

BY: **RUSSELL D. MAYER, ADV. – JUNE 2008**

SUBJECT: **DO NOT CALL, NOR SPAM – OR ELSE!**

Those of us who have been watching, with envy, the application of the U.S. “Do Not Call” legislation over the past few years, may finally have a degree of local satisfaction. After years of receiving automated solicitations by phone, fax, SMS advertising, SPAM and the like, Israel has adopted its own version of the Do Not Call concept in the form of the Communications Law (Bezek and Broadcasting) (Amendment No. 40) Law – 2008 (the “New Law”) which is to come into effect at the end of 2008. Before we start celebrating, though, it is important to recognize the inherent limits of the New Law.

In contrast to the U.S. model, the Israeli provisions are considered to be an “opt-in” system pursuant to which, generally, a recipient must specifically choose to receive SPAM, SMS’s broadcasts, automated phone calls and faxes. To some extent, an opt-in system is more consumer friendly since it imposes more of a burden of proof on the sender. The New Law, however, recognizes an exception to the “opt-in” requirement in the form of the implied consent, unless they have specifically opted out, of those who purchase an item or service, to be sent bulk mail messages from the seller if the purchaser provided their details to the seller.

A further complication of the New Law is that it cannot be enforced extra-territorially – it applies to senders in Israel only. Until such time as an international convention is adopted to address the issue, an Israeli court would only be able to impose fines on those senders who are subject to the court’s jurisdiction.

Once the New Law comes into effect, individuals may sue senders of automated messages for up to NIS 1,000 without having to prove specific damages.

If you are the recipient of spam or unwanted advertising phone calls, you will soon have some relief. If you are a sender of those unwanted messages, you may be in for a rude awakening.

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*This article is not to be considered as a legal opinion.
For legal advice, we suggest you contact legal counsel directly*

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