**Spam Revisited**

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**ABSTRACT**

Even though unsolicited commercial e-mail or Spam continues to be a major

problem, very little academic research has focused on it.  Notable exceptions include

Shiman(1996), Cranor and LaMacchia(1998), Samoriski(1999) and Sheehan and

Hoy(1999). The purpose of this paper is to provide a comprehensive overview of the

Spam problem and a critical analysis of the solutions.  We begin with a definition of

Spam.  This is followed by an analysis of the pernicious impact of Spam on the major

stakeholder groups- consumers, Internet Service Providers, legitimate advertisers, e-

commerce firms and employers.  Since there is no "clean" solution to limiting the

volume or nature of Spam, a variety of responses to Spam exist.  These can be

placed into four categories- laissez faire arguments, business-initiated solutions,

third-party oversight, consumer education and legislative solutions.  For the

remainder of the paper, we focus upon one business-initiated solution- permission

marketing (Godin 1999).  Permission marketing envisages a world where consumers

control the promotional messages targeted at them.  Consumers provide a firm

information about their interests and product preferences.  The firm then sends the

consumer promotional messages based on this information.  We argue that, even

though this idea has merit, there has been an inconsistent application of this idea.

To support this, we discuss six variants of the original concept of Spam that purport

to use permission marketing.  Based on this discussion, we end by identifying six key

elements that must be a part of every permission marketing campaign if it has to be

clearly distinguished from Spam.


**KEY WORDS:**  Spam, E-mail Marketing, Permission Marketing.

# 1. INTRODUCTION

Firms are increasingly using e-mail as a marketing tool to acquire customers, make them aware of new products and build deep customer relationships. The average number of commercial e-mail messages that US online consumers receive annually will increase from 40 in 1999 to more than 1,600 in 2005[1] (Jupiter Communications 2000).

A significant proportion of these commercial e-mails are likely to be unsolicited or Spam[2] (Cranor and LaMacchia 1998). Most Internet users are affected by Spam- over 90% of users receive Spam at least once a week, almost 50% get Spammed 6 or more times per week(Gartner Group, June 1999). America Online, the leading Internet Service Provider(ISP) testified in court that up to 30% of the e-mail it processes is Spam(Alexander 1998). In some weeks, this proportion can be as high as 50% of all messages(Patch and Smalley 1998).

Consumers perceive Spam negatively. One in three online consumers report that they do not read e-mail from senders they don't know and 16% say that they immediately delete messages that are not from friends, family or colleagues (Deckmyn 1999). Moreover, a survey shows that Internet Service Providers(ISPs) lose 7.2% of their new customers every year due to Spam (Gartner Group, June 1999).

Many have recognized the harmful nature of Spam. However, surprisingly, very little academic research has been devoted to the study of Spam- notable exceptions include Shiman(1996), Cranor and LaMacchia(1998), Samoriski(1999) and Sheehan and Hoy(1999). Of course, findings of studies in related areas apply to Spam. For example, Cook(1998) presents an excellent analysis of the tension between

protecting vulnerable groups such as minors from objectionable advertising and commercial free speech in the context of the Communication Decency Act of 1998. Similarly, many studies in the area of consumer privacy on the Internet apply to Spam (e.g. Culnan 2000).

Our overriding objective in this paper is to expand on the work of Shiman(1996), Cranor and LaMacchia(1998), Samoriski(1999) and Sheehan and Hoy(1999) by revisiting the issue of Spam.   In section 2, we provide a simple definition of Spam. In Section 3, we apply stakeholder theory to understand the impact of Spam on consumers, children, Internet Service Providers, legitimate advertisers, E-commerce firms and employers.  There is no "clean" solution for eliminating or even, limiting Spam.  Therefore, in Section 4, we critically analyze the various attempts proposed to limit Spam.  Then, we focus upon one alternative to Spam as suggested by interested advertisers- permission marketing(Godin 1999).  Our argument is that the concept of permission allows for a wide variety of practices and it does not help us distinguish Spam from legitimate marketing communication.   In order to support this,  in Section 5, we identify and critically analyze six variants of the original concept of Spam- most of who claim to use permission marketing.   After an analysis of these variants, in Section 6, we propose a set of principles that every permission marketing program must include if we are to be able to distinguish it from Spam on a consistent basis. We conclude with a discussion section.

## 2.    DEFINITION OF SPAM

Our definition of Spam is customer-centric.  In other words, we define Spam from the standpoint of the receiver of the message as opposed to the sender.

For our purposes, <u>Spam is defined as an e-mail message of a commercial nature that has been sent without the explicit permission of the receiver</u>.

Three important points need to be made about this definition.  First, we are limiting ourselves to e-mails[3] of a commercial nature.  We do not include other unsolicited e-mail such as viruses and hoaxes.  Second, some circumscribe this further by only including e-mail that is sent out in bulk.  Since our definition is customer-centric, we do not include this.  Consumers cannot discern the number of people the e-mail has been sent to.  Hence, even small mailings sent in an unsolicited manner would be considered as  Spam by our definition.  Third, some definitions include specific executional elements of Spam- e.g. offensive topics, deceptive tactics etc.  While we agree that many Spam messages share these characteristics, we do not believe that all of them do.  Hence, they are not explicitly included in the definition.

