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Spamsters know the laws will never be enforced
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The Internet is choking on spam. Billions of unsolicited commercial messages _ constituting almost 50 percent of all e-mail traffic _ fill the inboxes of increasingly impatient Internet users. These messages offer to sell everything from human growth hormones to pornography. And increasingly the offers to sell pornography are themselves pornographic.

So far, Congress has done nothing about this burden on the Internet. Many states have passed laws that have tried. Virginia just passed the most extreme of these laws, making it a felony to send spam with a fraudulent return address. Other states are considering the same.

Yet all of these regulations suffer from a similar flaw: Spamsters know the laws will never be enforced. The cost of bringing a lawsuit is extraordinarily high. Most of us have better things to do than sue spamsters. Thus, despite a patchwork of regulation that in theory should be restricting spam, the practice of spam continues to increase at an astonishing rate.

But last week, U.S. Rep. Zoe Lofgren, D., Calif., introduced a bill that, if properly implemented by the Federal Trade Commission, would actually work. I am so confident she is right that I've offered to resign my job if her proposal does not significantly reduce the burden of spam.

The Restrict and Eliminate Delivery of Unsolicited Commercial E-mail (REDUCE) Spam Act has two important parts. First, anyone sending bulk unsolicited commercial e-mail must include on each e-mail a simple tag _ either ADV: or ADV:ADLT. Second, anyone who finds a spamster who fails properly to label unsolicited commercial e-mail will be paid a bounty by the FTC.

The first part of the proposal would enable simple filters to block unwanted spam. Users could tell their Internet service provider to block ADV e-mail, or they could automatically filter such e-mail into a spam folder on their own computer. These simple filters would replace the extraordinarily sophisticated filters companies have been developing to identify and block spam.

These complex filters, though ingenious, are necessarily one step behind. Spamsters will always find a way to trick them. The filters will be changed to respond, but the spamsters will in turn change their spam to find a way around the filters. Thus the filters will never block all spam, but they "will always block a certain number of messages that are not spam.

But part one of the Lofgren legislation would never work if it weren't for part two: A spamster bounty. Lofgren's proposal would require the FTC to pay a bounty to anyone who tracks down a spamster who has failed properly to label unsolicited commercial e-mail. This proposal would invite savvy 18-year-olds from across the world to hunt down these law-violating spamsters. The FTC would then fine them, after paying a reward to the bounty hunter who found them.

The bounty would assure that the spam law was enforced. Properly enforced, the law would teach most spamsters that failing to label spam doesn't pay. The spamsters in turn would decide either to label their spam. Or they may well decide to give up their spamming ways, and get a real job. Either way, the burden of spam would be reduced.

No doubt no solution would eliminate 100 percent of spam. Much is foreign; American laws would not easily reach those spamsters. But the question lawmakers should ask is what is the smallest, least burdensome regulation that would have the most significant effect. If Lofgren's proposal were passed, the vast majority of spamsters would have to change their ways. Technologists could then target their filters on the spamsters that remain.

What about free speech? Don't spamsters have First Amendment rights?

Of course they do. And many of the laws proposed right now go too far in censoring speech. Threatening a felony for a bad return address, as the Virginia law does, is a dangerous precedent. Laws that ban spam altogether are much worse.

But Lofgren's proposal simply requires a proper label so consumers can choose whether they want to receive the speech or not. And most important, by reducing the clutter of unsolicited and unwanted spam, the law would improve the opportunity for other speech _ including political speech _ to get through.

More fundamentally, free speech is threatened just as much by bad filters as by bad laws. A well crafted law _ narrow in its scope, and moderate in its regulation _ can in turn eliminate the demand for bad filters. Lofgren's proposal would have just this effect. Congress should act to follow

Lofgren's lead. In Internet time, not Washington time.

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