

# The great battle of our time

**'The board is set. Pieces are moving. We come to it at last... The great battle of our time.'**  
Gandalf stating the obvious as the Orcs head towards the city of Minas Tirith, in *The return of the king*, JRR Tolkien



**Ivan Trundle**

Manager, publishing  
and communications  
ivan.trundle@alia.org.au

And a happy New Year to you all. For many office workers, the Christmas/New Year break (if a break is taken) is a chance to reinvigorate, to return to a clean desk and a diminished in-tray, and to begin afresh. Well — it would be, but for the mountain of e-mail spam that many of us have collected over that time. And if any of you thought that the latest anti-spam legislation from Australia and America would make a dent in your in-box, you will be sorely disappointed. Here is an example: my spam to 'real e-mail' ratio is presently appalling: I returned to a depressing 768 spams and 6 'genuine' e-mails after the Christmas break.

Legislation introduced in Australia (*Spam Act 2003*) and more recently in the United States (*CAN SPAM Act 2003*) could best be described as tentative steps in the right direction, but ultimately doomed to fail without the full support of the entire world internet community. The great battle of our time has just begun. We might not have dive-bombing Nazgûl or other terrifying monsters attacking us from all sides (apologies to the three people in Australia who are unfamiliar with Tolkien's imagination), but for some, spam in e-mail inboxes can be equally demoralising and can ultimately bring us to our knees.

Australia's spam legislation becomes law on 11 April 2004 (by Royal Assent, no less), according to the Minister for Information Technology and Communications, Daryl Williams, who said in a statement that the legislated grace period will give Australian businesses 'time to adjust their practices where necessary.' Whilst the Australian Bill passed through parliament some time before US president George Bush signed his government's so-called 'CAN-SPAM bill', Americans already have their own bill in place (since 1 January). Daryl Williams has also signed a memorandum of understanding with the Korean Information Security Agency to co-operate on spam-related issues, which must surely be a relief to some. Multilateral approaches to fighting spam might eventuate from an OECD (Organisation for Economic Co-operation and Development) workshop to be held in February, but don't hold your breath on this one.

What does our spam legislation offer? Most importantly, the Act prohibits the sending of 'commercial electronic messages' without prior consent — unless there is an existing customer-business relationship. This is defined in the Act as where a person has made a prior 'positive indication' that they wish to receive messages from a business or other source. The Act also requires that contact details of the [Australian] sender of the message be sent with the message as well

as a 'functional unsubscribe facility' (let's ignore the fact that the person might not be 'subscribed' in the first place, or the plain and simple fact that the sender must be identified as residing in Australia) to allow recipients to 'opt-out' from receiving further messages. The Act also prohibits the 'supply, acquisition and use of electronic harvesting software and lists generated for spamming purposes'. The Act instructs the ACA (Australian Communications Authority) to act as watchdog and to enforce penalty provisions. Australian courts will be given powers to award compensation for damages caused by spam.

However, let's look at the tricky bits (and the exceptions for political and religious organisations et al).

The Act proclaims that commercial electronic messages *can* be sent if they offer an 'unsubscribe facility', and/or 'accurate information about the individual or organisation who [sic] authorised the sending of the message'. Battle-hardened e-mail users will know that the offer of an unsubscribe is used by spammers to identify and validate an e-mail address from their harvested collection of addresses. The moment that you respond, they add you to their database. And that database is often on sold to others. The unintended consequences of our Australian legislation is that many recipients of spam will respond with a 'cease and desist' to all incoming spam, thus increasing the likelihood that they will receive more spam from other sources — unless the recipient is absolutely sure that the e-mail is indeed covered by Australian legislation. This aside, there is no provision in the legislation to stop (Australian) spam from being sent in the first instance, merely to prevent further instances from the same business.

The Act also proclaims that commercial electronic messages *can* be sent if it can be identified as *not* being spam. A cynic might protest that the Bill was drafted by interest groups rather than government here, and it is clear that the exceptions allow for truckloads of 'spam' to be sent to recipients: if it does not promote or include illegal content, if it is not deceptive or breach common or statute law, if it does not collect or use personal information in breach of national privacy principles, or if the recipient has voluntarily dealt with the sender before, and can reasonably be assumed by the sender to accept messages of this type being sent.

Of course, exceptions apply to protect 'currently-accepted government, business and commercial practices, such as government-to-voter messages, and commercial messages to publicly-advertised addresses where the approach is specifically related to

*...Without any doubt, solutions to the spam problem world-wide will come from software and the online community, and not from legislation...*

the addressees' employment function' (whilst not declaring if having your e-mail address discoverable through the internet is deemed 'publicly-advertised', how does one determine 'employment function' in this day and age?).