## 3.  STAKEHOLDER ANALYSIS

Spam is an unethical communication practice that adversely impacts a variety of stakeholder groups.  Only one small stakeholder group benefits[4]- i.e., the senders of the e-mails and/or the advertisers.  No other marketing communication practice (e.g. direct mail, TV advertising etc.) has a comparable breadth of impact.

Stakeholder theory explicitly incorporates the incentives and roles of different agents who are affected by the performance of an entity(Freeman 1984).  This theory has been widely applied and has been praised for its descriptive accuracy, instrumental power, and normative validity(Donaldson and Preston 1995).

In this section, we focus on the following stakeholder groups- Consumers, Internet Service Providers, Legitimate advertisers, E-commerce firms and Employers.

*Brief Literature Review of Ethics and Marketing Communication*

The area of deceptiveness in advertising and more broadly, ethics and advertising, has been an area of extensive study (See, for example, Richards 1990 for an extensive discussion of deceptiveness and Hyman, Tansey and Clark 1994 for an overview of ethics).

The focus in this body of literature has mainly been on the content of the messages and, to a limited extent, on the targeting of the messages.  Hence, an extensive body of research has looked into topics such as fear appeals (e.g., Snipes, LaTour and Bliss 1999, Duke, Pickett, Carlson and Grove 1993), sex appeals (e.g., Elliot, Jones, Benfield and Barlow 1995), science-based claims (e.g., Ippolito and Mathios 1990), comparative price advertising claims (e.g., Compeau and Grewal 1998) and environmental claims (e.g., Newell, Goldsmith and Banzhaf 1998, Schuhwerk 1995) and their impact on consumers' perception of the message.

In addition, another field of research has looked at issues relating to targeting at vulnerable groups such as children and teenagers.  As Karpatkin(1999) has argued, "They(children) are unworldly, uninformed, and unsophisticated. They are trusting of adults. They are easily manipulated… Finally, they can be convinced that they need it(a product) desperately to be happy".  Similarly, in the context of cigarette advertising, Mizerski(1995) has argued that children are "neither legally capable of using nor fully able to understand the potential risks associated with the product's use".  Important studies looking at teenagers include Keillor, Parker and Schaefer (1996) and Pollay, Siddarth, Siegel, Haddax et. al. (1996) and those looking at children include Moore and Lutz (2000) and Alexander, Benjamin,Hoerrner and Roe (1998).

Almost all studies in the area of deceptiveness or ethics of advertising have focused mainly upon the impact on the consumer and to a lesser extent on competitors (e.g. in the context of comparative advertising claims). Taking a stakeholder approach to the ethics of marketing communication is usually not called for and hence, is rarely found.

*Consumers*

Spam is an unethical[5] communication practice from the standpoint of consumers due to six reasons[6]- privacy violation, volume, irrelevance, deceptiveness, message offensiveness and targeting vulnerable consumers[7]. Our argument is that the unethical nature of Spam is multi-dimensional. We argue that Spam is unethical even if the message content is not offensive due to the high volume of messages, their irrelevance and offensiveness etc.

First, due to the intrusive and direct nature of e-mail, Spam violates the consumer's fundamental need to be left alone (i.e., privacy). While this is a general issue brought up with most direct marketing communication (See, Milne and Boza, forthcoming and Phelps, Nowak and Farrell 2000, for example), Spam has a particularly negative connotation since some individuals view the Internet as a free and egalitarian space and are offended when they receive any commercial promotional messages(Donnelly 1996).

As a consumer continues to receive more unsolicited messages, the level of concern that his or her privacy is being violated is likely to increase. This motivates such consumers to take anti-Spam actions. This could include notifying their Internet Service Providers(ISPs) or sending highly negative messages (called flames) to the senders of Spam (Sheehan and Hoy 1999). While the former may be fruitful,

replying to Spam can be frustrating process in itself since most sender addresses are forged (this is discussed under deceptiveness).

Second, the sheer volume of Spam messages can be problematic for consumers. Studies in the direct marketing literature find that consumers desire a lower volume of direct-mail messages(e.g., Milne and Gordon 1993). Moreover, studies on clutter have shown that as the quantity of promotional messages go up, individuals' attitude towards the promotional vehicle decline. This is especially true for intrusive forms of communication such as e-mail (Ha 1996).

The volume of messages is a major issue with Spam due to two factors- the marginal cost of contacting an additional customer is nearly zero(Shiman 1996) and the cost of obtaining a new e-mail address is also negligible. First, marketers incur similar costs if they send out 1 million or 10 million e-mails due to the automation of the e-mail transmission process. Next, Spammers can easily obtain new e-mail addresses from websites, chat rooms and Usenet groups using software programs that "troll" the Internet and harvest addresses from these sources. Spammers also make available large volumes of names for very small costs further exacerbating the problem. Due to these two factors, the volume of e-mail disseminated is likely to be very high. The analogy would be to a direct mail system where there is no postage necessary and the addresses of all individuals are available freely.

