



**Pacific**  
E-commerce  
Initiative

# LEVELS OF E-COMMERCE REGULATION

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E-Commerce Training Programme  
for Pacific Negotiators  
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**PACIFIC ISLANDS FORUM**

# Levels of e-commerce regulation

- International (scope varies! **The WTO JSI could become the MOST comprehensive regulation for certain issues**)
- Megaregional (also Cross-regional, Cross-Continental...)
- Regional
- Bilateral / Bilateral +
- National (law + implementing by-laws)



# ! No pre-set order for creation of e-commerce rules

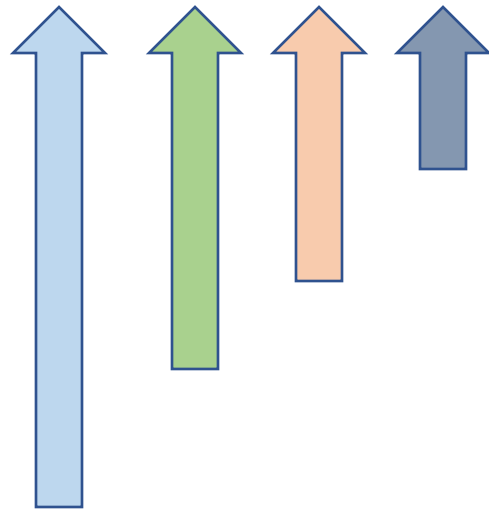


- International
- Megaregional
- **Regional**
- Bilateral
- National

# Coordination between the levels in elaboration of the e-commerce rules

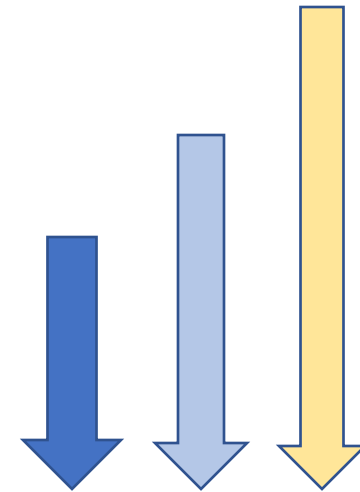
Established digital economies  
(mostly developed countries)

- International
- Megaregional
- Regional
- Bilateral
- National



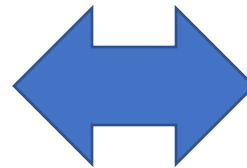
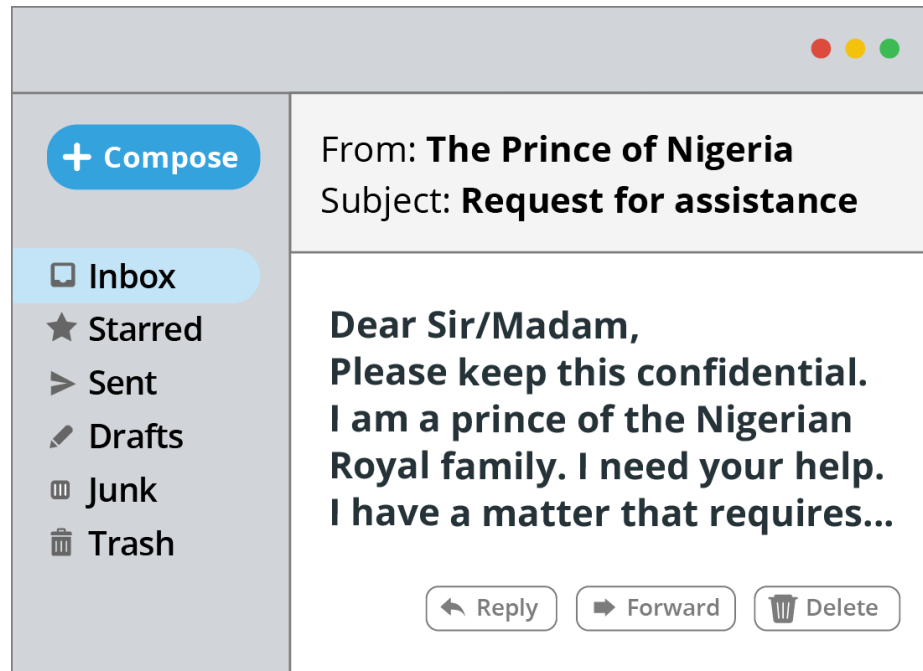
Emerging digital economies  
(mostly developing countries and LDCs)

- International
- Megaregional
- Regional
- [Bilateral]
- National



# Case study: SPAM

SPAM or Consumer protection disciplines? (in the e-commerce rules understanding)



[From: info@bestfijihotels.com](mailto:info@bestfijihotels.com)

To: Mrs. Smith

11:30 30 July 2021

Dear Mrs. Smith,  
We have received your email address from our partner company, TVBestHotels.com.

