

**CONTROLLING THE ASSAULT OF
NON-SOLICITED PORNOGRAPHY
AND MARKETING
(CAN-SPAM) ACT OF 2003 :
A Legislative History**

Volume 1
Document Numbers 1–40

Edited by

William H. Manz

*Assistant Law Librarian and
Director of Student Publications
St. John's University School of Law*

William S. Hein & Co., Inc.
Buffalo, New York
2004

ISBN 0-8377-3442-8 (set)

Introduction and selection and arrangement of materials
© 2004 William S. Hein & Co., Inc.

Printed in the United States of America

The quality of this reprint is equivalent to the
quality of the original work.



This volume is printed on acid-free paper
by William S. Hein & Co., Inc.

SUMMARY TABLE OF CONTENTS

Introduction

Legislative Chronology

Bibliography

Master Table of Documents

Part I – The Law

Part II – Report on the Law

Part III – Congressional Record

Part IV – Bill Versions

Part V – Related Bills

Part VI – Related Reports

Part VII – Related Hearings

Part VIII – Miscellaneous

INTRODUCTION

CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING (CAN-SPAM) ACT OF 2003

The CAN-SPAM Act of 2003 represents Congress's attempt to deal with the latest plague inflicted on American society, the deluge of unsolicited junk commercial e-mail messages, popularly known as spam. Advocates had been working for such legislation since the 105th Congress, but with over half of all e-mail reportedly now characterized as spam, and threatening the utility of this new means of communication, the issue had become an increasingly urgent one. Passed by Congress and signed by President George W. Bush in December 2003, the new law bars many spamming practices and provides criminal penalties for violators.

The new law, which took effect on January 1, 2004, bans the sending of bulk commercial e-mail using false identities and misleading subject lines. It also requires that all commercial e-mail messages include a valid postal address and give recipients the opportunity to "opt out" of receiving more messages. Other provisions ban sending spam to protected computers, require the identification of spam messages as advertisements, and require warning labels on electronic messages containing sexually oriented material. In addition, the Federal Trade Commission has been authorized to study the feasibility of a "do not spam" list that would be similar to the "do not call" lists that now apply to telemarketers.

The Federal Trade Commission and other federal agencies, state attorneys general and Internet service providers are all permitted to take spammers to court, but individual recipients have not been granted a private cause of action against spammers. Violators will be liable for up to \$250 per e-mail violation, up to a cap of \$2 million, except in extreme circumstances when the fine could be tripled. Violators could also face up to five years in prison.

Not all those who have long advocated anti-spamming legislation are

necessarily satisfied with the new law. This includes consumer groups which have lobbied for a national anti-spam law for six years. Critics say the anti-spam registry may not be technologically feasible and complain that the measure preempts stronger state legislation. They also note that although the new law requires spammers to honor requests to be removed from a mailing list, answering an e-mail validates the address and makes the receipt of more spam highly likely. Others complain that instead of banning spam, the new law just regulates it. Supporters of the new law do concede that legislation is not the entire answer. They maintain that the solution to the problem also requires improved technology such as better e-mail filters, a better educated public, and the cooperation of the major Internet service providers.

*William H. Manz
Jamaica, New York
April 2004*

LEGISLATIVE CHRONOLOGY

Apr. 4, 2003

Introduced in the Senate; referred to the Committee on Commerce, Science, and Transportation.

July 7, 2003

Reported with an amendment in the nature of a substitute.

July 16, 2003

Placed on Senate legislative calendar.

Oct. 22, 2003

Passed Senate 97-0.

Nov. 21, 2003

Considered in House.

Nov. 22, 2003

Passed House 392-5 with House amendment to Senate bill.

Nov. 25, 2003

Senate unanimously concurred to House amendment with an amendment.

Dec. 8, 2003

House agreed to Senate amendment to House Amendment.

Dec. 11, 2003

Presented to President.

Dec. 16, 2003

Signed by President; becomes Public Law No. 108-187.

