

# 以存取控制模式分析垃圾郵件管制 之問題與對策<sup>1</sup>

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## 摘 要

即便是在近年國際立法規範趨勢與技術過濾之雙重圍堵下，垃圾郵件氾濫問題仍未見和緩之跡象。本文以為垃圾郵件之管制，不僅涉及如何將其外溢效果問題，其本質上亦與網際網路規範建構與執行議題相涉。因此有必要對電子郵件發送之規範、技術與經濟面作全盤性剖析，始得以釐清垃圾郵件問題之規範困境。

藉由存取控制模式，本文分析垃圾郵件管制策略與處理之規範困境後，認為由於訊息傳遞過程三方皆有資訊不足，加以訊息交換過程成本負擔失衡等因素，使得傳統規範與單一管制策略之採用，產生無效率之情形。基於管制目的在於消除市場失靈與資源使用的無效率，管制行為也應避免產生社會無謂損失。故本文認為，在現今的網路結構下，要能有效處理垃圾郵件問題，宜採取混合型策略。在規範設計上，也建議朝向以市場機制途徑為主，而強化對於發訊端與中介端行為調適誘因之建立。

**關鍵字：**存取控制模式、垃圾郵件、外溢效果、網際網路規範建構

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# **Study on the Analysis of Spam Regulation by Access Control Model**

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## **Abstract**

Despite legislative prohibition and anti-spam technical measures proposed by the internet service providers and specialists, the growth of spam continues incessantly. Spam is not merely anathema to nearly every publicly identifiable interest holder, but burdens the development and application of internet with the deadweight loss. Spam control, thus, also involves in the debate of the norm in cyberspace.

A model of access control is adopted to analyze spam regulation with the existing transmission protocol and spillover phenomenon. This article defines spam regulation as blocked information exchanges, and discusses which parties carry the responsibility for providing the information necessary for that blocking. As Lessig and Resnick point out that no one actor, at the outset, may possess all of that information. After analyzing these options, a better strategy is multi-approached, for the most part of market-oriented measures. This article concludes that by encouraging regulation designation to adopt a combination of the intermediary and sender's responsibility, the regulator can achieve greater certainty at minimal cost, while maximizing the flow of information in the present architecture.

**Key words:** access control, spam, the norm in cyberspace, spillover