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## Press Release

# Anti-spam law in force, since December 1<sup>st</sup>

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The new law (Amendment 40 to the Communications Law), initiated by the Ministry of Communications of Communications under Minister Ariel Attias, prohibiting the unsolicited delivery of advertisements via mobile text messages, e-mail, fax and automatic dialing systems, came into force on the first day of this month.

The phenomenon of mass delivery of unsolicited and unwanted advertisements (AKA "spam") through communications networks, has turned in the recent years into a global public nuisance of rapidly ever-growing scopes.

This phenomenon causes problems in many areas, including non-permitted penetration to computers and distribution of computer viruses; violating the privacy of network users and intruding them; hampering the positive progress and development of the e-commerce and damaging business. The phenomenon inflicts unnecessary costs on the public, including telecom operators (network owners, Internet service providers etc.), businesses, private Internet users and enforcement authorities.

The economic damages caused by spam are enormous – in 2004, US authorities estimated that the costs caused by spam to business enterprises alone are over 10 billion dollars annually, including loss of labor hours and the costs of additional equipment, software and human resources required to fight spam.

According to the new Amendment, the citizen can sue the advertiser, without an obligation to prove damage, for any advertisement sent which was not solicited explicitly and in writing.

However, a restriction is provided – an advertiser will allowed to contact a business recipient, just once per each recipient, with the question whether they agree to receive advertisements from that advertiser.

Another restriction to the law, is that the advertiser is allowed to send advertisements to the recipient even if they were not explicitly solicited, in cases when prior business relations have existed between the advertiser and the recipient and the recipient is the one who provided his/her mailing/messaging details to the advertiser.

But even then – as well as for any case where the recipient has given consent to receiving advertisements – still the recipient has the right, under the law, to inform the advertiser of his refusal to receive any more advertisements. Such refusal notice will cancel the validity of the previous consent.

### **The sanctions imposed on violators:**

- Criminal offence – violating Amendment 40 to the Communications Law constitutes a criminal offence, bearing a fine of up to 202,000 ILS or up to 67,300 ILS, depending on the essence and severity of the offence.
- Civil wrong and representative complaint – the track of civil proceeding will be allowed.
- Exemplary compensation – the court will be allowed to impose compensation, without proof of damage, of up to 1,000 ILS for every unsolicited advertisement message sent by the advertiser to the recipient.

The law proposal was discussed for more than two years by the different parliamentary committees.

After hearing all stakeholders, including the representation body of Israel's small businesses, the legislator decided that the Amendment keeps the required balance between protecting 7 million intruded consumers and the ability of business owners to pursue their business activities.

In the duration of the past 6 months, the opportunity was given to every business to prepare for the entry of the new law into force. Throughout this period, every business was able to obtain from its existing and potential customers in any way, including through advertisement messages, their consent to the continued receipt of advertisements.

From now on, every business can continue to seek such explicit consent, in ways other than spam. This way, in the view of the Ministry of Communications, the appropriate balance was achieved, between the right of the consumer/citizen not to be intruded by spam, and the commercial interest of businesses in continued advertising.

It is also perhaps worth pointing out, that businesses that prepared accordingly, will now be able to save money and resources, as their advertising efforts will be more focused and targeted towards real, relevant target audiences, and so, they will no more have to waist resources on unnecessary advertising efforts which intrude the general public.