BIBLIOGRAPHY

- Amaditz, Kenneth C. *Canning "Spam" in Virginia: Model Legislation to Control Junk E-mail*, 4 VIRGINIA JOURNAL OF LAW & TECHNOLOGY 4 (1999).
- Bartels, David T. *Canning Spam: California Bans Unsolicited Commercial E-mail*, 30 MCGEORGE LAW REVIEW 420 (1999).
- Bennett, Steven E. *Canning Spam: Compuserve, Inc. v. Cyber Promotions, Inc.*, 32 UNIVERSITY OF RICHMOND LAW REVIEW 545 (1998).
- Cramer, Evan. *The Future of Wireless Spam*, 2002 DUKE LAW & TECHNOLOGY REVIEW 21.
- D'Ambrosio, Joseph. *Should "Junk" E-mail Be Legally Protected*, 17 SANTA CLARA COMPUTER & HIGH TECHNOLOGY LAW JOURNAL 231 (2001).
- Fisher, Michael A. *The Right to Spam? Regulating Electronic Junk Mail*, 23 COLUMBIA-VLA JOURNAL OF LAW & THE ARTS 363 (2000).
- Edwards, Michael B. *A Call to Arms: Marching Orders for the North Carolina Anti-Spam Statute*, 4 NORTH CAROLINA JOURNAL OF LAW & TECHNOLOGY 93 (2002).
- Fogo, Credence E. *The Postman Always Rings 4,000 Times: New Approaches to Curb Spam*, 18 JOHN MARSHALL JOURNAL OF COMPUTER & INFORMATION LAW 915 (2000).
- Hawley, Anne E. *Taking Spam Out of Your Cyberspace Diet: Common Law Applied to Bulk Unsolicited Advertising Via Electronic Mail*, 66 UMKC LAW REVIEW 381 (1998).
- Jones, Carol. *E-mail Solicitation: Will Opening a "Spam Free" Mailbox Ever Be a Reality*, 15 LOYOLA CONSUMER LAW REVIEW 69 (2002).

- Kappel, Jennifer M. *Government Intervention on the Internet: Should the Federal Trade Commission Regulate Unsolicited E-mail Advertising?*, 51 ADMINISTRATIVE LAW REVIEW 1011 (1999).
- Kelin, Sabra-Anne. *State Regulation of Unsolicited Commercial E-mail*, 16 BERKELEY TECHNOLOGY LAW JOURNAL 435 (2001).
- Kosiba, Jeffrey L. *Legal Relief from Spam-Induced Internet Indigestion*, 25 UNIVERSITY OF DAYTON LAW REVIEW 187 (1999).
- Latham, Diane Plunkett. *Spam Remedies*, 27 WILLIAM MITCHELL LAW REVIEW 1649 (2001).
- Marcus, Joshua A. *Commercial Speech on the Internet: Spam and the First Amendment*, 16 CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL 245 (1998).
- Magee, John. *The Law Regulating Unsolicited Commercial E-mail: An International Perspective*, 19 SANTA CLARA COMPUTER & HIGH TECHNOLOGY JOURNAL 333 (2003).
- Maravilla, Christopher Scott. *The Feasibility of a Law to Regulate Pornographic, Unsolicited Commercial E-mail*, 4 TULANE JOURNAL OF TECHNOLOGY & INTELLECTUAL PROPERTY 117 (2002).
- Marsh, Elizabeth Phillips. *Purveyors of Hate on the Internet: Are We Ready for Hate Spam?*, 17 GEORGIA STATE UNIVERSITY LAW REVIEW 379 (2000).
- Mika, Karen. *Information v. Commercialization: The Internet and Unsolicited Electronic Mail*, 4 RICHMOND JOURNAL OF LAW & TECHNOLOGY 5 (1998).
- Miller, Steven. *Washington's "Spam-Killing" Statute: Does It Slaughter Privacy in the Process*, 74 WASHINGTON LAW REVIEW 453 (1999).
- Moorefield, Gary S. *Spam—It's Not Just for Breakfast Anymore: Federal Legislation and the Fight to Free the Internet from Unsolicited Commercial E-mail*, 5 BOSTON UNIVERSITY JOURNAL OF SCIENCE & TECHNOLOGY LAW 10 (1999).
- Ochoa, Max P. *Legislative Note: Recent State Laws Regulating Unsolicited Electronic Mail*, 16 SANTA CLARA COMPUTER & HIGH TECHNOLOGY LAW JOURNAL 459 (2000).