As a great customer, we would like to send you an offer for Fiji hotels every day for a year.

# International Level – JSI on E-commerce – Spam

"**Commercial electronic message**" **means** an electronic message which is sent for commercial purposes to an electronic address of a person through telecommunication services, comprising at least electronic mail and to the extent provided for under domestic laws and regulations, other types of messages.

"**Unsolicited commercial electronic message**" **means** a commercial electronic message that is **sent without the consent of the recipient or despite the explicit rejection of the recipient**.

[Parties/Members] **recognize the importance** of promoting confidence and trust in electronic commerce, including through transparent and effective measures that limit unsolicited commercial electronic messages. Each [Party/Member] shall adopt or maintain measures that:

- (a) require suppliers of commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages; or
- (b) require the consent, as specified in the laws or regulations of each [Party/Member], of recipients to receive commercial electronic messages; or
- (c) otherwise provide for the minimisation of unsolicited commercial electronic messages.

Each [Party/Member] **shall endeavour to ensure** that **commercial electronic messages are clearly identifiable as such, clearly disclose on whose behalf they are sent, and contain the necessary information to enable recipients to request cessation free of charge and at any time**.

Each [Party/Member] **shall provide** access to **either redress or recourse** against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained pursuant to paragraph 2.

[Parties/Members] **shall endeavour** to **cooperate** in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

*[Drafting note: Guatemala and Ecuador can support this text as long as they are allowed an **implementation period of X years**]*

# Mega[regional], Regional, Bilateral levels v. JSI

Content (elements)	CPTPP (2018)	USMCA (2019)	RCEP (2020)	DEPA (2020)	SADEA (2020)	UKSDEA (2022)	JSI
<i>Level</i>	<i>MR</i>	<i>R</i>	<i>R</i>	<i>B+</i>	<i>B</i>	<i>B</i>	<i>I</i>
<b>Definition of commercial electronic message</b>							X
Definition of unsolicited commercial electronic message (SPAM)	X	X	X	X	X	X	X
<b>Requirement that spam is identifiable, clearly discloses the originator, contains sufficient information to request cessation free of charge</b>						X	X
Enable recipient's measures preventing ongoing reception of spam	X	X	X	X	X	X	X
Consent for receiving commercial electronic messages	X	X	X	X	X	X	X
Other measures minimising spam	X		X	X			X
Recourse against non-compliant suppliers of spam	X	X	X	X	X	X	X
Cooperation in the cases of mutual concern regarding the regulation of spam	X	X	X	X	X	X	X
<b>Implementation transitional periods</b>	X						X
Electronic mail	X	X	X	X	X	X	X
Other means	X	X	X	X	X	X	X
<b>Specific [explicit] protection for consumers</b>		X			X		

Textual examples from the existing instruments are often relied on in the negotiations!

# National: PNG cybercrime code, 2016, Art. 26, spam

## 26. SPAM.

A person who, intentionally and without lawful excuse or justification, or in excess of a lawful excuse or justification, or recklessly, uses an electronic system or device -

- (a) to initiate the transmission of multiple electronic messages with the intent to deceive or mislead users; or
- (b) which is password protected to relay or retransmit multiple electronic messages, with the intent to deceive or mislead users, or any ICT Service Provider, as to the origin of such messages; or
- (c) to materially falsify header information in multiple electronic messages with the intent of initiating the transmission of such messages,

is guilty of an offence.

- Penalty:
- (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both; and
  - (b) In the case of a body corporate, a fine not exceeding K100,000.00.



# National: Implementation of the SPAM rules – good practices – NZ

## Spam Prevention & Messaging Compliance

Spam is the generic term for the commercial email, fax, and mobile/smart phone text (TXT) and image-based messages you receive without having requested them.

[About spam](#)

[Information for NZ businesses](#)



Businesses and individuals can complain to us about spam. We may investigate these complaints and take action where necessary.

[Complain about spam](#)

[Information about unsubscribing \(July 2019\)](#)

### Partnership with other organisations

The Digital Messaging and Systems team partner and collaborate with a number of government and non-government organisations.

[Links to other organisations](#)

[Go to the CERT NZ website](#)

[Services](#)

An overview of services we provide and our role as a regulator.

[What is spam?](#)

Useful information about spam, including tips for avoiding spam.

[Information for businesses](#)

What New Zealand's spam law means for businesses.

[How to Report Scams](#)

How to report email, fax, SMS text and other instant messaging scams.

[Frequently asked questions](#)

Questions and answers about New Zealand spam law for consumers and businesses.

[Case studies & enforcement](#)

[Enforcement action](#) and [case studies](#).

[News and resources](#)

Our [news releases](#) and other [downloadable resources](#).

[Contact us](#)

How to reach the Department's Digital Messaging and Systems team.

<https://www.dia.govt.nz/Spam>