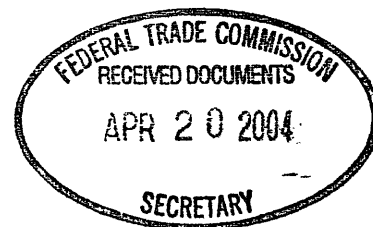


Re: CAN-SPAM Act Rulemaking, Project No. R411008
Edward Yodis

001038

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



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

To the Commissioners,

Almost everyone wants to get rid of SPAM, and I appreciate all you are doing to free us from this awful stuff. I am concerned about one facet of the current approach that threatens to not only limit the SPAM (which is desirable) but also remove a key channel of communications that I find very rewarding and instructive, and that is the requirement for sellers to maintain suppression lists.

I receive (and hope to one day publish myself) many informative newsletters and ezines by email. The internet makes it possible for anyone to publish information they have to share, and I learn much from the ezines I subscribe to.

Quality ezines require significant time and research to prepare, and to offset the costs most ezine publishers include ads in their ezines. Some of these are ads for the authors' own products, but most are ads for affiliate products that the authors promote on behalf of others for a commission on sales.

As I understand the issues, one is how the email traffic I subscribe to receive would be treated under the law. The email streams I subscribe to receive are not in my mind in any way equivalent to the unsolicited SPAM that clogs my inbox. Rather these are welcome interactions full of useful information, and not infrequently I have appreciated being referred to one product or another that represent additional information available on the topic at hand. Most of the promotional items I find in ezines are beneficial or benign.

The typical ezine or newsletter has hundreds, perhaps thousands of subscribers. We all receive the same copy via email. If suppression lists were implemented as described to me, then any one of the subscribers might require suppression of a product or brand from the ezine (by requiring no further ads or promotions ever be sent to them by any affiliate for a given product).

When I watch television I see ads for products I use along with some products I don't, yet I would not forego the opportunity to see the shows just to avoid ads for products of companies someone else chooses not to patronize and gets on their do not call list.

I don't want one irate customer who was offended by a pushy salesperson (contacted by some means outside the ezine I value) to have the right to cancel all future ads for a product in the ezines I subscribe to.

This would not be allowed to happen to a hardcopy magazine, that one irate customer would prevent the publisher from ever again accepting certain ads, thereby depriving the publisher of revenue required to publish, and banning a product from the other thousands of subscribers because of the one. If people don't like the sponsors, they cancel their individual subscriptions.

Ezines, newsletters, and other email streams offered by subscription only are analogous to magazines and they are certainly not unsolicited commercial email or SPAM. The only people who receive them are those who subscribed, and I will tell you for my part that when publishers of email newsletters and ezines get too pushy or fail to provide consistent value for the time I spend reading their works, then I do not hesitate to opt-out, and I never again have to see their ezines unless I change my mind and later opt-in again.

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By the way, this is a common phenomenon... that someone will opt-out of an ezine, and some time later hear of something interesting they are doing and opt-in again. It's all voluntary and I have the power to make my individual choice, and to change my mind as often as I wish.

Conversely, the suppression list concept being considered, would first remove my choice by giving one irate person the power to prevent me from getting the stuff I desire, and second there is no provision once an item is suppressed to decide later I want to give it another chance.

A final issue I have as a subscriber to email newsletters and ezines is privacy. Every ezine or newsletter publisher who is worth their salt (and who wants any subscribers) has a privacy policy that assures subscribers that our email addresses will not be given out or sold to anyone. Without this assurance, few would ever sign up, I know I would not.

The suppression list concept virtually requires the communication among publishers, vendors, and affiliates of the names and emails of people who are not allowed to receive their promotions.

I don't want my name and emails passed around the net in this manner. It is far better to skip over ads and promotions in the ezines I value enough to subscribe to than it is for my name and email address to be passed around to so many people.

The risk of some unseemly individual taking advantage of the requirement to check the list in order to add to their SPAM hit list is too high.

Not to mention that most people these days have several emails we use in different venues (work, home, family, friends, associations, etc). How will the suppression list account for that?

Would it be necessary for a subscriber to file suppression for all emails to which they don't want to see promotions for a specific brand or product?

Would the law require publishers, vendors, and affiliates to suppress promotions to all known emails based on a person's name?

And given names are not unique would it be necessary to expand the database to have addresses or other unique identification to be sure of who is on the suppression lists?

These are vexing questions, and I can't think of any desirable answers to any of them that don't involve further loss of privacy for millions of individuals so that thousands can effectively censor the publishers of the newsletters and ezines to which they voluntarily subscribe.

These are my heartfelt perspectives as an ezine subscriber.

Another perspective on this is the publisher of ezines who affiliates with product developers to advertise and promote their products in his or her publication.

Under the suppression list scenario, every product developer would have to maintain a list of people they cannot ever contact about their products. Additionally, every affiliate would have to have the capability to check that list before they could ever include an ad in their ezine.

As dynamic as the internet is for ezines, subscribers are added and dropped (i.e. opt-in and opt-out) everyday, and the list is ever-changing. So, consider a publisher who has spent several days authoring content and arranging promotions that perfectly match the articles. On the very evening of publication, a new subscriber signs up for the ezine who has filed a suppression order for one of the products in the ezine about to be published.

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What is the author to do in this case? Do they have to check the suppression list the moment before they press send, compare their list of thousands of subscribers with the names on the suppression list to make sure no violations occur, or delay publication to look for an alternate ad that fits their article content and has never been suppressed by any of the subscribers ?

This is madness, and will cause such chaos to a publisher that he or she will likely do one of the following to maintain some kind of order as a publisher:

- (1) Refuse to promote any product that has ever been suppressed by anyone
- (2) Refuse to accept subscribers who are found to be on any suppression list (thereby preserving the rights of the thousands to receive the ezine)
- (3) Quit publishing the ezine or newsletter

Another scenario to consider is the potential that one competitor will sign up to another's ezine and file a suppression of that publisher's product. This would effectively shut down the competitor from doing any ezine or newsletter promotion of their products, and consequently the ezine publishers would go out of the ezine business.

Any of these are undesirable side effects of the suppression list applied to opt-in email publications.

The way the suppression list is being discussed, it would place an onerous burden on the informal networks of authors and affiliates who provide such value to me in their ezines and newsletters which I have opted to receive by signing up to be on their lists, that many or most of them would cease to publish at all.

Please reconsider very carefully the impact of this suppression list concept and its required implementation for subscription-based, opt-in ezines and newsletters that are published by email.

I wish to continue to receive the subscription-based email publications I value. I wish to keep the privacy I currently enjoy as a subscriber. And I wish to preserve the freedom to publish someday myself if I wish.

Respectfully,


Edward Yodis