Don't get me wrong here: I am not advocating that the Australian Bill is faulty, but it is just that in many instances this Bill actually legitimises spam, rather than the opposite. The same can be said for the American 'CAN-SPAM Act', which must surely have the most ambiguous title in legislative history, and possibly intentionally so (for the record, the bill is an acronym for 'Controlling the Assault of Non-Solicited Pornography And Marketing Act of 2003', though you have to wonder at the focus on pornography here...).

Without any doubt, solutions to the spam problem world-wide will come from software and the online community, and not from legislation (and whilst the American legislation recognises this implicitly, it suggests that a regime of 'co-operative efforts with other countries' will block the rest). As an example, my non-work e-mail account uses a combination of SpamAssassin (which detects the likelihood of spam-worthiness in each message) and my laptop's mail client software, which uses a learning filter to detect spam and throw it into my 'junk mail' folder: this combination

traps practically all genuine spam. The system is not perfect, but it helps: and before long my workplace will hopefully have equally-sophisticated methods of trapping spam.

Even if the entire world legislated against spam (and this is highly unlikely), it takes little effort to disguise the origin of any given spam message. And if money is to be made from spam (surely it is, otherwise spammers would have given up years ago), then it will continue unabated. Nonetheless, the Australian *Spam Act 2003* is a small but significant step in the right direction. The great battle of our time is just begun.

*Next month:* what the Australian Spam Act means for Australian businesses — and what you need to know to be compliant.

#### Links

The Australian *Spam Act 2003*: <http://scaleplus.law.gov.au/html/comact/11/6735/top.htm>.

Information on sending commercial messages using 'best practice' (stop laughing, this is deadly serious): <http://www.noie.gov.au/projects/confidence/Improving/spam.htm>.

CAUBE (Coalition Against Unsolicited Bulk E-mail, Australia): <http://www.caube.org.au/>.

The United States *CAN-SPAM Act of 2003*: <http://www.spamlaws.com/federal/108s877.html>. ■

## Australian Interlibrary Resource Sharing Code amended

Minor changes to the recommended prices in the Australian Interlibrary Resource Sharing (ILRS) code were introduced on 1 January 2004.

Following consultation across the library sector in late 2003, these amendments proposed by the National Resource Sharing Working Group have been endorsed by the National Library of Australia (NLA), the Council of Australian State Libraries (CASL), the Council of Australian University Librarians (CAUL) and ALIA.

#### Simplified prices

The changes are relatively minor and are based on today's direct costs. They will make the recommended prices in the ILRS code simpler to interpret.

#### Summary of proposed changes

- Remove the additional price for sending STD faxes.
- Increase the page limit for copies to fifty pages before charging \$3.30

for each additional fifty pages. Additionally, define a page as the number of pages in the original item, not the number of pieces of paper or images in the copy sent.

All other recommended prices remain the same.

The recommended prices in the ILRS code were last changed in 1999. The prices in the ILRS Code are recommended only. Libraries may choose what price they set for their service.

The amended ILRS code is available online at <http://alia.org.au/interlibrary.lending/ilrs.code.html>. A brochure is also available from ALIA National Office.

For more information on the definition of a page in the ILRS code and a summary of the feedback received during the consultation please see <http://alia.org.au/interlibrary.lending/ilrs.code.2004.html>. ■

## Study recordkeeping at your own pace

Enrol at any time through the Flexible and Distance Learning Centre

- Study modules in records and archives at times to suit you
- Choose from Certificate 3, Certificate 4 and the Diploma in Business (Recordkeeping)
- Gain nationally accredited qualifications
- Work with teachers by phone, fax, email or attend the Flexible and Distance Learning Centre in person.

Contact us now about your options:

Esther Aarons, Coordinator Special Programs  
Flexible and Distance Learning Centre

phone: 9217 5257 fax: 9217 5452

For relevant training in a convenient location, call

**1300 360 601**

[www.sit.nsw.edu.au](http://www.sit.nsw.edu.au)

LOVE YOUR WORK 

Design Centre Enmore | East Sydney | Eora | Petersham | Randwick | Ultimo

## Libraries Alive!

Library and information services consultancy. Fresh, pragmatic, effective. Tactical planning, technology management, service improvement. Proving library value. Information? Please contact Sherrey Quinn or Ian McCallum on (02) 6257 9177 [www.librariesalive.com.au](http://www.librariesalive.com.au)