

REQUEST FOR INFORMATION

Federal Trade Commission's Plan for Establishing a National

Do Not E-mail Registry

The Federal Trade Commission ("FTC") is seeking information that may assist in the creation of a plan and timetable for establishing a National Do Not E-mail Registry, as required by the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, Pub. L. No. 108-187 (Dec. 16, 2003) (the "CAN-SPAM Act"). The FTC is also soliciting information to determine the availability of capable contractors that can develop, deploy, and operate such a registry. This is a Request for Information ("RFI") only. It is issued solely for information and planning purposes. It does not constitute a Request for Proposals ("RFP") or a promise to issue an RFP in the future. This RFI does not commit the government to contract for any supply or service whatsoever. The FTC reserves the right to accept, reject, or use without obligation or compensation any information submitted in response to this RFI. The U.S. Government will not pay for any information or administrative cost incurred in response to this RFI.

Part I. Background

Section 9 of the CAN-SPAM Act requires the FTC to transmit to Congress, no later than June 16, 2004, a report that: (1) sets forth a plan and timetable for establishing a National Do Not E-mail Registry; (2) includes an explanation of any practical, technical, security, privacy, enforcement, or other concerns that the Commission has regarding such a registry; and (3) includes an explanation of how the registry would be applied with respect to children with e-mail accounts. Section 9 of the CAN-SPAM Act also authorizes the Commission to establish and implement the plan, but not earlier than September 16, 2004.

Part II. Basic Technical Features of a Registry

The Commission recognizes that a National Do Not E-mail Registry could take one of many possible forms and actively encourages responders to this RFI to propose registry models similar to or different than those described, below. **The model registry you propose may consist of a national registry of consumer (and business) e-mail addresses, a domain-wide registry, a registry of authenticated senders, a combination of these registries, or an entirely different form of registry.** The precise required technical features of a registry will depend upon the types of data collected, the methods of accessing or disseminating the data, and the methods of transforming this data into a usable form.

Parts III of this RFI describes the required technical features for any registry model that involves the registration of either consumer (and business) e-mail addresses (similar to the registry model used in the National Do Not Call Registry) or domains (as in a domain-wide registry). Part IV of this RFI describes the required technical features for any registry model that involves e-mail marketers, domain owners (including ISPs), or third party e-mail forwarding services obtaining access to data appearing in a registry of e-mail addresses or domains. Part V of this RFI describes the required technical features for providing consumers (and businesses) who register their e-mail addresses and/or domain owners that register their domains with the ability to lodge complaints with the Commission that can then be used in enforcement proceedings. Part VI of this RFI describes the required technical features for any registry model that involves a registry of authenticated e-mail marketers and the Internet Protocol (“IP”) addresses and domains from which they send e-mail.

If your registry model contains other technical features, you should use the relevant technical features described below when framing your response.

Part III. Registration of E-mail Addresses or Domains

Part III of this RFI identifies required technical features for registries that permit consumers (and businesses) and/or domain owners to register with the Commission their desire not to receive marketing e-mail.

A. Database of Registered E-mail Addresses

If, under the registry model you propose, consumers (and businesses) or domain owners (including ISPs) would register actual e-mail addresses with the Commission – similar to the registry model used in the National Do Not Call Registry – the model described in your response to this RFI should include the following technical features:

1. a web site that would permit consumers (and possibly businesses) to register their e-mail addresses with the Commission;
2. other methods of registration, such as registration via telephone;
3. mechanism(s) for verifying the association between the e-mail addresses registered and the consumers (and businesses) making the registration to ensure that the consumers (and businesses) making the registration are attempting to register their own e-mail addresses (e.g., use a mechanism in which the consumers (and businesses) making the registration are sent confirmation e-mails to which they must respond);
4. mechanism(s) for enabling parents/guardians to register e-mail addresses of children;
5. mechanism(s) for providing consumers (and businesses) with a form of “confirmation” of registration (e.g., a return e-mail from the system);

6. mechanism(s) for providing consumers (and businesses) with the ability to verify whether their e-mail addresses have been registered;

7. mechanism(s) for providing consumers (and businesses) with the ability to remove their registrations and mechanism(s) for providing consumers (and businesses) with the ability to verify whether their e-mail addresses have been removed from the registry;

8. mechanism(s) for periodically deleting closed or inoperable e-mail addresses in the registry;