Third, most Spam is irrelevant for most consumers. Starting with Smith(1956), marketers have recognized the need for targeting a subset of customers. More recently, Gordon and Milne(1993) showed that in a direct-mail context, consumers expect better-targeted messages. The main reason for targeting a subset of the entire population is that there is a non-zero cost of contact that would lead to

diminishing returns on investment at some point.  However, as described above, with Spam the cost of obtaining an additional address and the cost of sending an additional e-mail is nearly zero.  Then, even though a small proportion of the population is likely to be interested in a product, Spammers are best off sending the message to everyone.  Therefore, with Spam, a large proportion of the population is likely to receive messages for products that they are not interested in.  The irrelevance of the advertising messages leads to negative psychological and transaction costs by consumers.

Fourth, deceptive practices are common in Spam.  For example, it is common for Spammers to use forged e-mail headers, i.e., messages where the recipient is misled about the identity of the sender (a practice referred to as spoofing).  If a consumer tries to reply to the message, it bounces back or goes to a third party who is unaware of the Spam[8].  Such messages are, therefore, akin to direct mail packages without a return address and therefore, violate the consumer's right to know (Nebenzhal and Jaffe 1998).  One other example of a deceptive practice is a misleading link.  For examples, a consumer may receive a message that asks him to click on a link if he wants to stop receiving such messages in the future.  Clicking on the link will transport the consumer to, say, a pornographic site.

Fifth, individuals are offended when they receive promotional messages for products that they consider inappropriate[9].  This is the message content issue discussed earlier.  In general, if a consumer receives an advertisement for a product category that he or she does not use it is more likely that he or she will be offended by it (Aaker and Bruzzone 1985).  For example, individuals who are non-users would be offended if they received ads for pornographic websites.

Table 1 shows the results of content analysis of nearly 100,000 Spam e-mails by the Spam Recycling Center(See, http://www.chooseyourmail.com/spamanalysis.cfm).  It is apparent that the leading category of Spam messages is pornography followed by get-rich-quick messages.  Such messages are offensive to many people.

**[Insert Table 1 About Here.]**

Finally, the impact of Spam on children and teenagers has been an area of concern.  In general, parents feel that they have the responsibility to monitor the types of advertising messages that their children receive (Triese, Weigold, Conna and Harrison 1994).  At the same time, they feel helpless because they are not able to keep Spam from reaching their children.  Many parents have complained that Internet Service Providers(ISPs) are not doing enough to ensure that this vulnerable group does not receive Spam(Furger 1999).  They have particularly raised their voice against e-mails of a pornographic nature(Connolly 1998).

In sum, while each of the dimensions described above has a pernicious impact on the consumer, they have a much higher impact when taken together.  For example, receiving an offensive message rarely may not be problematic.  However, receiving a high volume of offensive messages on a daily basis may lead one to abandon an e-mail account.

*Internet Service Providers*

The major financial harm caused by Spam is borne by the Internet Service Providers(Richards 1990).  These firms exist to provide access to Internet services such as e-mail and World Wide Web.  Most consumers today pay a flat fee to use these services.  Therefore, these firms make the highest profit when they maintain the lowest operating costs.  Spam represents useless traffic whose cost of

transportation is borne by these firms.  If such messages did not exist, the costs of the firms would be lower.  Indeed, some ISPs (including America Online), have indicated that they could reduce the monthly service fee by $1-$2 if they did not have to contend with Spam (Patch and Smalley 1998).

However, the fact is that Spam exists.  Hence, ISPs have developed huge filtering systems to track and avoid Spam.  Filtering is a full-time activity requiring a significant commitment of resources.  There are several problems- first, Spam needs to be detected reliably which may require the commitment of several employees, second, writing rules that will reliably filter out Spam over a long period of time is hard.  The latter represents a cat and mouse game between the ISPs and the Spammers.  As soon as a rule is written, the Spammers devise a way around it. As a result, even the best filters report less than 100% accuracy(Cranor, Flandrena, Gallo, LaMacchia and Scola 1998).

Early Spam filtering systems tried to block certain e-mail addresses.  A case in point is America Online, which tried to filter out Spam that originated from ameritech.net. However, it turned out that the e-mail address was forged and the bounced e-mail messages led to even greater network load (Fusaro 1998).

More recently, Spam filtering systems have begun to search for keywords such as "free", "get rich" etc. to detect Spam.  However, this is unreliable since some legitimate advertisers may be using words such as "free" to communicate their message.  This represents a serious threat to legitimate advertisers.

Some ISPs have now asked consumers to filter out Spam. But, that, once again increases the transaction costs on consumers and may lead to consumer flight to e-mail service providers with lower Spam rates.

*Legitimate Advertisers*

In addition to consumers and ISPs, one other stakeholder group that is frustrated with Spam is legitimate advertisers.  Leading marketers have tried to fully realize the advertising potential of the Internet (See, for example, Beausejour 1998).  However, despite the early promise detailed in pioneering research(Hoffman and Novak 1997), the click-through rates of banner ads have not improved.  Average rates are in the 0.5% range.  Banner advertising is also plagued with measurement problems. Getting a reliable estimate of the number of consumers who viewed a banner is a big challenge(Dreze and Zufryden 1998) and so is reliably identifying the top websites globally.  Moreover, a recent eye-tracking study presents troublesome evidence that Internet users may "actually avoid looking at banner ads during their online activities" (Dreze and Hussherr 1999).  If this is true, then placing banners around web content may be a poor way of delivering the message.

