

Petition to improve proposed anti-spam Bill S-220: An Act respecting commercial electronic messages

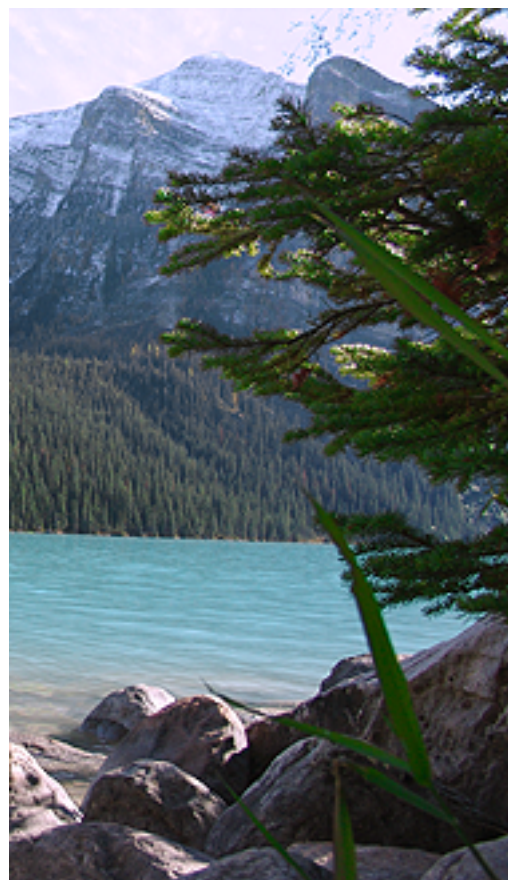
Table of Contents:	Important (relevant) internet site links:
• Introduction i. Objection: Exclusion of non-commercial spam ii. Objection: Exclusion of many internet service providers iii. Objection: Legitimizing spamming for certain types of senders iv. Objection: Seven-day grace period for unsubscribe requests • Petition (includes summary)	Proposed anti-spam Bill S-220 information centre (also includes links to Government sources of Bill S-220) http://www.lumbercartel.ca/law/canada/s-220/ PDF: Full text of proposed anti-spam Bill S-220: An Act respecting commercial electronic messages http://www.lumbercartel.ca/law/canada/s-220/s-220.pdf Online petition to improve proposed anti-spam Bill S-220 (also includes a link to download this document) http://www.lumbercartel.ca/law/canada/s-220/petition.pl

Introduction

The Government of Canada is currently considering new anti-spam legislation known as "**Bill S-220: An Act respecting commercial electronic messages**." While this effort appears well-intended on the surface, there are some serious problems with this proposed legislation that violate everyone's **natural right to consent** by unfairly making discriminatory exemptions to various parties, excluding many internet service providers from critical protections, and providing unnecessary grace periods. The exemptions legitimize spam based on who sent it (instead of respecting everyone's natural right to consent), and are inconsistent with the good spirit of Canadian culture. The other points lack varying degrees of fairness, which is an integral aspect of any trustworthy judicial system.

We're raising four objections to the **proposed anti-spam Bill S-220**. In the long run, we envision that the motivation to send spam from Canada will diminish as spammers feel increasingly discouraged (hopefully to the point of shutting down their spamming operations entirely), but the Solutions we included with our Objections must be implemented before this may be possible.

For your convenience we organized (with colour-coding) the details of each **Objection** (red), its **Rationale** (amber), and a reasonable **Solution** (green) in a format that's easy-to-read and understand.



i. Objection:

Exclusion of non-commercial spam

Objection	Rationale	Solution
<u>Title of the Act</u>, and <u>Section 1</u> The Title of the Act implies, by its emphasis on the word "<i>commercial</i>," that non-commercial spam is excluded, and Section 1 is inconsistent in its reference to this Act as the "<i>Anti-Spam Act</i>."	By its very nature, the term <i>Anti-Spam</i> doesn't differentiate between commercial and non-commercial contexts; the crux of the <i>Anti-Spam</i> movement is to protect every recipient's <i>natural right to consent</i>. In addition to "commercial," some other types of spam include: • auto-responders that reply to more than one message from a given sender • bounces (delivery failures) to forged sender addresses • C/R (Challenge/Response) System challenges • distribution of viruses and other malicious software • incomprehensible (e.g., "aaazzzaaazzz..." repeated and/or varied many times) • political • religious • other various types that have not yet been anticipated • outright fraud	Remove the word "commercial" from the Title of the Act. Eliminate the "commercial" context throughout the Act, as appropriate, to ensure consistency with the Title of the Act.