- Rice, Cindy. *Comment: The TCPA: A Justification for the Prohibition of Spam in 2002?*, 3 NORTH CAROLINA JOURNAL OF LAW & TECHNOLOGY 375 (2002).
- Simmons, Derek D. *No Seconds on Spam: A Legislative Prescription to Harness Unsolicited Commercial E-mail*, 3 JOURNAL OF SMALL & EMERGING BUSINESS LAW 389 (1999).
- Sorkin, David E. *Technical and Legal Approaches to Unsolicited Electronic Mail*, 35 UNIVERSITY OF SAN FRANCISCO LAW REVIEW 325 (2001).
- Whang, Calvin. *An Analysis of California's Common and Statutory Law Dealing with Unsolicited Commercial Electronic Mail: An Argument for Revision*, 37 SAN DIEGO LAW REVIEW 1201 (2000).

TABLE OF DOCUMENTS

VOLUME 1

Part I – The Act

Doc. No. 1 CAN-SPAM Act of 2003, Public Law 108-187.

Part II – Report on the Law

Doc. No. 2 S. Rep. No. 108-102, CAN-SPAM Act of 2003.

Part III – Congressional Record

Doc. No. 3 Introduction of S. 877, 148 Cong. Rec. S5204 (daily ed. Apr. 10, 2003).

Doc. No. 4 Remarks of Sen. Leahy, 148 Cong. Rec. S6501 (daily ed. May 15, 2003).

Doc. No. 5 Introduction of S. 1293, 148 Cong. Rec. S8238, Cong. Rec. S8238 (daily ed. June 19, 2003).

Doc. No. 6 Introduction of S. 1326, 148 Cong. Rec. S8562 (daily ed. June 25, 2003).

Doc. No. 7 Consideration of S. 877, 148 Cong. Rec. S13012 (daily ed. Oct. 22, 2003).

Doc. No. 8 Text of Amendments to S. 877, 148 Cong. Rec. S13057 (daily ed. Oct. 22, 2003).

Doc. No. 9 Remarks of Sen. Feingold, 148 Cong. Rec. S13125 (daily ed. Oct. 23, 2003).

- Doc. No. 10** Consideration of the CAN-SPAM Act of 2003, 148 Cong. Rec. S13176 (daily ed. Oct. 23, 2003).
- Doc. No. 11** Criminal Spam Act of 2003; Remarks of Sen. Leahy, 148 Cong. Rec. S14172 (daily ed. Nov. 6, 2003).
- Doc. No. 12** Controlling the Assault of Unsolicited Pornography and Marketing Act of 2003, 148 Cong. Rec. H12186 (daily ed. Nov. 21, 2003).
- Doc. No. 13** House vote on Controlling the Assault of Unsolicited Pornography and Marketing Act of 2003, 148 Cong. Rec. H12297 (daily ed. Nov. 21, 2003).
- Doc. No. 14** Consideration of the CAN-SPAM Act of 2003, 148 Cong. Rec. S15938 (daily ed. Nov. 25, 2003).
- Doc. No. 15** Text of amendment to S. 877, 148 Cong. Rec. S16036 (daily ed. Nov. 25, 2003).
- Doc. No. 16** Controlling the Assault of Unsolicited Pornography and Marketing Act of 2003, 148 Cong. Rec. H12854 (daily ed. Dec. 8, 2003).
- Doc. No. 17** Remarks of Rep. John Conyers, 148 Cong. Rec. E2555 (daily ed. Dec. 15, 2003).

Part IV – Bill Versions

- Doc. No. 18** S. 877, CAN-SPAM Act of 2003 as introduced in Senate.
- Doc. No. 19** S. 877, CAN-SPAM Act of 2003 as reported in Senate.
- Doc. No. 20** S. 877, CAN-SPAM Act of 2003 as passed in Senate.
- Doc. No. 21** S. 877, CAN-SPAM Act of 2003 (Engrossed Amendment) as agreed to by House.
- Doc. No. 22** S. 877, CAN-SPAM Act of 2003 (Engrossed Amendment) as agreed to by Senate.
- Doc. No. 23** S. 877, CAN-SPAM Act of 2003 as passed by House and Senate.

