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What you can do about SMS spam

By Dr Pieter Streicher, MD of BulkSMS.com

While email spam is very annoying, it has unfortunately become something that most of us live with. SMS spam on the other hand, while less pervasive than email spam, is often a very different matter, thanks to how attached we have become to our mobile phones, many of us having them close by 24 hours a day. It also poses a major threat to business communications via SMS and mobile voice calls.

If you thought SMS spam in South Africa has increased recently, you'd be right as recently reported by local research company Dashboard. This is for two primary reasons: local spammers are using international messaging routes to avoid WASPA (Wireless Application Service Providers' Association) regulations; and WASPA is so overwhelmed by billing complaints that true spam is not receiving the attention it should.

In the first instance, the responsibility lies firmly on the shoulders of the local operators. Currently some local operators are unable to even trace spam messages from international sources after specific instances have been reported, let alone proactively block or filter these messages.

International A2P spam can be identified, as local mobile numbers are often spoofed to disguise the international origin.

In the second instance, consumers need to correctly identify spam and be more proactive about reporting it to WASPA and escalating the matter. There are 300 million application-to-person (A2P) SMS messages sent every month in South Africa, yet there have been only 41 upheld spam related complaints in the last three years.

This sounds a bit low, right? But currently very few instances of true SMS spam are escalated to formal complaints with WASPA. Spam, or unsolicited messaging, is too often confused with unsolicited billing related to subscription services. This is currently the biggest problem in the mobile industry and responsible for more than 99% of the 120,000 – 150,000 monthly unsubscribe requests lodged with WASPA. The welcome and reminder messages associated with paid subscription services are often also perceived as spam, in those instances where consumers cannot recall that they subscribed in the first place. These volumes unfortunately overshadow the problem of spam, which needs to receive immediate attention.

The second thing to notice about the spam complaints that are upheld is that the vast majority originate from people working within the WASP and ICT industry. Those working in the industry are also more likely to escalate requests to formal complaints, as they know the rules and will not accept poor explanations for breaches. Very few consumers want the hassle of requesting a "formal" review, even though the process is pretty straightforward.

To combat SMS spam, it is necessary for the broader public to report it to WASPA and insist on a formal review where appropriate.

Examining the recent results of the WASPA complaints process can help shed more light on the matter.

Analysing WASPA spam sanctions

WASPA lists all formal complaint adjudications publicly (<http://www.waspa.org.za/code/complaints.php>) and the list can be searched (<http://www.waspa.org.za/code/search.php>). For this review, all “upheld complaints” involving unsolicited messages (code clause 5.2.1), from the beginning of 2008 to the end of 2010 were analysed.

As mentioned, 41 complaints involving unsolicited messaging were upheld, with the fines issued totalling R 1.4 million. Thirty complaints (73%) were related to premium rated mobile services, of which 10 (24%) involved adult spam. Interestingly the adult spam constituted 54% (R 756,000) of the total fines issued. It is clear that WASPA views unsolicited messaging that advertise adult content in a very serious light as it could end up on phones of minors.

There were only eight upheld complaints (20%) that involved unsolicited commercial messages sent by businesses. There were only three upheld complaints against the three top business messaging providers in three years.

The majority of WASPs sanctioned for spam, transgressed only once in three years. There were, however, three WASPs specialising in premium rated mobile content with five sanctions each.

There were no other known sanctions for SMS spam by another authority within the country within the same period. Currently the ECT (Electronic Communications and Transactions) Act and the CPA (Consumer Protection Act) still provide an opening for unsolicited electronic messages (CPA Section 11). Only once the PPI (Protection of Personal Information) Bill is enacted will unsolicited messages to non-clients become illegal, which is in line with the current WASPA Code of Conduct.

Tips for customers affected by spam

1. Always report spam

A single spam complaint against a business will seldom be escalated to a formal complaint with WASPA. It is too easy for the business to claim that a number was captured incorrectly. Multiple spam complaints, however, provide compelling evidence for WASPA to act on. It is therefore of utmost importance that there is a critical mass of the public reporting instances of SMS spam. Always ask WASPA if other complaints have been received, and if there have been you should insist on a formal complaint.

2. Adult content will always be acted on

In some cases a single complaint will be enough for WASPA to act on. For instance, a single instance of spam with adult content will be sufficient for WASPA to take action against a mobile content provider.

3. Other key contraventions

WASPA also takes a stronger stand in cases where businesses ignore opt out requests or requests about how they obtained the consumer's number. In these cases a single complaint could be all that is needed and the consumer should insist on a formal complaint. This involves an investigation, adjudication and possible sanction for the WASP if reasonable steps are not taken to prevent this practice.

Tips for messaging providers/WASPs

1. The role of WASPs

Messaging providers, otherwise known as WASPs, have to take reasonable measures to prevent spam when it comes to messages originated by third party businesses.

2. WASPA Code of Conduct

WASPs have to ensure that their clients agree to abide by the WASPA Code of Conduct, which insists that businesses may only message non-clients if they can provide proof of explicit opt in. Therefore, best practice for businesses is to give new clients the opportunity to opt in for marketing communications. The new PPI bill will require that businesses give clients the option to opt out of marketing communications when they first provide their contact details.

3. Take spam seriously

Always investigate spam complaints. Ask the business where it obtained the number and what consent they have to communicate with it. If there is a problem, get the business to warrant that they will abide by the rules. If there is still no improvement, the WASP should suspend the service.

4. Auto opt out

WASPs should also implement an automatic opt out system on behalf of their clients. This provides a safety net for the consumer and ensures they are not contacted with unwanted messages even if the business doesn't have its own opt out system. WASPA requires that opt out requests are always confirmed.