

## ***smooshyLab's Spam And Abuse Policy***

All users of smooshyLab's services, and all customers upon signing up for and continuing to use smooshyLab's services, agree to be bound by the following terms and conditions.

### **E-Mail Restrictions**

Some people ask why we have a policy against unsolicited e-mailing, or why we even restrict bulk e-mailing. A general overview of our reasons are listed below along with some links that can clarify the situation.

Unsolicited e-mail, commonly know as "spam" is one of the more heated issues on the Internet. It is considered a breach of Netiquette and often generates more complaints than sales. This is partially because of the tremendous number of unsolicited e-mails received by some individuals (often more that 50 per day), and partially because of the damage and expense the advertising method itself causes.

Large providers who can do several million e-mails per day can cause hundreds of dollars in bandwidth charges a day to local Internet Service Providers (ISP's). This cost can cause incredible damage to a small company. Especially when it is taken into account that conservative estimates state that approximately 20% of all e-mail sent across the Internet is unsolicited.

This does not include the cost of additional mail servers, staff handling the problems this additional e-mail causes, or on-line time taken up to download and read all the e-mail messages. These costs ultimately get passed on to the consumer, who never requested the e-mail in the first place.

Many other problems are generated when the UCE senders try to avoid the hassles of bounced e-mail and complaints by spoofing and forging header information. The bounced e-mail is often sent to an unsuspecting, innocent user, who often has to bear the brunt of angry victims. In a further attempt to hide their identity, some "spammers" hijack third party servers, sometimes causing server crashes and system damage, as well as the additional data transfer cost.

This sort of unsolicited advertising is also against the policies of our upstream providers, Sprint, UUNet, and MCI. Their policies are listed among the links below. By allowing our customers to violate our policy we would be violating our contract with our providers and risking disruption of service.

This barely begins to scratch the surface of the "spam" issue. Further information can be found at the sites listed below:

<http://spam.abuse.net>

<http://www.cauce.org>

### **Complaints Procedures**

Our Abuse Team investigates all complaints about the web sites we host. In order for an unsolicited e-mail or newsgroup abuse complaint to be considered, however, it must have the full header information for verification purposes.

We are currently operating under a three strikes procedure in which we warn, suspend, then delete accounts which violate our abuse policy.

It is very important to remember that often times unsolicited e-mailings forge header information and innocent domains are caught in the angry crossfire that follows. Please remember that just because a domain name we host may show up in several unsolicited e-mailings they do not necessarily have anything to do with them.

Allegations of trademark/copyright infringement and intellectual property disputes are handled under our terms of use policy. Domains found to have engaged in "mailbombing" or other serious or damaging breaches of policy can be suspended or deleted with no warning.

## **Policy Violations and Refunds**

Any customer who has been suspended for a violation of our policy will no longer be eligible for the 30 day money back guarantee. Our 99% uptime guarantee would still be in effect, although the time spent in suspension would be considered uptime. These terms exist for the collective benefit of all of our clients. We have implemented these rules as a measure to protect us from unwanted activities and in order to provide our clients with the most reliable and best overall hosting services and features possible. We ask that as a client for you to please respect and follow our policies. We do not have the resources to police thousands of websites 24 hours a day, but if we do find that your website is in violation of any of our policies, we reserve the right to terminate your account without notice at our discretion. Clients who follow our simple policies will never encounter any problems with their service

## **Root Directory**

It is often asked why the advertised domain in a bulk e-mailing is "still active, but showing only a root directory". This is because the account is suspended. Often times it can take a couple of days to sort through the ramifications of deleting a site for a violation of policy, and the site will be kept in this status until such a time as the account is deleted.

## **Bulk E-Mail**

Our Terms Of Use Policy forbids the transmission of certain types of e-mail. There are many reasons for not accepting bulk e-mail which are outlined in unsolicited e-mail. Bulk e-mail can be acceptable under the circumstances outlined below:

- 1) You should have a prior relationship with the person receiving the e-mail, and they should be aware that they will be receiving e-mail from your domain.
- 2) If you have a subscription list, there should be a confirmation e-mail sent to the address before that address is added.
- 3) There should always be a way to quickly and easily unsubscribe from the list included in each e-mail, and all un-subscription requests should be quickly honored.
- 4) A valid "From:" and "Reply to" address must be included with each message.

The following items would violate our policy:

- 1) Any kind of forged header information.
- 2) Lists which include "harvested" addresses.
- 3) "Targeted" e-mail lists.
- 4) Using a script on your site to send bulk or unsolicited e-mail.
- 5) Using an autoresponder at your site to send bulk or unsolicited e-mail.

Please note that this includes all domain names, IP addresses, and e-mail addresses at a site.

## **Received Bulk E-Mail**

Occasionally our customers run into a particular bulk e-mailing company, or particular message that comes in repeatedly. Since we do track all incoming unsolicited e-mail complaints and block repeat offenders, we ask that you forward these complaints to abuse@smooshyLab.com as well as complaining to the sender.

When sending a complaint to our Abuse Team, please make sure to include the full header information ("Received From:" lines) so that we can trace the source of the message.

All complaints should be directed to abuse@smooshylab.com, and only specific questions should be directed to customer service.

## **Other Providers**

It is important to remember that unsolicited e-mail is often found very offensive, and the fact that we host a domain can easily be traced. Almost all ISP's and IPP's block e-mail from domains associated with unsolicited e-mail, and more importantly it is against the policies of our upstream providers to allow hosting of web sites or e-mail addresses of customers who spam.

## **"Targeted" Lists**

One of the many types of e-mail address lists for sale today is the "targeted" e-mail list. These lists are compiled using various methods in an attempt to reach a specific audience who, in theory, would be more interested in the product of service being offered.

Unfortunately these lists are still unsolicited and therefore violate our policy. We do not allow these lists to be used to promote domains, IP addresses, or e-mail addresses that are hosted on our servers.

## **Disputes and Allegations**

We are very sensitive to the Internet related issues often raised about web sites we host. These include trademark/copyright infringement, improper advertising, and a few others. We are willing to help resolve these issues between the complainant and our customers, but cannot act as judge and jury or delete every account accused of violating the law.

We suggest the following:

1. If our client does not respond to your cease-and-desist demand by your deadline, please forward our name, address, email, etc. to your counsel so we may cooperate in resolving the matter without litigation.
2. Through your counsel, or the legal branch of the appropriate local, state, or country authorities, please inform us as to how our client responds to your demand. Although our client may express an opinion to smooshyLab regarding your claim(s), the only response that counts is the one our client sends to you--and smooshyLab will not necessarily receive a copy of it.
3. If the response from our client is unsatisfactory to you, we will work with your counsel or the legal branch of the appropriate local, state, or country authorities -- if he or she is willing - to agree upon the wording of an injunction which will legally require smooshyLab to remove the offending web site. If we can agree on the wording of the injunction, smooshyLab will not oppose your motion requesting it.

These are guidelines and suggestions, each case is always handled on an individual basis.