Part V – Related Bills

105th Congress

- Doc. No. 24** H.R. 1748, Netizens Protection Act of 1997 as introduced in House.
- Doc. No. 25** H.R. 4124, E-Mail User Protection Act of 1998 as introduced in House.
- Doc. No. 26** H.R. 4176, Digital Jamming Act of 1998 as introduced in House.
- Doc. No. 27** S. 771, Unsolicited Electronic Commercial Mail Choice Act of 1997 as introduced in Senate.
- Doc. No. 28** S. 875, Electronic Mailbox Protection Act of 1997 as introduced in Senate.

106th Congress

- Doc. No. 29** H.R. 1910, E-Mail User Protection Act as introduced in House.
- Doc. No. 30** H.R. 2162, Can Spam Act as introduced in House.
- Doc. No. 31** H.R. 3024, Netizens Protection Act of 1999 as introduced in House.
- Doc. No. 32** H.R. 3313, Unsolicited Commercial Electronic Mail Act of 1999 as introduced in House.
- Doc. No. 33** H.R. 3313, Unsolicited Commercial Electronic Mail Act of 2000 as reported in House.
- Doc. No. 34** H.R. 3313, Unsolicited Commercial Electronic Mail Act of 2000 as referred to Senate Committee.
- Doc. No. 35** S. 759, Inbox Privacy Act of 1999 as introduced in Senate.

107th Congress

- Doc. No. 36** H.R. 95, Unsolicited Commercial Electronic Mail Act of 2001 as introduced in House.
- Doc. No. 37** H.R. 718, Unsolicited Commercial Electronic Mail Act of 2001 as introduced in House.

- Doc. No. 38** H.R. 718, Unsolicited Commercial Electronic Mail Act of 2001 as reported in House.
- Doc. No. 39** H.R. 1017, Anti-Spamming Act of 2001 as introduced in House.
- Doc. No. 40** H.R. 3146, Netizens Protection Act of 2001 as introduced in House.
- Doc. No. 41** S. 630, CAN SPAM Act of 2001 as introduced in Senate.
- Doc. No. 42** S. 630, CAN SPAM Act of 2001 as reported in Senate.

108th Congress

- Doc. No. 43** H.R. 1933, REDUCE SPAM Act of 2003 as introduced in House.
- Doc. No. 44** H.R. 2214, Reduction in Distribution of Spam Act of 2003 as introduced in House.
- Doc. No. 45** H.R. 2515, Anti-Spam Act of 2003 as introduced in House.
- Doc. No. 46** S. 1052, Ban on Unsolicited Bulk Electronic Mail Act of 2003 as introduced in Senate.
- Doc. No. 47** S. 1231, SPAM Act as introduced in Senate.
- Doc. No. 48** S. 1293, Criminal Spam Act of 2003 as introduced in Senate.
- Doc. No. 49** S. 1293, Criminal Spam Act of 2003 as reported in Senate.
- Doc. No. 50** S. 1327, REDUCE SPAM Act of 2003 as introduced in Senate.

Part VI – Related Reports

- Doc. No. 51** House Rep. No. 106-700, Unsolicited Commercial Electronic Mail Act of 2000.
- Doc. No. 52** House Rep. No. 107-41, Part I, Unsolicited Commercial Electronic Mail Act of 2001.
- Doc. No. 53** House Rep. No. 107-41, Part II, Anti-Spamming Act of 2001.

Doc. No. 54 Senate Rep. No. 107-318, Controlling the Assault of Unsolicited Pornography and Marketing Act of 2002 or the CAN-SPAM Act of 2002.

Doc. No. 55 House Rep. No. 108-170 Criminal Spam Act of 2003.

Part VII – Related Hearings

Doc. No. 56 *Spamming*, hearing before the Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation, 105th Cong. (July 17, 1998).

Doc. No. 57 *Spamming, the E-Mail You Want to Can*, hearing before the Subcommittee on Telecommunications, Trade and Consumer Protection of the House Committee on Commerce, 106th Cong. (Nov. 3, 1999).

Doc. No. 58 *Unsolicited Commercial Electronic Mail Act of 2001 and the Anti-Spamming Act of 2001*, hearing before the House Committee on the Judiciary, 107th Congress (May 10, 2001).

Doc. No. 59 *Reduction in Distribution of SPAM Act of 2003*, hearing before the Subcommittee on Crime, Terrorism, and Homeland Security of the House Judiciary Committee, 108th Cong. (July 8, 2003).