ii. Objection:

Exclusion of many internet service providers

Objection	Rationale	Solution
<u>Section 3, subsection 2</u>, and <u>Section 7, subsection 3</u>, and <u>Section 26, subsections 1, 2, and 3</u> Unfairly excludes many ISPs ("internet service providers") from the protections provided to TSPs ("telecommunications service providers"), which severely hinders the potential effectiveness of this Bill.	ISPs ("internet service providers") are increasingly connecting their systems to the internet using computer networking technology, such as <i>Ethernet</i> or <i>Fibre Optics</i>, without directly utilizing traditional telecommunications equipment. This absence of telecommunications equipment as a necessary part of their operations excludes ISPs from falling under the definition of TSPs ("telecommunications service providers"). In order for this Bill to be effective, ISPs need the same protections provided to TSPs since both provide similar Electronic Messaging solutions such as eMail.	Create and add a new definition to Section 2 defining "internet service provider" (ISP) that is inclusive of, for the purpose of this Act, "telecommunications service provider" (TSP). Change the phrase "telecommunications service provider" to "internet service provider" in: • Section 2, definition of "electronic message" • Section 2, definition of "sender" • Section 3, subsection 2 • Section 7, subsection 3 • The heading immediately preceding Section 26 • Section 26, subsection 1 • Section 26, subsection 2 • Section 26, subsection 3



iii. Objection:

Legitimizing spamming for certain types of senders

Objection	Rationale	Solution
<u>Section 8, subsection 3, paragraphs a, b, c, d, and g</u> Unfairly legitimizes spamming in Canada by providing exemptions for: a. political parties or an association of members of political parties b. political contestants and candidates c. registered charities d. partnerships, corporations, trusts, foundations, organizations, or associations whose income is not available for personal benefit by its proprietors, members, or shareholders g. public opinion polls or surveys	One of the main problems with spam is that the cost-burden (e.g., time, financial, data loss due to equipment failure, etc.) is on the recipient. Since people typically dislike spam, the benefit for any legitimate organization to utilize spamming is easily outweighed by the distrust spamming campaigns typically generate. Determining if an eMail address belongs to a Canadian and is being operated from within Canada is also problematic and creates international challenges that could put Canada at risk of being classified by other countries as a "safe harbour" for spammers. This could potentially develop into a serious problem for international relations.	Remove: • Section 8, subsection 3, paragraph a • Section 8, subsection 3, paragraph b • Section 8, subsection 3, paragraph c • Section 8, subsection 3, paragraph d • Section 8, subsection 3, paragraph g



iv. Objection:

Seven-day grace period for unsubscribe requests

Objection	Rationale	Solution
<u>Section 10, subsection 2</u> A seven-day grace period is permitted for processing unsubscribe requests, which is also a violation of section 8, subsection 2.	Although this is an improvement over the typical thirty-day processing period that is often promoted by marketers, it's not a logical requirement because honouring subscription requests, and sending electronic messages to subscribers, are processed immediately by automated systems. Therefore, since requests to unsubscribe are also processed by the same automated systems, this seven-day grace period, which violates section 8, subsection 2, isn't necessary. Additionally, this section of the Bill is a serious concern because it permits senders to delay the final processing of unsubscribe requests until the end of the grace period, effectively using it as a "seven-day license to send spam."	Remove Section 10, subsection 2, or change its wording to eliminate the grace period and require that all pending unsubscribe requests shall be honoured prior to sending every batch of electronic messages (we prefer the latter).



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We sincerely hope you will **support this petition by signing it** (even if you're not a Canadian citizen, your signature will still be helpful). Please mail all signed petitions to: 

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