



FACT SHEET

A consumer's guide to spam

What is spam?

Spam is the common term for electronic 'junk mail'—unwanted messages sent to your email account or mobile phone. The *Spam Act 2003* (Spam Act) regulates the sending of commercial electronic messages and prohibits the sending of these messages except in certain limited circumstances.

Some spam promotes a product or invites you to visit a website; other spam tries to trick you into investing in fraudulent schemes, or revealing your bank account or credit card details. Email spam often carries viruses.

Amongst other things, the *Spam Act 2003* covers email, mobile phone messages (text messages/SMS, MMS) and instant messaging. It is enforced by the Australian Communications and Media Authority (ACMA). The Spam Act does not cover faxes, voice telemarketing or internet pop-ups.

How can I tell if a message is spam?

Any commercial message sent to you by email or to your mobile phone that does not meet the following conditions may be in breach of the Spam Act:

- **Consent:** it must be sent with your consent, either express consent or inferred from a business or other relationship between the individual and organisation.
- **Identify:** it must contain accurate information about the person or organisation that authorised the sending of the message.
- **Unsubscribe:** it must contain a functional 'unsubscribe' facility to allow you to opt out from receiving messages from that source. Your request must be honoured within five working days.

Tip: Information about consent is available at www.spam.acma.gov.au

What can I do if I receive spam?

Some spam is sent by professional spammers in Australia and overseas, while other spam is sent by legitimate businesses that are not complying with the Spam Act. If you receive commercial messages to your email address or mobile phone, you have several options.

Do not respond if the email message seems dubious

If you receive an email that seems dubious, or the subject line or sender looks suspicious, it is safest to delete it immediately without opening it. Do not reply, and do not click on any links, including 'unsubscribe' links; doing so may result in even more spam. Do not buy spam-advertised products or services as many are fraudulent.

If the source seems genuine, contact the business to make a complaint

If you have already opened the message and it promotes a legitimate Australian business, you may wish to contact them by phone or in writing, to make a complaint and ask them to take you off their mailing lists. As legitimate businesses do not operate in the same way as professional spammers, unsubscribing to their emails can also be a low-risk and quick way to prevent future spam.

Tip: Information about protecting yourself from spam is available at www.spam.acma.gov.au

If commercial electronic message sent to your mobile phone seems dubious, make a complaint

If you have received a commercial message to your mobile phone and you:

- do not know how the message sender got your mobile telephone number
- can not identify who the message sender is
- can not see a way to unsubscribe from receiving the message, e.g. an instruction to reply 'STOP' or 'UNSUB'
- have already tried to unsubscribe from receiving messages from this sender, but they have not stopped;

you can make a complaint to ACMA.

Making a complaint to ACMA

You can make an enquiry or complaint by completing the online form at www.spam.acma.gov.au. The online complaint form outlines the information that ACMA requires from you, and provides an option for you to indicate if you would be willing to assist ACMA in any enforcement actions that may be initiated against the spammer.

CANBERRA CENTRAL
 Purple Building Benjamin Offices
 Chan Street
 Belconnen ACT 2617
 PO Box 78
 Belconnen ACT 2616
 T: 02 6219 5555
 F: 02 6219 5200

MELBOURNE CENTRAL
 Level 44, Melbourne Central Tower
 360 Elizabeth Street
 Melbourne VIC 3000
 PO Box 13112 Law Courts
 Melbourne VIC 8010
 T: 03 9963 6800
 F: 03 9963 6899

SYDNEY CENTRAL
 Level 15, Tower 1 Darling Park
 201 Sussex Street
 Sydney NSW 2000
 PO Box Q500
 Queen Victoria Building NSW 1230
 T: 02 9334 7700
 F: 02 9334 7799

Where can I find out more?

For more spam-related information, including frequently asked questions, complaint and enquiry forms and to download SpamMATTERS software, visit the ACMA website at www.spam.acma.gov.au.

Please note: this document is intended as a guide only and while every reasonable effort has been made to ensure the information is accurate at the time of publication, it should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.