Given this ineffectiveness of banner ads, legitimate advertisers who want to send promotional messages for their product are increasingly drawn to e-mail marketing as a potential tool.  Jupiter Communications has predicted that the commercial e-mail market expenditure will rise to $7.3 billion in 2005 cannibalizing direct mail expenditure by 13% (Jupiter 2000).  eMarketer has indicated that they expect e-mail's share of total online advertising to rise to as much as 15% (eMarketer 2000).

Spam threatens to jeopardize e-mail as a marketing tool in two ways- by creating a "lemons" problem and by increasing consumer clutter.

Spam creates a form of the "lemons" problem(Akerlof 1970)- individuals who have become skeptical of unsolicited commercial e-mail will also be skeptical of other forms of e-mail based promotion.  An e-mail is an experience product(Nelson 1974) whose "quality" cannot be discerned without opening it.  But, since opening it can lead to the risk of being exposed to offensive or irrelevant topics, many consumers may simply decide to stop opening any e-mail from commercial marketers.

The volume of e-mails creates the second problem.  As the volume of e-mails received by an individual consumer increases, the return from sending an additional commercial e-mail is bound to decrease- since each commercial e-mail will have to compete with more.   This would make each message harder to stand out (Weber's law).

Moreover, as indicated earlier, if the Spam filtering systems of ISPs and e-mail providers stop a significant proportion of the e-mail messages of legitimate advertisers, it may pose a serious threat to the use of e-mail as an advertising tool.

Due to all these problems, these firms have an incentive to reduce Spam.

*E-Commerce Firms*

Competition is fierce in e-commerce.  Consumers are provided with a variety of free alternatives to choose from in digital product categories such as news and the nearest rival site for most e-tailers is merely a mouse-click away.  As a result, the focus in e-commerce has been on customer acquisition and retention(McGhahan and Ghemawat 1994) and on the lifetime value of the customer(Day 2000).  In order to accomplish this, most sites today require that consumers enter detailed personal information including name, address, product preferences, interests etc.

The Federal Trade Commission(FTC) has laid out certain fair information practices for collecting such information.  These are Notice (inform consumers you are collecting information), Choice(provide consumers the option of not giving information), Access(provide consumers access to their information), Security(keep their information safe) and Redress(provide a means to redress complaints if any of the other four are violated).  However, in general, studies have shown that very few websites pay heed to these practices.  For example, Culnan(2000) reports that only 13.6% of studied websites followed all practices.

Since firms are not guarding the personal information of consumers well, the public has become suspicious of all firms on the Internet.  A recent survey of 1410 on-line users indicated that 71.6% of respondents believed that the reason they are receiving Spam is because they provided personal information when they were shopping at an e-commerce site (e.g., http://www.chooseyourmail.com/CONCLUSIONS.HTML.) This perception (perhaps incorrect) that providing personal information leads to Spamming can be devastating for e-commerce firms.  Changing this perception through strongly worded privacy policies and other strategies such as third-party seals of approval may be a long-term process.

*Employers*

Another stakeholder group that is frustrated with Spam is employers.  Given the widespread use of e-mail as a communication tool in the business world, employers are increasingly finding that Spam leads to significant drops in employee productivity.  Moreover, Spam represents more information technology costs to such firms.  Some of these are-bandwidth, server hardware and labor.  For example, a burst of Spam can disrupt or crash a mail server (Patch and Smalley 1998).

*Summary*

In sum, Spam is unparalleled in the breadth of its impact. Consumers are affected because of the violation of their privacy, message volume, the irrelevance of messages, the use of deceptive practices such as spoofing, message offensiveness and the targeting of vulnerable groups such as children. ISPs bear most of the financial harm due to filtering costs. Legitimate advertisers and e-commerce firms pay a cost in the long run when Spam reduces the effectiveness of advertising and increases the privacy concerns of individuals. Finally, employers bear bandwidth, hardware and labor costs as well as the loss of employee productivity.

## 4. RESPONSES TO SPAM

There is no magic bullet to limiting the volume or nature of Spam. Responses to Spam fall under a wide spectrum of categories ranging from laissez faire arguments to interventionist legislative prescriptions. They can be placed into four broad categories- laissez faire, business-initiated solutions, third-party oversight and legislative control.

*Laissez Faire*

First off, some have argued that Spam is free commercial speech and placing certain restrictions on it may be unconstitutional (Samoriski 1999). In addition, the following laissez faire argument can be made[10]. Spammers would not continue to send more messages if nobody was buying the products featured in the messages. Hence, there exists a segment that finds the message useful. But, if this is the case, there is no need to stamp out Spam. If we were to eradicate marketing efforts that some find useful and others do not, most other forms of promotion must also be stopped- e.g. banner ads. This school of thought has not prevented anti-Spam laws from being proposed at the state and federal levels.

*Business-initiated solutions*

The business-initiated solutions can be placed into two categories- e-mail technology solutions and permission marketing.

