

Survey Reports Junk E-Mail Costs U.S., E.U. \$10 Billion Annually

BRUSSELS—Internet junk mail in the United States and the European Union is costing consumers and business more than \$410 billion annually, concluded a new European Commission-sponsored survey.

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As a result of the study, the E.U. executive body said February 2, 2001 it will press for support of proposed changes to data privacy laws introduced in 2000. Those proposals call for strict rules dealing with unsolicited e-mail.

The Commission said the survey and results were drawn primarily from studying the use of junk or “spam” e-mail in the United States. The \$10 billion cost is related to connectivity charges for on-line users who spend time opening unsolicited e-mail.

“This survey shows that more than half a billion unsolicited e-mail messages are being sent around the world,” said Commission Spokesman Jonathan Todd. “It underlines the need to have strict restrictions on unsolicited e-mail.” But the Commission did say that e-mail marketing groups, especially in the United States, were not making efforts to give consumers the choice of whether or not they want to receive unsolicited e-mail.

The study’s analysis of e-mail marketing concentrates on the most developed market, the United States, and details how, in response to the rapid growth of junk mail, the e-mail marketing industry is working with Internet users towards systems of data collection and exchange based on the express permission of the user.

The Commission also said the survey shows that E.U. Member States are applying the current E.U. data privacy directive in different ways when it comes to current rules dealing with unsolicited e-mail. “Protection is afforded via either opt-outs, where a consumer or business can tick a box if they do not wish to receive unsolicited information, or opt-ins that require a formal request to receive such information,” the Commission report stated. “Opt-ins are required in Austria, Denmark, Finland, Italy and Germany. The rest of the E.U. Member States use the opt-out approach.”

Commission Moving Toward Opt-In Rule

The Commission proposes to update its current data privacy directive in July 2001. Despite heavy lobbying by some large U.S. companies, the new amendments would make it explicit that any junk mail could only be sent to a consumer or business on an opt-in basis.

“This study backs up our proposal because it found that from the point of view of industry the so-called ‘permission-based marketing’ is proving a more effective and viable method of data collection,” said Todd. “The study also found that the opt-in approach would serve to bolster consumer confidence in the European Union and the use of electronic commerce. It would also help eliminate the differences in the way the current E.U. data privacy directive is implemented.”

Currently the Commission has pending legal action in the European Court of Justice against four Member States—Ireland, Luxembourg, France and Germany—for failing to implement the E.U. data privacy directive.

In 2000 the European Union and the United States resolved a potentially damaging trade dispute over the issue of data privacy. The agreement reached last June gives recognition to a set of so-called “Safe Harbor” principles that U.S. companies can voluntarily sign up to as a way of abiding by the strict data privacy provisions of E.U. law (see *WLLR*,II:2,p.10).

However, the Commission is closely monitoring the results of U.S. companies applying the “Safe Harbor” principles. The E.U. executive body continues to insist that it will not hesitate to revoke its agreement with the United States and push for the blockage of trans-Atlantic data flows if strict rules based on access to data for private citizens are violated.

Commission proposals to amend to amend the E.U. data privacy directive are pending before the Council of Ministers and the European Parliament.

A copy of the survey results can be viewed at
http://europa.eu.int/comm/internal_market/en/