

SPAM BUSTERS!

ACMA continues to fight the good fight

ACMA continues to chalk up successes in its fight against spam, issuing a number of formal warnings and infringement notices to Australian companies in recent months.

In Australia, a common misconception is that spam is a problem in the medium of email only, but the *Spam Act 2003* also covers SMS marketing. A recent investigation into US-based SMS marketing provider mBlox Pty Ltd found that it sent a significant number of SMS messages advertising a ringtone without an unsubscribe function. mBlox has paid an \$11,000 infringement notice, and is committed to working with ACMA to ensure its SMS content providers and customers comply with the Spam Act. ACMA also issued a formal warning to the Cyprus-based company Hyarchis for sending SMS messages without the consent of the account-holder.

SMS is a popular method of promoting premium mobile content, such as ringtones, games and wallpapers. SMS is also used in diverse industries to promote products, services and events. For example, the hospitality industry uses SMS to promote events and the real estate industry uses the medium to contact potential home buyers. Marketers in all industries should ensure that they have the consent of their recipients for all commercial electronic messages that they send. All messages should also clearly and accurately identify the sender and provide a functional unsubscribe facility.

Email spam is still a significant problem for computer users. ACMA recently issued a formal warning to the Ad Company Franchise Pty Ltd for sending messages without the consent of recipients and not including unsubscribe information on some messages. Best Buy Australia has also recently paid an infringement notice for sending emails without consent.

The global nature of communications means that both local and international businesses employing electronic methods to reach an Australian market need to be aware of their obligations under the Spam Act. Penalties for non-compliance with the Spam Act can be costly for any business, regardless of size. Taking the time to understand the fundamentals of compliance with the Spam Act means these penalties can be avoided.

Post complaints about spam through the ACMA website at www.spam.acma.gov.au.

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