

SPAMALITTLELESS*

Posted on 23/11/2009 by [Rosemary Wallis](#)

Those of us who arrive at work on Monday morning to find our computers have been besieged over the weekend with advertisements for implants for certain parts of anatomy which we don't possess, or for offers for vastly increasing our performance in non work related matters, may take some satisfaction, albeit small, over recent fines imposed by the New Zealand courts on three spammers.

In total, fines of \$250,000 have been imposed on three convicted spammers. Lance Atkinson was fined \$100,000 in December 2008 for his part in the scheme. Following later guilty pleas in October 2009 his brother Shane Atkinson has been fined the same amount, and an associate, Roland Smits, who had a lesser part in the scheme, \$50,000.

The spamming came from a marketing scheme by a company based in Mauritius, Genbucks, which used affiliates to market various products including pharmaceutical products and adult sex toys. Lance Atkinson's job was to recruit affiliates to conduct internet sales and marketing. Commission was paid on the sales he made and on the sales of the affiliates he recruited. His brother Shane co-managed the programme and Mr Smits provided administrative support. With overseas assistance, the spamming was tracked to New Zealand.

In delivering the latest sentence in the High Court in Christchurch, French J said the predominant marketing method was to send unsolicited electronic messages using email address lists, or spamming.

Two million emails were sent during the period of 5 September to 31 December 2007. The judge described the spamming operation as one of the largest in the history of the internet.

The messages breached the Unsolicited Electronic Messages Act 2007 because they were:

- unsolicited
- did not include accurate sender information; and
- did not include a functional unsubscribe facility.

All the defendants signed cooperation agreements, the precise contents of which are to remain confidential by court order. However, as well as payment of the fines, the defendants have undertaken not to repeat the offences.

As the maximum fines payable by an individual under the Act are \$250,000, the fines, which are the first to be imposed under legislation, are reasonably substantial. While they are unlikely however to have much impact on our daily diet of spam, the fines are a reminder that unsolicited marketing emails without a functional unsubscribe facility and accurate sender information breach the Act.

** With apologies to Eric Idle and the Monty Python team.*