

Internetdagarna den 8 september 2003

LINDAHL

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*Amerikanska
lagstiftningsåtgärder mot spam*

kvalitet
integritet
effektivitet

www.lindahl.se



Vad är spam?

- Otillbörligt skickad
- Oönskad
- Obeställd
- Kommersiell
- E-post
- Om inte allt ovan -
gränsdragningsproblem!

Amerikansk utveckling

- Stämningar mot spammare, exempelvis mot Brian Westby m. Martijn Bevelander
- Federala lagförslag
- Regionala (statliga) lagar

Federala lagförslag

- Summary of bills introduced in 108th Congress
- Anti-Spam Act of 2003 (H.R. 2515) (Wilson)
- Ban on Deceptive Unsolicited Bulk Electronic Mail Act of 2003 (S. 1052) (Bill Nelson)
- CAN-SPAM Act of 2003 (S. 877) (Burns-Wyden)
- Computer Owners' Bill of Rights (S. 563) (Dayton)
- Criminal Spam Act of 2003 (S. 1293) (Hatch)
- Reduction in Distribution of Spam Act of 2003 (H.R. 2214) (Burr)
- REDUCE Spam Act of 2003 (H.R. 1933) (Lofgren)
- Stop Pornography and Abusive Marketing Act (S. 1231) (Schumer)
- Wireless Telephone Spam Protection Act (H.R. 122) (Holt)

Fed: Lessig och Zoe Lofgren

“A bounty on spammers”

Restrict and Eliminate the Delivery of
Unsolicited Commercial Electronic Mail
Spam Act, REDUCE ACT

- rätt att leta upp spammare
- belöning till den som hittar
- “ADV:”-märkning
- USD 10 per meddelande

Regionala lagsförslag

I 36 av 50 delstater:

Alaska - Arizona - Arkansas - California - Colorado - Connecticut
- Delaware - Idaho - Illinois - Indiana - Iowa - Kansas - Louisiana
Maine - Maryland - Michigan - Minnesota - Missouri - Nevada
New Mexico - North Carolina - North Dakota - Ohio
Oklahoma - Oregon - Pennsylvania - Rhode Island - South Dakota
- Tennessee - Texas - Utah - Virginia - Washington - West
Virginia - Wisconsin - Wyoming

State: Kalifornien

Gov. Gray Davis Anti-spam
bill:

http://info.sen.ca.gov/pub/bill/sen/sb_0151-0200/sb_186_bill_20030911_enrolled.html

Omvänd bevisbörda

Böter

Kritik: kan drabba
småföretag

Löser inte int. spam.

Case law

Intel Corp. v. Hamidi (Cal. 2003)

Gillman v. Sprint Communications Co. (Utah 3d Dist. Salt Lake County 2003)

Ferguson v. Friendfinders (Cal. App. 2002)

State v. Heckel (Wash. 2001)

Verizon Online Services, Inc. v. Ralsky (E.D. Va. 2002)

Hotmail v. Van\$ Money Pie (N.D. Cal. 1998)

CompuServe v. Cyber Promotions (S.D. Ohio 1997)

Aronson v. Bright-Teeth Now (Pa. Com. Pl. 2002)

Aronson v. Bright-Teeth Now (Pa. Super. 2003)

Destination Ventures, Ltd. v. FCC (9th Cir. 1995)

Kaufman v. ACS Systems, Inc. (Cal. App. 2d Dist. 2003)

Missouri ex rel. Nixon v. American Blast Fax, Inc. (E.D. Mo. 2002)

Missouri ex rel. Nixon v. American Blast Fax, Inc. (8th Cir. 2003)

Intel vs Hamidi

Hamidi skickade e-post till anställda på Intel och erbjöd utbildning.

6 meddelanden under 2 års tid.

California Court of Appeal: "Trespass to chattels"

Nu: California Supreme Court

Ineffektivt för vem?

Supreme Court i Reno v. ACLU (521 U.S 844 (1997)) : Communications Decency Act.

Judge Scalia:

"[if the government] succeeds in excluding children from 250 out of 500 [indecent bookstores] that's no use?"

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