We will discuss three e-mail providers, which offer unique approaches to eliminating Spam. First, consider www.brightmail.com.  This free e-mail service provides relief from Spam in the following way.  The company has a network with a large number of e-mail accounts with a number of ISPs all over the world.  All e-mails from this network are sent to a center where employees scrutinize each message.  If a message is labeled as Spam, then a rule is written to filter out that message for all users.  Next, consider another model- www.allowmail.com.  This service is completely opt-in.  In other words, the default option of this e-mail service is to bounce back all e-mails sent to you.  Only e-mails from a pre-specified address list are delivered to you.  Some Spam may still get through since it may be spoofed with a from address on the pre-specified list.  But, it may certainly limit the volume. Finally, www.msgto.com sends out a test e-mail the first time e-mail is received from a new sender.  The idea is that a live person will not have a problem replying to the message- but a Spammer would.  If no reply is received, all further e-mails from that address are blocked out.  All these models have the potential to reduce the level of Spam.  However, they all have their strengths and weaknesses- e.g. the allowmail model may be susceptible to spoofing.

The second response has been from legitimate advertisers who wish to use e-mail as a marketing tool.  They have proposed using a new technique called permission marketing(Godin 1999).  This is seen as the alternative to Spam on the Internet.  It envisions every customer shaping the targeting behavior of marketers.  Consumers empower a marketer to send them promotional messages in certain interest

categories.  The marketer then matches advertising messages with the interests of consumers.  Consumers are free to leave this promotional relationship at any point.

The idea is that the customer controls the terms of the relationship with the marketer.  He or she determines whom to receive ads from, when and how many. As a result, permission marketing envisions deep, two-way relationships between certain marketers and consumers.

The importance of focusing on long-term customer relationships rather than discrete transactions (Dwyer, Schurr and Oh 1987, McKenna 1991, Sheth and Parvatiyar 1995) and customizing the marketing offer to each individual (Peppers and Rogers 1993, Pine, Victor and Boynton 1993) are well established ideas in the marketing literature.  However, traditionally, the firm has initiated all marketing.  As a result, individuals do not feel validated as a credible partner and are cynical of marketing efforts at building one-on-one relationships (Fournier, Dobscha and Mick 1998). Permission marketing proposes customer-initiated targeting to involve the consumer as a partner in the communication process (Sheth, Sisodia and Sharma 2000).

As a response to Spam, permission marketing sets up a system of transaction costs so that the interests of the marketer and the consumer coincide.  Recall that we had argued that with Spam, the marginal cost of sending an additional e-mail is nearly zero(Shiman 1996) and so is the cost of adding an additional consumer.  With permission marketing, marketers must take the time and must invest funds to obtain permission to market to a consumer. Not all consumers will give permission and hence, <u>this creates a positive cost of attracting an additional consumer.  However, permission marketing *per se* does not lead to a positive marginal cost of sending an additional e-mail</u>.  Therefore, technically, a permission marketing firm can send out

as many e-mails as they want per week.  However, some firms have made a genuine

effort to involve the consumers by letting them set volume limits- e.g. a consumer

can choose to receive only 1 promotional e-mail in gardening in one week.

Permission marketing also promises to counter the problems with Spam described

earlier.  Specifically, a consumer can expect more relevant messages, can control the

volume of messages and will be shielded from offensive topics and deceptive

techniques.  The privacy issue with permission marketing remains.  However, it

takes a different hue.  While the issue with Spam was illegally harvesting e-mail

addresses from public locations, with permission marketing, the issue becomes one

of appropriate use of personal information.

*Third-Party Oversight*

There have been a few noteworthy efforts by neutral third parties to develop

methods to limit the extent of Spam.

First, the [MAPS Realtime Blackhole List](MAPS Realtime Blackhole List) provides a list of advertisers who have used

Spamming techniques.  This non-profit organization tracks the IP addresses from

which Spam originated and provides it to interested ISPs who can then filter out e-

mails.  Since it is a free service, it enhances the common good.

Second, the Direct Marketing Association(DMA) has developed a program called the

[e-Mail Preference Service](e-Mail Preference Service). Consumers who enter their e-mail addresses here will be

left out of any unsolicited commercial e-mail sent out by DMA members.  However,

privacy advocates have criticized the DMA for holding an untenable position and

being disingenuous (Scoblionkov 1999) and others have said that such self-

regulation would legitimize Spam (Deckmyn 1999).  The usual problems related to

their mail preference service remain- e.g. consumers are removed from lists of members only and useful e-mail is also not sent.  Moreover, consumers must renew their entries every year.

*Education*

On the advocacy/education front, several activists have launched websites to fight Spam.  Leading examples of such sites include the Coalition Against Unsolicited Commercial E-mail (CAUCE), Junkbusters, and Spam Recycle.  These sites educate the general public about Spam and provide them with resources to fight Spam.

These agencies educate consumers in the following ways.  First, consumers are educated about the nature of Spam and why it is problematic.  Second, consumers are urged to report any Spam to ISPs or groups such as Spam Recyle.  Third, these firms help develop and disseminate filtering software.  Fourth, these sites generate support for various anti-Spam bills coming up for a vote.

Finally, the Federal Trade Commission(FTC) has testified that its efforts have been on the following fronts- monitoring the problem, aggressive law enforcement and comprehensive consumer and business education (See- http://www.ftc.gov/os/1999/9911/Spamtestimony991103.htm).  For example, the FTC has published several booklets to educate consumers about the nature of Spam.