Doc. No. 60 *Legislative Efforts to Combat SPAM*, joint hearing before the Subcommittee on Commerce, Trade, and Consumer Protection and the Subcommittee on Telecommunications and the Internet of the House Committee on Energy and Commerce, 108th Cong. (July 9, 2003).

Part VIII – Miscellaneous

Doc. No. 61 *False Claims in SPAM: A Report* (United States Federal Trade Commission, Division of Marketing Practices 2003).

**CONTROLLING THE ASSAULT OF
NON-SOLICITED PORNOGRAPHY
AND MARKETING
(CAN-SPAM) ACT OF 2003 :
A Legislative History**

Volume 2
Document Numbers 41–61

Edited by

William H. Manz

*Assistant Law Librarian and
Director of Student Publications
St. John's University School of Law*

William S. Hein & Co., Inc.
Buffalo, New York
2004

ISBN 0-8377-3442-8 (set)

Introduction and selection and arrangement of materials
© 2004 William S. Hein & Co., Inc.

Printed in the United States of America

The quality of this reprint is equivalent to the
quality of the original work.



This volume is printed on acid-free paper
by William S. Hein & Co., Inc.

TABLE OF DOCUMENTS

VOLUME 2

Part V – Related Bills *(continued)*

107th Congress (continued)

Doc. No. 41 S. 630, CAN SPAM Act of 2001 as introduced in Senate.

Doc. No. 42 S. 630, CAN SPAM Act of 2001 as reported in Senate.

108th Congress

Doc. No. 43 H.R. 1933, REDUCE SPAM Act of 2003 as introduced in House.

Doc. No. 44 H.R. 2214, Reduction in Distribution of Spam Act of 2003 as introduced in House.

Doc. No. 45 H.R. 2515, Anti-Spam Act of 2003 as introduced in House.

Doc. No. 46 S. 1052, Ban on Unsolicited Bulk Electronic Mail Act of 2003 as introduced in Senate.

Doc. No. 47 S. 1231, SPAM Act as introduced in Senate.

Doc. No. 48 S. 1293, Criminal Spam Act of 2003 as introduced in Senate.

Doc. No. 49 S. 1293, Criminal Spam Act of 2003 as reported in Senate.

Doc. No. 50 S. 1327, REDUCE SPAM Act of 2003 as introduced in Senate.

Part VI – Related Reports

Doc. No. 51 House Rep. No. 106-700, Unsolicited Commercial Electronic Mail Act of 2000.

- Doc. No. 52** House Rep. No. 107-41, Part I, Unsolicited Commercial Electronic Mail Act of 2001.
- Doc. No. 53** House Rep. No. 107-41, Part II, Anti-Spamming Act of 2001.
- Doc. No. 54** Senate Rep. No. 107-318, Controlling the Assault of Unsolicited Pornography and Marketing Act of 2002 or the CAN-SPAM Act of 2002.
- Doc. No. 55** House Rep. No. 108-170 Criminal Spam Act of 2003.

Part VII – Related Hearings

- Doc. No. 56** *Spamming*, hearing before the Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation, 105th Cong. (July 17, 1998).
- Doc. No. 57** *Spamming, the E-Mail You Want to Can*, hearing before the Subcommittee on Telecommunications, Trade and Consumer Protection of the House Committee on Commerce, 106th Cong. (Nov. 3, 1999).
- Doc. No. 58** *Unsolicited Commercial Electronic Mail Act of 2001 and the Anti-Spamming Act of 2001*, hearing before the House Committee on the Judiciary, 107th Congress (May 10, 2001).
- Doc. No. 59** *Reduction in Distribution of SPAM Act of 2003*, hearing before the Subcommittee on Crime, Terrorism, and Homeland Security of the House Judiciary Committee, 108th Cong. (July 8, 2003).
- Doc. No. 60** *Legislative Efforts to Combat SPAM*, joint hearing before the Subcommittee on Commerce, Trade, and Consumer Protection and the Subcommittee on Telecommunications and the Internet of the House Committee on Energy and Commerce, 108th Cong. (July 9, 2003).

Part VIII – Miscellaneous

- Doc. No. 61** *False Claims in SPAM: A Report* (United States Federal Trade Commission, Division of Marketing Practices 2003).