Solutions (if any) in Regulatory and Societal Space

IAB Workshop on Unwanted Traffic

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Potential Impact of Laws & Regulations

- Aimed at penalizing conduct after the fact
- If likelihood of detection & identification is low, then deterrent effect is low
- Much focus on traffic unwanted by *users* (spam, spyware)
  - Not much attention on helping network operators during a DDoS or other attack
- Existence of the laws suggests value in facilitating/supporting forensic investigations
- Please excuse the U.S.-centric nature of slides

Quick Overview: SPAM

- Federal CAN-SPAM Act of 2003
  - Applies to unsolicited commercial e-mail
  - No false/forged headers
  - Commercial nature must be clear
  - Opt-outs must be offered and honored
- Main impact on "legitimate" bulk advertisers (mainstream businesses)
- ISPs can bring legal action against spammers
  - Jan. 2006 $5.6 million judgment for AOL against spammer

Overview: SPAM & Spyware

- CAN-SPAM "preempts" state laws
  - Utah & Michigan passed "do not mail to minors" laws (probably preempted and unconstitutional)

- Lots of federal spyware proposals
- Lots of state spyware laws
  - California, others; victims can sue spyware entities
  - Class action suits againt 180 Solutions, Direct Revenue, others
- Recommend AntiSpyware Coalition
  - www.antispywarecoalition.org
  - Well thought out definitions, best practices

Computer Fraud & Abuse Act

- Primary federal antihacking & network attack law
- Significant criminal penalties
- Probably of greatest relevance to this meeting

Key Provisions of CFAA

- Illegal to access gov't computer without authority
- Illegal to damage "protected computer" (gov't computer or one used in interstate commerce)
  - Including worms, DOS attacks
- Illegal to access confidential info on protected computer
- Serious criminal penalties (<1 year to life)
- Victims can bring civil action for economic damages

Risks to Public Policy Concerns

- Who decides what is “unwanted”
  - China with banned content?
  - Broadband access providers who do not “want” Google traffic unless Google pays up?
  - “Net neutrality” raises very difficult issues
- Blur between controlling bandwidth utilization and blocking lawful sites and sources of traffic
  - Some tools for controlling traffic can be used to control content
  - Transparency can help address
- Greater ability of networks to control traffic & content >> greater requirements to do so