

# TACD

TRANS ATLANTIC DIALOGUE TRANSATLANTIQUE  
CONSUMER DIALOGUE DES CONSOMMATEURS

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## RESOLUTION ON UNSOLICITED COMMERCIAL ELECTRONIC MAIL

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### Results of TACD's online survey on attitudes to Spam

Unsolicited commercial electronic mail (Spam) continues to place a heavy burden on people who use email. In an international online survey coordinated by the TACD from September 8, 2003 to December 8, 2003, 83% of respondents said that 10% or more of the emails they received each day were unsolicited commercial messages; 42% of respondents said that unsolicited commercial emails comprised over half of the messages they received daily. The overwhelming majority of respondents said that they either "hate" or "are annoyed by" receiving unsolicited commercial electronic messages and called for them to be banned.

In addition, 82% of respondents said that, given a variety of possible approaches to the use of commercial electronic mail, governments should mandate an "opt-in" approach, which would only allow such messages to be sent if the recipient has agreed in advance to receive them. Respondents in the United States and in European Union member countries shared this belief equally.

On the question of labeling commercial electronic mail, 80% of respondents said that it would help if labelling as advertisements was required. Regarding email-filters, only 17% said that they worked very well, with 54% reporting that the filters blocked messages they want or let through too many messages that they don't want to receive, or both.

The TACD survey shows that concern about unsolicited commercial electronic messages clearly has a negative impact on the growth of e-commerce. Fifty-two percent of respondents said that they shop online less or not at all because they are worried about receiving such messages.

### EU / US policy approaches to Spam

The European Union has adopted Directive 2002/58/EC on privacy and electronic communications, which balances the fundamental right of individual privacy with the interests of direct marketers by mandating an "opt-in" approach for commercial electronic mail, with an exception when the recipient has a previous relationship with the business. In that case, the business may send messages advertising similar products or services, but the recipient must be given the option to opt-out of receiving further email solicitations. The EU has also prohibited

disguising or concealing the identity of the sender and failing to provide a valid address to which requests that such communications cease can be made.

By contrast, legislation recently enacted in the United States takes the opt-out approach to unsolicited commercial electronic mail, allowing it to be sent and shifting the burden to recipients to object to future messages. It authorizes, but does not require, the Federal Trade Commission to set up a national “do not email” registry for people who do not want to receive unsolicited commercial electronic messages. The FTC is required to promulgate rules to modify and clarify certain provisions of the law as appropriate. As with the EU Directive, US law prohibits fraudulent or deceptive headers and requires commercial electronic messages to contain valid address information. However, the US and EU laws differ significantly in other respects.

In previous resolutions, the TACD has noted that the use of unsolicited commercial electronic mail is a global issue on which governments should work together to develop common approaches. Since the United States and the European Union represent the most significant economies in the world, their close cooperation and leadership on the issue of unsolicited commercial electronic mail is vital.

Therefore, TACD adopts the following resolutions:

1. The TACD calls upon the US government to create a national “do not email” registry so that any email user in the US who does not wish to receive unsolicited commercial electronic mail may exercise that right. The TACD further calls on both the US and the EU governments to work cooperatively to bring their laws regulating unsolicited commercial electronic mail into harmony where such consistency would provide the strongest protection for email users, and to actively promote common legislative approaches based on respect for the fundamental right of privacy in other regions of the world.
2. TACD urges Internet access and service providers to use all appropriate technological and legal measures to block unsolicited commercial electronic mail to the extent possible. The TACD also urges Internet access and service providers to provide consumers with user friendly filter software, and inform them about their options and rights in respect to unsolicited commercial electronic mail.
3. TACD calls upon the US and EU governments to work in close cooperation with consumer organizations, Internet access and service providers, online marketers, educators, and others to provide children and younger people with more effective protection from unsolicited commercial electronic mail.
4. Finally, TACD urges the US and EU governments to implement effective means to enforce the legal requirements relating to unsolicited commercial electronic mail nationally, regionally, and on a transatlantic basis, and to promote effective global enforcement mechanisms.