



Worldwide, Laws and Legislation Impacting Research

By Howard Fienberg

Countries around the globe are expanding their data privacy laws and placing restrictions on the delivery of e-mail, faxes and telephone calls. For this issue, MRA surveys recent developments across the global legal landscape:

Japan

At the beginning of December, Japan tightened its anti-spam laws, creating an opt-in standard for commercial e-mail sent from or to Japan. The law requires accuracy in headers and subject lines and honoring opt-out requests in a similar fashion to the U.S. CAN-SPAM Act. However, unlike in the U.S., these amendments in turn have created an opt-in regime for commercial e-mail in Japan. Violations can result in steep fines or up to a year in prison.

APEC

The Data Privacy Subgroup of Asia-Pacific Economic Cooperation (APEC)

met most recently in February about the development of model privacy rules to govern cross-border transfers of data. Their completion is not yet in sight, but APEC continues to work from the basis of the OECD Guidelines on the Protection of Privacy and Trans-Border Flows of Personal Data.

Philippines

The Philippines House of Representatives is considering the "Data Protection Act" (House Bill 3828), which would penalize the unauthorized processing of personal data with fines and six or more years in prison. The Act would also launch a National Data Protection Commission to register and regulate data controllers and processors (such as survey and opinion research organizations and telephone call centers).

Canada

According to the latest survey from the

Marketing Research and Intelligence Association (MRIA), eight in 10 respondents registered on Canada's new Do Not Call list are receiving fewer telemarketing calls. However, many registrants complain about receiving an increased number of telemarketing calls. The Canadian Radio-Television and Telecommunications Commission (CRTC), which runs the list, recently stated it has 500 official investigations underway. Survey and opinion research calls are exempt from the list.

China

Regulations enacted by the People's Republic of China's Juangsu Province in January will levy fines of up to RMB 5,000 (\$730 U.S.) for Internet users that reveal personal information of other individuals, along with a six-month block on their IP address. Such personal information could include addresses, occupations, salaries and ages. Other provinces

are expected to follow suit because of the rise in personal lawsuits over online privacy breaches.

Israel

Israel's new law targeting commercial e-mail, faxes and automated messages came into effect at the beginning of December and includes e-mail and faxes sent to Israel from abroad. It prohibits the delivery of "advertising material" using mobile text messaging, e-mail, fax or automatic dialing systems without first obtaining the recipient's explicit written consent.

Israel defines "advertising material" as "any commercial message, the object of which is to encourage the purchase of a product or service, or to encourage spending money in any other way." The provisions may only be intended to target messages sent to a "large number of recipients," but does not define what that threshold may be.

Exceptions exist to send an initial inquiry to businesses as to whether or not a recipient wishes to receive marketing e-mails or for established business relationships with consumers. Recipients would

still be able to opt out of future communications. The new law also requires advertisers to include the word "advertisement" in a commercial message as well as their name, address and contact information, including an e-mail address that recipients may use to opt out.

Israeli recipients of unsolicited spam may sue senders for upwards of \$250 for every piece, without proving actual damages. Violators may face criminal penalties, and more than \$50,000 in fines. In addition, the violator's general manager or officer in charge of advertising or marketing activities may be subject to personal liability, including fines of up to \$20,000.

Vietnam

Last year, Vietnam issued a "Decree on anti-spam mail." Organizations and individuals who send unsolicited commercial e-mail and text messages, trade in e-mail addresses, or deliver software products that collect e-mail addresses, may be fined up to VND80 million (US \$5,000) by the Ministry of Information and Communications.

Resources:

- Japan Ministry of Internal Affairs and Communication: <http://www.soumu.go.jp/english>
- APEC Privacy Framework: <http://www.dpmc.gov.au/privacy/apec/cross-border.cfm>
- Canada's Do Not Call list: <https://www.lnnte-dncl.gc.ca>
- Marketing Research and Intelligence Association (MRIA): <http://www.mriarim.ca>
- Notice on Israel's anti-spam law: http://www.moc.gov.il/sip_storage/FILES/5/1545.pdf

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