



Horn Creek Productions, LLC

"Turning your dreams into reality"

Federal Trade Commission
CAN-sySPAM Act
Post Office Box 1030
Merrifield, VA 22116-1030.

Re: CAN-SPAM Act Rulemaking, Project No. R411008

I appreciate your efforts to curb the problem of unsolicited bulk email. I am an online merchant and publisher, and I despise spam. We receive over 400 spam per day, and it costs us a lot of time and money to deal with it. We do not and will not use spam in our business, but we do need to be able to freely communicate with people who have indicated that they are interested in what we have to say.

For that reason we are concerned about two issues:

First, the possibility of bringing "forward to a friend" emails under the provisions of the Act. This would interfere with a very important type of commercial and relationship speech, the referral from a friend. By definition, these emails are shared between people who have a relationship, and are usually a one-time event. If the Act were applied, I would not be able to forward an interesting newsletter or article to a friend without possibly putting the author in violation. This kind of information sharing is an integral part of the internet community and culture and is not the kind of mail the Act was intended to prevent

Secondly, I am really concerned about the proposed requirement for merchants to maintain suppression lists.

This would be an incredible cost and record keeping burden on legitimate businesses, while doing nothing to stop real spam. I must urge you to consider this matter most carefully.

The Commission must realize that someone who unsubscribes from our newsletter, for example, has not necessarily chosen to never see our name in print again. Should we be required to see that this person never receives any other publication with an article, advertisement or affiliate recommendation concerning us from other publishers?

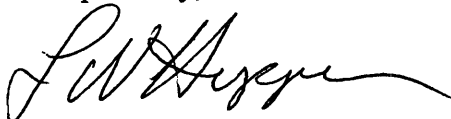
Requirement of the use of suppression lists will seriously damage many of the legitimate publications available on the net. I believe that requiring opt-in or a transactional relationship for each publication and providing prompt unsubscribe from each publication is quite an adequate remedy. Certainly it would solve my own 400 spam a day problem.

CAN-SPAM was designed to put those egregious spammers out of business, but this requirement would very likely have its most serious effect upon legitimate businesses who are trying to stay in compliance.

There's also the potential for significant harm to consumers, because of the problem of properly knowing their intent when they unsubscribe from a list. They may simply feel that they were getting one newsletter too many, only to find out that they are now shut off from an encyclopedia of information because they ended up on a suppression list and were unsubscribed from other publications without their knowledge.

I am quite concerned at the potential problems this ruling could involve, and urge you to reconsider its implementation in light of these adverse consequences.

Respectfully,



Lyle W Hopper
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