9. mechanism(s) for logging and tracking when a consumer (or business) registered an e-mail address or accessed, changed, or deleted a registration;

10. mechanism(s) for limiting registrations to consumers (and businesses) located in the United States;

11. the ability to sort registration data by ISP or domain owner in order to facilitate e-mail marketers' access to a subset of registration data;

12. the capacity to process the registration of at least 300 million e-mail addresses;

13. the ability to collect fees from consumers (and businesses) who register their e-mail addresses with the registry;

14. mechanism(s) for accepting e-mail address registrations directly from domain owners (including ISPs) who have verified the authenticity of their subscribers' registration requests;

B. Domain-Wide Registry

If, under the registry model you propose, domain owners (including ISPs) could register their domains as desiring not to receive marketing e-mail (a "domain-wide registry"), the model

described in your response to this RFI should include the following technical features, in addition to those relevant features identified above:

1. mechanism(s) that would permit domain owners (including ISPs) to register their domains with the Commission;
2. mechanism(s) for verifying that a request to register a domain are from a person authorized to make such a registration request;
3. mechanism(s) for providing domain owners with a form of “confirmation” of registration (e.g., a return e-mail from the system);
4. mechanism(s) for providing domain owners with the ability to verify whether their domains have been registered;
5. mechanism(s) for providing domain owners with the ability to remove registrations;
6. mechanism(s) for periodically deleting registrations of closed or inoperable domains in the registry;
7. mechanism(s) for logging and tracking when a domain owner registered a domain and accessed, changed, or deleted a registration;
8. mechanism(s) for limiting registrations to domain owners who provide e-mail addresses for consumers (and businesses) located in the United States;
9. mechanism(s) for consumers (and businesses) with e-mail addresses in a registered domain to register their specific addresses as being open to the receipt of marketing e-mail, and mechanisms for verifying and logging such registrations;
10. the capacity to process the registrations of at least 30 million domain owners;

11. the ability to collect fees from ISPs and domain owners who register their domains.

Part IV. Access to Registry Data

Part IV of this RFI identifies the technical features required for providing e-mail marketers, domain owners, or third-party e-mail forwarding services with access to registered e-mail addresses.

A. Database of Registered E-mail Marketers

If, under the registry model you propose, e-mail marketers would have access to a database of registered e-mail addresses, the model described in your response to this RFI should include the following technical features, in addition to those relevant features identified above:

1. method(s) for registering and verifying the identity, ownership, and physical location of e-mail marketers who seek access to or information derived from the database of registered e-mail addresses or the database of registered domains;
2. mechanism(s) for providing registered e-mail marketers with access to or information derived from the database of registered e-mail addresses or database of registered domains;
3. mechanism(s) for logging and tracking when an e-mail marketer registered accessed, changed, or deleted a registration;
4. method(s) for providing each registered e-mail marketer with a unique mark that can be included in the subject line or header information of each e-mail, and ensuring that this unique mark cannot be forged or otherwise misused;

5. method(s) for e-mail marketers to receive updates of registry data on a regular interval (e.g., monthly);
6. the capacity to register, verify, and provide registry information to 500,000 e-mail marketers;
7. the ability to collect fees from e-mail marketers who register to gain access to or otherwise use registry data;
8. mechanism(s) that prevent registered e-mail marketers from sending unsolicited e-mail to consumers (and businesses) or domains that are registered;
9. mechanism(s) that would assist the Commission with identifying the true name and location of an unregistered sender of marketing e-mail;
10. mechanism(s) that would prevent registrations by e-mail marketers located outside the United States;
11. mechanism(s) such as one-way hashes and cryptographic keys for preventing and identifying the misuse of registry data by e-mail marketers and others;
12. mechanism(s) for tracking and logging each access or use of data by registered e-mail marketers;

B. Database of Registered Internet Service Providers and Domain Owners

If, under the registry model you propose, domain owners (including ISPs) would have access to a database of registered e-mail addresses or registered e-mail marketers, the model described in your response to this RFI should include the following technical features, in addition to those relevant features identified above:

