begin with “ADVERTISING” (with capital letters) (Art.8.1, Methodological Norms for the application of the Law no.365/2002).
Ad 8) The commercial communications must contain at least the following information referring to the person on whose behalf are undertaken:
a) the full name;
b) the domicile or headquarters;
c) the phone and fax numbers;
d) the electronic-mail address. (Art.8.2, Methodological Norms for the application of the Law no.365/2002).
Ad 9) Art.9, Methodological Norms for the application of the Law no.365/2002.
Ad 11) Unauthorised introduction, modification or erase of electronic data or unauthorised restriction of the access to such data, resulting in false data, for the purpose of using them to produce legal effects, shall be punished by 2 to 7 years of imprisonment (Art.48, Law no.161/2003 concerning some measures for ensuring transparency in the exercise of the public dignities, public functions and in the business activities, as well as the prevention and punishment of corruption, Title III).
Ad 12) As a consequence of the prohibition of spam.
Ad 14) The deed of the service provider that undertakes commercial communications by electronic-mail without the prior consent of the recipient constitutes contravention, when not committed under such conditions as to constitute criminal offence, according to the criminal law, and is to be punished with fine from ROL 10,000,000 to ROL 500,000,000 (Art.22, Law no.365/2002)

Russia

Data available in Part II relate to drafted law rather than to existing one
Ad 7) For legal mass mailing which distributes among subscribers which gives prior permission. The main purpose of labelling is to mark such messages as ‘not spam’ for spam filters. We are not sure now in necessity of it
Ad 13) we plan to make such requirements in our amendments.
Ad 14) criminal liability for hacking, virus-making/distribution etc activity already set by Russian legislation.
By our amendments such liability may extends to unauthorised access to SMTP servers, fake headers etc.