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In the UK, there are a variety of potential bases to prosecute such conduct through the criminal and civil courts:

Criminal - If the spammer obtains unauthorised access to a database in order to create a spam mailing database, the spammer may breach the Computer Misuse Act.

Civil - ISP

Breach of Contract- By sending mass unsolicited e-mails, the spammer may be in breach of the terms and conditions of his ISP causing damage of the nature described in paragraph 1.

Theft of Confidential Information - Harvesting of email addresses by, for example, obtaining the ISP's lists of customers may involve a breach of confidential information, for which a claim may be brought.

Trespass- It is arguable that the sending of spam involves an unpermitted contact with or impact upon the ISP's server and other equipment. As such it may be possible to claim for the damages that result (see paragraph 1 above).

Civil - End User

Data Protection Act 1998 - A Data Controller (in this case the spammer) must process data fairly and lawfully. An individual who suffers damage as a result of a breach of this requirement has a right to compensation.

Nuisance - In the past, the Courts have in certain circumstances protected those who have been subjected to "nuisance" telephone calls. By analogy, those who receive spam may arguably have a claim for damages and a right to seek an injunction to prevent the nuisance from continuing.

Civil Remedies - The Offender would be ordered to stop the spamming and to pay damages for the losses (including legal and investigation costs) that were incurred as a result of the spamming . However, given the nature of spamming, a claimant may have difficulties in identifying the offender and ensuring his assets are available to meet such claims. Accordingly, to assist the claimant, the following are some of the Orders that can be granted by the UK Courts

Third Party Disclosure - Where a third party has become mixed up in the wrongdoing of the spammer, an order may be sought requiring that third party to disclose any information that may assist the claimant in identifying the offender.

Injunctions - Once a cause of action has been established, it may be possible for the claimant to obtain an injunction to prohibit the unlawful conduct. Breach of the injunction would be a contempt of court potentially punishable by imprisonment and/or a fine.

John Doe Injunctions - Where the name of the spammer is unknown but he can be identifiable from his actions, it is still possible to obtain an injunction to prohibit unlawful conduct even though the defendant cannot be named. Such an injunction

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will bind any third party from assisting the spammer once they have notice of the injunction, e.g. to prevent that third party from using a stolen spamming database.

Substituted Service - Because of the difficulties of locating the spammer, the courts have been willing to grant orders allowing proceedings to be served electronically.

Freezing and Search Orders - If the Defendant and/or his assets can be located, it may be open to the claimant to seek to freeze those assets to prevent them being dissipated or to search the Defendant's premises to secure evidence that is at risk from destruction.