1. method(s) for registering and verifying the identity, ownership, and physical location of ISPs and domain owners who seek access to or information from the database of registered e-mail addresses or the database of registered e-mail marketers;
 2. mechanism(s) for providing registered domain owners with access to or information derived from the database of registered e-mail addresses or database of registered e-mail marketers;
 3. method(s) for domain owners to receive updates of registry data on a regular interval (e.g., monthly);
 4. mechanism(s) that enable ISPs and domain owners to incorporate data from the registry of e-mail addresses and registry of e-mail marketers into their anti-spam filters;
 5. mechanism(s) for ISPs and domain owners to distinguish between unsolicited commercial e-mail and other forms of e-mail such as non-commercial messages, marketing messages that a consumer (or business) has previously agreed to receive, and transactional messages (such as airline reservation confirmations and bank statements);
 6. the ability to collect fees from ISPs and domain owners who register to gain access to or otherwise use registry data;
 7. mechanism(s) such as one-way hashes and cryptographic keys for preventing and identifying the misuse of registry data by ISPs and domain owners;
 8. mechanism(s) for tracking and logging each access or use of data by registered ISPs and domain owners;
- C. E-mail Address and Marketer Registries with Third-Party Forwarding Service

If, under the registry model you propose, all unsolicited commercial e-mail would be required to be delivered by an e-mail marketer to a third party forwarding service that would compare an e-mail marketer's marketing lists to the e-mail addresses appearing on a National Do Not E-mail Registry, your response to this RFI should include the following technical features, in addition to those relevant features identified above:

1. method(s) for registering and verifying the identity, ownership and physical location of third parties who seek to register with the Commission as unsolicited e-mail forwarding services;
2. method(s) for providing each registered forwarding service with a unique mark that can be included in the subject line or header information of each e-mail, and ensuring that this unique mark cannot be forged or otherwise misused;
3. mechanism(s) for providing registered forwarding services with access to or information derived from the database of registered e-mail addresses;
4. mechanism(s) for ensuring the timely delivery of 8 billion e-mail messages per day by registered forwarding services;
5. the ability to collect fees from registered forwarding services;
6. mechanism(s) that prevent registered forwarding services from sending unsolicited e-mail to consumers (and businesses) who have been registered for a period of time to be determined;
7. mechanism(s) such as one-way hashes and cryptographic keys for preventing and identifying the misuse of registry data by registered forwarding services;

8. mechanism(s) for tracking and logging each access or use of data by registered forwarding services.

Part V. Complaint Submission and Review Functions

If the registry model you propose includes a database of e-mail addresses or domains that e-mail marketers, ISPs, domain owners, or forwarding services would access or otherwise use, your response to this RFI should include the following technical features that enable consumers (and businesses) and/or domain owners to lodge complaints and enable the Commission to access complaint data, in addition to those relevant features identified above:

1. mechanism(s) for consumers (and businesses) or domain owners to lodge complaints online with the Commission concerning violations (including the ability to incorporate a copy of an e-mail message, with its complete header information, that is the subject of the complaint);

2. mechanism(s) that ensure that complaints are ripe (i.e., complaints are from consumers (and businesses) who receive e-mail from marketers that had sufficient time to update and remove the complainants' e-mail addresses or domains from their marketing lists;

3. mechanism(s) that ensure that a complaint does not fall within a possible exception to a registry requirement (such as an e-mail from a sender with whom the recipient has an established business relationship, a transactional commercial message, or non-commercial message);

4. mechanism(s) for the Commission to access complaints and complaint data, including the ability to sort complaints substantively (e.g., by subject matter), by sender, by header information, and by ISP or domain owner;

5. mechanism(s) that enable a database of complaints to interface with existing FTC databases.

Part VI. Registry of Authenticated E-mail Marketers

If the registry model you propose consists of or includes as a feature a registry of authenticated senders, your response to this RFI should include the following technical features, in addition to those relevant features identified above. One possible model for a registry of authenticated senders would require a sender of bulk commercial e-mail to obtain a registration number from the Commission, include this registration number in the header information of all marketing e-mail, and register with the Commission the IP addresses and domain names from which it would be sending marketing e-mail. Additional mechanisms would prevent the forgery of registry data, IP addresses, and domain names. Domain owners (including ISPs) would be provided with access to registry information and could adjust their anti-spam filters to reject any marketing e-mail that did not include matching registration numbers, IP addresses, and domain names.

