I recently received a press release from some friends at the Montreal-based Vircom company, makers of Modus e-mail security solutions. Quoting from the press release (with edits),

> The Vircom SpamBuster Team observed less than 15% compliance with the recent FTC rule for labeling e-mail containing sexually oriented material. Effective May 19th, the rule adopted by the Federal Trade Commission (FTC) decreed that all e-mails containing sexually oriented material must include the warning label 'SEXUALLY-EXPLICIT' in the subject line. The Rule implements the requirements of the CAN-SPAM Act by requiring that any person who initiates, to a protected computer, the transmission of a commercial e-mail that includes sexually oriented material must: (1) Exclude sexually oriented materials from the subject heading and include in the subject heading of that e-mail the mark "SEXUALLY-EXPLICIT" and (2) provide that the matter in the e-mail message that is initially viewable when the message is opened include only certain specified information, not including any sexually oriented material.

Over a 2-week period, Vircom's SpamBuster Team analyzed over 300,000 pornographic e-mails that should have been classified as 'SEXUALLY-EXPLICIT' under the new FTC rule. Only 15% of these e-mails were actually labeled in accordance to the law.

"Of the rare few we found that actually complied with the new FTC ruling, most came from the same sources" said Marc Chouinard, head of Vircom's SpamBuster Team. "This indicates that the vast majority of spammers who distribute sexually explicit material either do not know or do not care about eventual legal repercussions."

In a recent interview with a spammer who exclusively distributes sexually oriented material, Vircom asked why spammers will not comply with the new FTC rule. "If I write 'SEXUALLY-EXPLICIT' in the header, I can guarantee that none of my e-mails will make it through a spam filter. In fact, it won't even make it through Outlook rules" said Paul. "You might as well kiss your job goodbye."

"We are not surprised in the least that spammers are not complying with the labeling rule," said Michael Gaudette, Product Manager for Modus anti-spam solutions. “Unless the rule becomes harshly enforced, it will have negligible influence on pornographic spam. You have to remember why spammers actually spam; to get their message through to you."<

We should hardly be surprised. Indeed, antispam activists severely criticize the majority of antispam measures proposed or passed by the US Congress and even the concept of using laws as a defense against spam on the following grounds:

* The very definition of spam remains ambiguous;

* Most bills would explicitly supersede more severe state antispam laws, reducing pressure on spammers;
* Many of the laws preclude civil litigation for damages against spammers;

* Most of the laws are based on opting out of spam, allowing potentially huge numbers of unwanted e-mail messages to be sent to victims;

* The laws would essentially legalize spam and place the burden of stopping it on the recipients;

* Offshore spammers would be unaffected by any legislation;

* Litigation against criminal spammers using false identification would remain difficult.

At a fundamental level, we are suffering from spam for several underlying reasons:

1) Sending e-mail, even millions of unwanted messages, is free or almost free.

2) The current architecture of the Internet, based on IPv4, has no facility for forcing packet authentication, so most spammers can spoof headers with impunity and remain immune from identification and prosecution in the real world.

3) Enough people respond to commercial spam to maintain its profitability.

Until some or all of these underlying issues change, all the laws in the world will have about as much effect on spam as antidrug laws have had on illicit drugs.

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For further reading:


Vircom White Papers (PDF; registration required) <http://www.vircom.com/Products/Modus3/Whitepapers.asp>

* Why Spammers Spam.
* Can Laws Block Spam?
* Spam Glossary of Terms.
* The Modus Manifesto.
* The Anti-Spam Buyer’s Guide.

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