

Dec. 6 2003

Dear Congressman Baird,

Recently the House voted without dissent on a bill intended to curb the flow of Unsolicited Commercial E-mail (UCE, or "SPAM" – apologies to the Hormel Corporation) from Internet users' e-mailboxes by enacting some regulations regarding e-mail solicitations.

As a partner in an Internet Service Provider firm and a long time e-mail user, I applaud the efforts of Representatives to tackle this difficult problem. I am disappointed with some details which may significantly reduce the potential effectiveness of the law.

As I see it, the so-called "Can Spam Act" (apologies to the Hormel Corporation), is similar to the European law in that it legitimizes UCE provided the sender: 1) doesn't falsify the return address; 2) doesn't use a misleading subject header; 3) provides a means to "opt-out" of the future mailings; 4) doesn't harvest e-mail address from public web sites.

In comparison, European Union Directive 2002/58/EC states, "In any event, the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited."<sup>i</sup>

I encourage you to consider a Bill prohibiting unsolicited commercial e-mail the same way "junk faxes" and telemarketing phone calls are restricted, and include punitive damages paid to ISPs to assist in recouping costs associated with dealing with UCE.

To help you understand my concerns, I will attempt to explain the economic situations Internet Service Providers face as a result of UCE and other junk mail.

First, a few examples to understand the time and cost effects incurred by ISPs and e-mail users in dealing with junk e-mail;

Industry giant AOL states that about 30% of the 30 million e-mails they process per day are UCE plus they employ 6 full time staff to filter mail.

My personal e-mail accounts gather about 150 UCE per day. I would estimate that my total is higher than most users as my address is published on numerous public websites where illicit marketers to harvest data using search-bots. A weekend away from the computer makes for about 25 annoying minutes to dispose of the electronic flotsam - not to mention the numerous instances per day when I delete half a dozen ads for a variety of products I did not request.

Conversations with users of "freemail" services (hotmail, yahoo, etc.) indicate even a higher volume of UCE, including mail from the free mail services' "partners" or every kind. In many instances, customers of the advertising supported mail services use such addresses as a "junk mail address" and use it only when signing up for web sites and services likely to send continued marketing messages while using another address for personal correspondence.

My colleague who administrates our firm's e-mail servers spends about 2-10 hours a week listing and de-listing addresses in various "black hole" services not to mention project time spent ensuring servers are constantly updated to prevent against e-mail spread viruses. He suggests he could do almost an endless amount of work preventing junk mail without success. His difficult task is due to the methods used by illegal e-mailers who use security vulnerabilities in popular operating systems to "hi-jack" unprotected computers which send out the masses of mail, often spoofing the computer's e-mail addresses book as a return address which encourages the receiver to open the message. By the time the unsuspecting customer's ISP catches the problem, the felonious hacker's virus program has been sent to thousands of other machines, and so on ...

Additionally, my company deals with numerous support calls and e-mails per week including frustrated users whose mail's utility is hampered by excess junk mail and virus. Indeed, the Washington State Attorney General's office points out that UCE is the number one consumer complaint received by their office.

A study by the European Union in 2000 suggests that, "on a world scale, assuming a worldwide online community of 400 million, the global cost of downloading advertising messages using current technology may be conservatively estimated at \$10 billion - and that is just the portion of the cost borne by the web surfers themselves."<sup>ii</sup>

Additional cost inputs are mail server CPU usage, subscriptions to filters and blacklist services, and backbone bandwidth. This is beyond the cost of technician time, customer frustration and the inconvenience of occasionally missed mail due to filtering, either incoming or outgoing.

The market does not bear these inefficiencies well. As the price of the Internet service increases, the total users of Internet services decreases, shifting the supply curve to the left (see illustration below). The results of this shift are higher prices and lower usage rates – certainly an unfavorable situation considering the benefits to society the Internet offers.

Again, I am thankful to Congress for addressing this important issue and trust you will continue to monitor the success of the Act law in action.

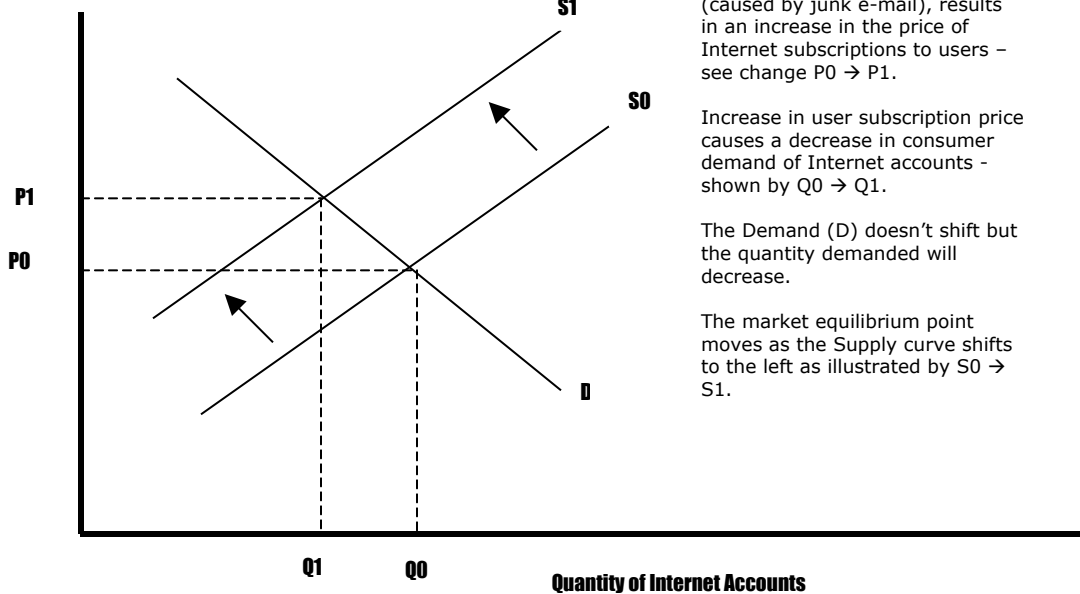
With regards,

Dave Olson  
Olympia, WA

<sup>i</sup> The European Parliament and the Council of the European Union Directive 2002/58/EC - 12 July 2002 - Directive on privacy and electronic communications - Article 13 Unsolicited communications [http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lq=en&numdoc=32002L0058&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lq=en&numdoc=32002L0058&model=guichett) - accessed Nov. 10, 2003

<sup>ii</sup> The European Commission Internal Market – Commission study: “Junk” e-mail costs internet users euro 10 billion a year worldwide” [http://europa.eu.int/comm/internal\\_market/privacy/studies/spam\\_en.htm](http://europa.eu.int/comm/internal_market/privacy/studies/spam_en.htm) – accessed Nov. 10, 2003

**Price of Internet access**



Increased costs incurred by ISPs (caused by junk e-mail), results in an increase in the price of Internet subscriptions to users – see change P0 → P1.

Increase in user subscription price causes a decrease in consumer demand of Internet accounts - shown by Q0 → Q1.

The Demand (D) doesn't shift but the quantity demanded will decrease.

The market equilibrium point moves as the Supply curve shifts to the left as illustrated by S0 → S1.