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March 30, 2004

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex D)
600 Pennsylvania Ave, N.W.
Washington, D.C. 20580

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

Dear Sir/Madam:

As a member of the NATIONAL ASSOCIATION OF REALTORS® (NAR), I appreciate this opportunity to comment on the Federal Trade Commission's proposal on the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN SPAM Act). As an independent businessperson who is forced to deal with a flood of offensive and fraudulent e-mails in my in-box each day and as one who sends e-mail in the course of my real estate business, I have a significant interest in the outcome of this rulemaking process.

While I support the Commission's efforts to control fraudulent, misleading and abusive unsolicited e-mails and e-mailing practices, I am concerned that the establishment of a Do-Not-E-mail Registry goes too far and will result in penalizing small businesses for engaging in legitimate e-mail communications with past clients and consumers living in the neighborhoods that they serve. Real estate brokers and agents commonly use e-mails to share information about issues and changes in local real estate markets that impact their past and potential future clients largest family asset, their homes. Such e-mails are an important part of our efforts to serve past clients and to cultivate an ongoing personal relationship with consumers living in the communities in which we live and work so that at a future time when they require real estate brokerage services they will look to us for our help.

Last year, REALTOR®-owned businesses were subjected to several new federal regulations (Do-Not Call and Do-Not-Fax regulations, CAN SPAM provisions), which have greatly impacted the ordinary course of business between real estate professionals and our customers. I believe that a Do-Not-E-mail Registry would have a significant economic impact on REALTOR-owned small businesses by imposing additional compliance costs, not to mention the potential for loss of revenues as a result of further restrictions on business-to-consumer communications.

Once again, I urge you to closely consider whether the disputable consumer benefits of a Do-Not-E-mail Registry and the potential risk to privacy of a central depository of legitimate e-mail addresses outweigh the onerous and costly compliance burdens on millions of small businesses, which are critical to the viability of our economy.

Sincerely,

DWIGHT E. HATHAWAY
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