*Legislation*

Legislative action against Spam has proceeded on several fronts.  At least eighteen states have already passed legislation limiting Spam or are working on such legislation(Cave 2000a).  In addition, there is an effort at developing a federal law against Spam(Cave 2000b). Such a law has just been approved by the House- see,

http://www.cauce.org/newsletter/v4n1.shtml.  Some laws encourage ISPs to sue Spammers.  However, this is flawed since, as described earlier, identification of Spammers can be very difficult.  Other laws propose that each unsolicited message should be prefixed with the letters "ADV" (short for advertisement).  This is expected to make it easier for ISPs to filter out as well as for consumers to distinguish Spam from other potentially relevant messages.

The European Union directive on data protection has set a standard for what constitutes consent for sending promotional communication.  This standard has been very influential in setting anti-Spam laws in the US.  The firm is set to have received consent if - (a) it has established some sort of relationship with the user, (b) has given notice to users of how their email addresses will be used (e.g., on an online privacy statement) and (c) has given the user an opportunity to opt-out (which the advertiser honors).

In general, many problems remain with legislative action.  First, implementation of some laws may be problematic - e.g. laws that require identification of Spammers.  Second, many laws may be challenged in court on the basis that they place restrictions on commercial free speech(Samoriski 1999).   For instance, a judge in the state of Washington has already ruled that any anti-Spam legislation would violate the interstate commerce law- see,
http://www.lawnewsnetwork.com/practice/litigation/news/A20530-2000Apr4.html.

*Summary*
At this point, it is clear that a laissez faire approach will not emerge with respect to Spam.  Overall, the effort to limit the volume and nature of Spam will proceed on

multiple fronts.  For the remainder of the paper, we focus on one solution-

permission marketing.


### 5.      SIX VARIANTS OF SPAM

We now present six variants of Spam, most of who claim to use permission

marketing in some form.  Strictly speaking, all six variants satisfy the definition of

Spam in section 2.


The first three variants- Spam with opt-out, Deceptive permission and Permission

creep- all entail firms assuming a higher level of permission than what they have

been granted.  The next two variants- Spam from a friend and Permission by

association- involve firms introducing a new agent that becomes the sender- in the

first case, it is your friend and in the second, it is another firm.  Finally, lock-in refers

to the case where consumers do not have an easy way to get out.


*Spam with opt-out*

This is one of the most pervasive forms of marketing communication today.

Typically, the consumer has provided personal information to a firm for some other

purpose- e.g. purchasing a product.  The firm assumes that it has the permission to

send such a consumer an e-mail promoting new products so long as it includes an

opt-out option in each message.  Hence, each message includes a statement to the

effect of- "If you do not wish to receive such e-mails in the future, just click here".


Companies argue that when an individual makes a purchase or registers at a

website, the consumer has established a relationship with the firm.  This implies that

consumers have permitted firms to send out promotional messages.  From the

company's standpoint, this is less costly since acquiring customer permission is a

costly process.  It is also a quick way to launch an e-mail marketing program.  Note that by the EU Directive on Data Protection discussed in Section 5, this satisfies the requirements for obtaining consent and hence, is not Spam.

The main issue here is understanding at what point the firm has established a relationship with the user.  If a consumer has bought a product from a firm once, does it mean that the consumer has established a relationship with the firm and given it permission to send him or her promotional messages?  How about if the consumer registered to read the news at a site? This is likely to be an issue of legal contention.

It is instructive to see if the problems identified earlier- privacy violation, volume, irrelevance, offensiveness and deceptiveness- will persist with this form of communication.  A critical analysis indicates that these problems remain- individuals do not expect to receive these messages and hence, it is a violation of privacy, companies have incentives to send a lot of messages, relevance is not guaranteed etc. Hence, while this method is company-friendly it is not necessarily customer-friendly.

*Deceptive permission*

Obtaining customer permission is a costly and time-consuming process with a low success rate.  Recognizing this, several websites now obtain customer permission through surreptitious means.

Typically, the consumer visits the website and registers to read news or buy a product.  In one of the registration forms, there is a box that is already checked off that says- "If this box is checked, we will send you promotions in the future."  The

consumer has to locate this box and actively un-check it if she does not want to receive promotional e-mails. Since many consumers gloss over the long, legal forms, they may not even remember having checked the box off.

Technically, while these firms have received the individual's consent to send promotional e-mails, they really have done so through a deceptive means. Since the e-mails are not sent with the "explicit" permission of the consumer, this is still Spam as defined in Section 2. Once again, this method leads to a violation of customer privacy and leaves the door open for a high volume of messages that are potentially irrelevant. However, since the consumer visits the website before the messages can start, the likelihood of offensive e-mails arriving in this way is small.

*Permission creep*

In this case, the consumer provides a firm the permission to send one form of e-mail. For example, he or she may indicate an interest in one small category such as gardening. However, the company is contacted by a large company who wants to contact consumers interested in vegetarian cooking. The firm reasons that gardeners are also interested in vegetarian cooking and sends out the messages to them. Strictly speaking, this is not what the consumer asked for and hence, is unsolicited.

From the consumer's standpoint, this may not be as pernicious a variant. Since the consumer has explicitly entered into a relationship, there is no violation of privacy and it is unlikely that any offensive messages will be sent. This will only lead to an incremental increase in the volume of messages.

