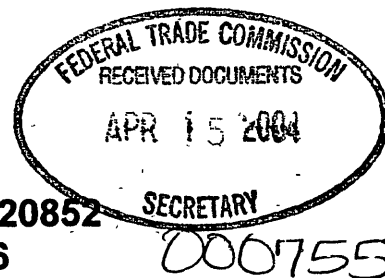


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Federal Trade Commission/Office of the Secretary
Room 159-H
600 Pennsylvania Avenue, N.W.
Washington, D.C.
20580

April 14, 2004

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

To the Commissioners,

As an online entrepreneur I believe you have made an excellent start with the CAN-SPAM act. However, I am extremely concerned about the proposed requirement for merchants to maintain suppression lists.

I believe this has the potential for disastrous effects for consumers and businesses alike who rely on email. The problems and costs associated with suppression lists will significantly damage many publications on the Web unless action is taken.

CAN-SPAM was designed to put the 'bad guys' out of business and not to hurt legitimate email marketers and publishers. It is my concern that it will have an unintentional reverse effect.

For instance, there are several issues involved:

First, there is no way of knowing why a consumer asked to be removed from a publication's list. People unsubscribe for various reason like:

- Being unhappy with the content
- Having too much email
- Wanting to change addresses
- Wanting to temporarily unsubscribe while they go on vacation, etc.

Next, we cannot know exactly which newsletter issue caused the person to unsubscribe. Many people save newsletters or emails and read them in one group. So in this regard, it would nearly impossible to know which ads were placed in the issue that actually caused the person to unsubscribe.

Third, a virus like the MyDoom virus or any of the other ones which forges identities and randomly grabs addresses from people's prior emails could cause many people to be added to suppression or unsubscribe lists who never intended to be.

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Fourth, there is an unequal burden that would be borne by small publishers. Small publishers who operate a little 'side-line' publication for one of the countless niches online will find themselves in a precarious position. The cost of maintaining suppression lists will be passed on to the small publisher by their mail server company and could cause many of them to close their "virtual" doors because of the hassle and expense involved. Also, many of the small publishers who maintain their own list use desktop software. This desktop software would buckle and break under the weight of the huge suppression lists they would have to filter and run through the software.

Fifth, as you are well aware, there is a great deal of "lost" email in cyberspace due to the countless spam filters and mail congestion. It's quite possible an unsubscribe request via email could easily be lost before reaching the merchant. And this merchant who is truly making every legitimate effort to comply with regulations could be hit by lawsuit. Or it might not just be "lost" email which could be a problem. The majority of people use multiple email addresses and someone could send their request from a different email or a central email but the specific email address is still on the list - leaving the merchant open again for legal action.

For most small to medium-sized merchants, one suit like this would be enough to severely cripple them or put them entirely out of business. Or even the fear of such potential legal actions would have the undesirable effect of making many publishers decide to stop publication.

Lastly, there's also the opportunity for tremendous abuse with the suppression system. A unscrupulous competitor or simply an annoyed consumer (who believes it's their job to police the Internet) could simply sign up for the suppression list and then spam those people with ads for the merchant's products they have an issue with. The ramifications would be immense.

Or even if there was no malicious intent towards the merchant, a true spammer could get these suppression lists by signing up with the merchant's affiliate program to use for their own unsolicited emailing.

We run an affiliate program with over 27,000 affiliates and I know many of these affiliates rely on using legitimate email that has been requested by their readers to promote our products. This secondary or in some cases primary income lets our affiliate build their livelihood online.

In light of all these pressing concerns and issues I urge you in the strongest possible terms to reconsider implementation of the suppression list.

Sincerely,



Yanik Silver,
President Surefire Marketing, Inc