*Spam from a friend (viral marketing)[11]*

Since the firm realizes that it will get into trouble if it sends out unsolicited e-mail, it recruits individuals to, in effect, become Spammers. Individuals are told that they will receive money or earn points if their friends view a certain ad and/or purchase a certain product. An example of this approach is [www.epidemic.com](www.epidemic.com). The plan is that each consumer will send messages to his or her social network asking them to view ads. The consumer earns a commission for doing this.

The only difference between this and pure Spam is the sender- instead of a marketing firm, it is your "friend". One usually expects one's friends to send them messages of a personal nature. Therefore, the friend has assumed a higher level of permission than what was provided.

*Permission by association*

Individual 1 gives permission to firm X to send him e-mail about gardening. Individual 2 gives permission to firm Y to send her e-mail about gardening. Firm X meets firm Y. They decide to trade e-mails to form a larger pool. Soon, individual 1 receives e-mail from firm X for firm Y's product and individual 2 receives e-mail from firm Y for firm X's product. Both firms benefit by obtaining access to more addresses. However, in reality, the consumer received a promotional message from a firm she had not given permission to send her e-mails. Hence, it is Spam as per the definition of Section 2.

*Lock-in*

The consumer provides the firm the permission to send promotional e-mails in certain categories. Initially, the firm may send e-mails that the consumer likes. However, after a while, the consumer has had enough and wants to opt-out. At this

point, the consumer finds it very hard to find the instructions to opt-out and is held

hostage by the company- See http://www.clickz.com/cgi-bin/gt/article.html?article=2325

for an example.  The frustrated consumer continues to receive e-mails that he or she

has no interest in.  The problems here are in the area of irrelevance, volume and

violation of privacy.


## 7.  CHARACTERISTICS OF PERMISSION MARKETING

It is clear from the discussion in Section 6 that there is an urgent need to clearly

delineate what constitutes permission marketing if we are able to separate it from

Spam on a consistent basis.  We propose that the following elements be part of

every permission marketing campaign-

1. Explicit Permission Seeking Process
2. Verification Process
3. Recognition of Relationship
4. Access to Personal Information
5. Communication Control
6. Frictionless Exit Ability


First, the permission must be obtained in an explicit rather than an implicit manner.

This means that the firm must first assume that it does not have the customer's

permission to send out promotional e-mails.  Then, the customer must be presented

with a real choice of granting permission to the firm or not.  The customer's right to

be left alone must be honored.  The permission-seeking process must be clear and

devoid of deceptive tactics.


Second, the firm must verify the identity of each consumer.  This is necessary to

disallow consumers deceptively signing on others without their knowledge.  For

example, consumers may signup their friends and associates indiscriminately thus

placing undue transactional burden on them.  Permission marketing services that

offer this are referred to as "double opt-in" – e.g. yesmail.com. This is easily accomplished by sending an e-mail immediately after an individual registers.

Third, the consumer must understand that he or she is entering an on-going two-way relationship that is mutually beneficial. The consumer must understand that he or she is a willing partner of equal stature who stands to benefit from this alliance. Indeed, the goal of permission marketing is to develop such win-win relationships. A well-designed permission marketing campaign will create well-defined expectations in the mind of the consumer about the nature and volume of messages. Moreover, the consumer's perception of the level of permission will be aligned with the firm's perception of the permission level.

Fourth, the consumer must know exactly what the firm knows about him or her. Moreover, the consumer must be able to modify this information suitably at any point in time. This is the "access" part of the FTC's fair information practice list(Culnan 2000). The argument is that such continuous access to one's personal information would be empowering and reassuring to the consumer. Moreover, this is beneficial to the firm because consumers who update their profiles more often are more likely to receive relevant ads and hence, have higher response rates.

Fifth, the consumer must be able to control the nature and volume of messages being sent to him or her. The true promise of permission marketing is that consumers can control the flow of promotional messages to them. They can dictate the types of categories they will see ads for by filling out forms on interests and product preferences. This is being done routinely by many firms today. Some firms (e.g. chooseyourmail.com) also allow consumers to control the volume of e-mail in

any category.  This sort of control over promotional communication underscores the true promise of permission marketing.

Finally, the consumer must be able to effortlessly exist from a permission marketing relationship at any point.  Not letting consumers exit at any point equates to assuming one has the permission to market to them when, in fact, one does not.  Moreover, frustrated consumers will no longer attend to the messages leading to low response rates.

Now, in Table 2, we provide a comparison of the six variants of Spam discussed in Section 6 and true permission marketing as presented here based on the six dimensions identified here.

**[Insert Table 2 About Here.]**

It is clear from the Table that pure permission marketing satisfies all five elements listed above while pure Spam satisfies none.  All others fall in between.

## 8.	DISCUSSION

Even though unsolicited commercial e-mail or Spam continues to be a major problem, very little academic research has focused on it.  Notable exceptions include Shiman(1996), Cranor and LaMacchia(1998), Samoriski(1999) and Sheehan and Hoy(1999).  Our purpose in this paper was to provide a comprehensive overview of the Spam problem and a critical analysis of the solutions.

We began by providing a simple definition of Spam.  This was followed by an analysis of the pernicious impact of Spam on the major stakeholder groups- consumers, Internet Service Providers, legitimate advertisers, e-commerce firms and employers.

Next, we analyzed the various proposed responses to Spam- ranging from laissez faire arguments to legislative solutions.  Then, we focused upon one proposed solution- permission marketing (Godin 1999).  Our argument is that, even though permission marketing has merit, there has been an inconsistent application of this idea.  To support this, we discussed six variants of the original concept of Spam that purport to use permission marketing.  Based on this discussion, we proposed six key elements that must be a part of every permission marketing campaign if it has to be clearly distinguished from Spam.

There is no silver bullet to limiting the volume or nature of Spam.  Permission marketing can be part of the solution if marketers use the five elements that we propose.   Firms must realize that it is the consumer who owns permission rights and not them. True permission marketing must allow consumers to freely enter and exit the relationship.  Consumers must be able to see and modify their profiles at any point in time.

Our vision of e-mail marketing is that of an ad marketplace where consumers who are interested in receiving promotional e-mails are matched with responsible marketers who send them these messages.  All e-mail is strictly solicited.  This is a solution that bodes well for all stakeholder groups of the Internet and hence, it is worth striving for.

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Table 1

Content Analysis of Spam Messages

| Categories | No. of Messages | % of Total |
|---|---|---|
| Pornography | 29884 | 30.2 |
| Money Making/Get Rich/Work from Home | 29365 | 29.6 |
| Other Direct Product or Service/Misc | 23326 | 23.5 |
| Become a Spammer | 4200 | 4.2 |
| Gambling/Sweepstakes | 3279 | 3.3 |
| Health/Cures/Weight Loss (including Viagra) | 9804 | 9.9 |
| **Totals** | **99858** | **100.7** |

**TABLE 2**

| Spam Variant | Explicit Permission Seeking Process | Verification Process | Recognition of Relationship | Access to Personal Information | Comm-unication Control | Frictionless Exit |
|---|---|---|---|---|---|---|
| Pure Spam | No | No | No | No | No | No |
| Spam with opt-out | No | No | No | Possible | Poor | Yes |
| Spam from a friend | No | No | Poor | No | Poor | Yes/No |
| Deceptive Consent | No | No | No | Possible | Possible | Yes/No |
| Permission by Association | No | Possible | Poor | No | Poor | Yes/No |
| Lock-in | Initially, yes | Possible | Poor | No | No | No |
| Permission Creep | Initially, yes | Possible | Poor | Possible | Poor | Yes/No |
| True Permission Marketing | Yes | Yes | Yes | Yes | Yes | Yes |

**ENDNOTES**

[1] In comparison, non-marketing and personal correspondence is expected to rise at a much slower rate from 1,750 in 1999 to almost 4,000 in 2005.

[2] The term Spam is generally thought to have originated from a comedy sketch on a famous TV show- Monty Python. See, for example, http://www.cybernothing.org/faqs/net-abuse-faq.html#2.4.

[3] Some also include other vehicles of advertising such as banner ads in their definition. We believe that e-mail represents a unique set of issues and hence, focus on it.

[4] A small group of consumers who actually buy the products advertised in Spam may benefit as well- see laissez faire arguments in Section 4. Most surveys report this number to be small. For example, a survey by the Spam Recycling Center reports that only 2.4% of respondents recalled buying anything advertised in a Spam message- http://www.chooseyourmail.com/CONCLUSIONS.HTML.

[5] Usually, deceptiveness is used in a legal context (Richards 1990). In this legal perspective, the focus is on actual financial or physical harm to the consumer. At this point, the FTC reports that the number of people being misled to buy products or take actions that lead to financial or physical harm is pretty low. Hence, with Spam the issue is more of unethical communication practice rather than deceptiveness in the sense of Richards(1990) when it comes to consumers. Real financial harm is being caused to Internet Service Providers and in the long-run, to E-commerce firms and Legitimate advertisers.

[6] This framework has commonalities with the three elements describing the harm caused by a marketing message as identified by Nebenzhal and Jaffe(1998)- Violation of autonomy by control or manipulation (volume, deceptiveness, offensiveness), invasion of privacy (privacy) and the violation of the right to know(deceptiveness).

[7] A survey (http://www.Spamsummit.com/presentations/leo/) conducted by AT&T Worldnet- a leading ISP- asked consumers why they disliked Spam. The reasons in order of descending importance were the messages were time consuming to delete, they obscured the legitimate e-mail that consumers received, it was viewed as an invasion of privacy, the topics were offensive, the topics were inappropriate for a family and finally, it led to certain costs. This is consistent with the discussion above.

[8] Even though the originating source of an e-mail can be forged, the actual path taken by the e-mail cannot be forged. Resourceful consumers can trace the path by using the traceroute command. See, for example, www.mindworkshop.com/alchemy/noSpam.html. Other commands that are useful are whois and dig.

[9] A list of common scams sent through Spam is available at- http://www.ftc.gov/bcp/conline/pubs/alerts/doznalrt.htm.

[10] Roger Ebert, the noted film critic, has launched an innovative effort to fight Spam. His reasoning is that Spammers only have an incentive to continue to send

unsolicited messages if a significant proportion of consumers respond positively to such messages.  Hence, if the efforts of consumers can be coordinated to ensure that nobody buys as a result of Spam, this phenomenon will go away.  The main problem with this approach is that it is hard to achieve consumer coordination.

[11] The argument here is not that all forms of viral marketing equate to Spam.  Only the more direct forms of viral marketing where a consumer is paid an incentive to sell products or disseminate messages would fall in this category.