1. method(s) for registering and verifying the identity, ownership and physical location of e-mail marketers, and the creation and maintenance of such a registry of e-mail marketers;

2. method(s) for registering the IP addresses and domains used by registered e-mail marketers;

3. the creation and maintenance of a registry of e-mail marketers, their registration numbers, verifying information, IP addresses, and domain names;

4. mechanism(s) for ISPs and domain owners to obtain access to e-mail marketers' registry numbers, IP addresses, and domain names;
5. mechanism(s) that enable ISPs and domain owners to incorporate registration number, IP address, and domain name data into their anti-spam filters;
6. the ability to collect fees from registered e-mail marketers and registered ISPs and domain owners;
7. mechanism(s) for preventing the forgery of senders' registration numbers, IP addresses, and domain names;
8. mechanism(s) such as one-way hashes and cryptographic keys for preventing and identifying the misuse of registry data by e-mail marketers, ISPs, domain owners and others;
9. mechanism(s) for tracking and logging each access or use of data by registered e-mail marketers, ISPs, and domain owners.

Part VII. Information Requested

In responding to this RFI, the FTC asks potentially interested parties to submit information on the following subjects. A response to this RFI should be a maximum of 25 pages. Please number your answers to match the question numbers below.

1. Describe the National Do Not E-mail Registry you envision. If your registry model includes a registry of e-mail addresses or domains, explain how your registry would contain the technical features described in Part III of this RFI. If your registry model provides for e-mail marketers, domain owners, e-mail forwarding services, or others to have access to or otherwise use a database of registered e-mail addresses or domains, explain how your registry would contain

the technical features described in Part IV of this RFI. If your registry model includes a registry of e-mail addresses or domains, explain how your registry would contain the technical features for accepting and processing complaints of registry violations described in Part V of this RFI. If your registry model includes or consists of a registry of authenticated senders of bulk commercial e-mail, explain how your registry would contain the technical features describe in Part VI of this RFI.

If your registry model includes the registration of something other than the items described in Parts III, IV, V, and VI of this RFI, include a description of the sources and types of data that the Commission would collect, how and by whom the data would be used, and the methods of verifying the authenticity of entities having access to the data.

2. Describe the technical architecture of your proposed system. Include a description of: (a) the methods used to handle the potential volume of consumer requests to register, and the security measures, including the tracking and accounting of disclosures, you would use to protect the registry information; (b) the methods used to handle the potential volume of e-mail marketer registrations and their need for up-to-date registry information; and (c) the methods used to handle the potential volume of ISP registrations and their need for up-to-date registry information;

3. Provide estimates of the cost of your proposed system, in total and/or per transaction. Indicate the amount of those costs necessary to build or develop the system, including any privacy or other required risk assessments, and the amount necessary to operate it for a five year period. Do any of these cost estimates change based on the volume of transactions that occur? If your system involves the registration of consumer (and business) e-mail addresses, your cost estimate should assume the registration of 300 million e-mail addresses. State the additional costs if there are 450 e-mail addresses registered. If your system involves the registration of domains, your cost estimate should assume the registration of 30 million domains. Finally, provide an estimate of the time necessary for you to implement your proposed system;
4. If your proposed registry model would result in e-mail marketers, e-mail forwarding services, or ISPs learning the specific addresses on the registry, describe security precautions that would: (a) prevent misuse of the registry; (b) enable the Commission to identify persons who misuse the registry; and (c) ensure that e-mail marketers, e-mail forwarding services, ISPs, and domain owners who obtained registry data maintain the data in a secure fashion;
5. Describe how your system would prevent an unregistered e-mail marketer from sending unsolicited commercial e-mail to an e-mail address appearing on the registry and how it would assist the Commission with identifying the true name and location of such an unregistered sender;

6. Describe how the true name and location of an e-mail marketer, e-mail forwarding service, ISP, or domain owner who submitted false information to the Commission when registering as a user of the registry would be identified by the Commission prior to gaining access to the registry;
7. Describe how your system would facilitate identifying misuse of the registry by e-mail marketers, e-mail forwarding services, ISPs, or domain owners that are registered users of the registry;
8. Describe the size of the registry database envisioned by your model and the costs in terms of bandwidth and computational time that your model would impose on e-mail marketers, e-mail forwarding services, ISPs, and domain owners;
9. Describe the technical sophistication (e.g., software and hardware) needed by e-mail marketers, ISPs, domain owners, and consumers under your registry model;
10. Describe how your registry model would ensure the delivery of transactional e-mails, other forms of solicited or permission-based commercial e-mail messages, and personal e-mail messages;
11. Describe how your registry model would ensure the privacy rights of consumers;
12. Describe how your registry model would enable parents/guardians to register the addresses of children;
13. Describe your expectations concerning the rights you would maintain in any part of the proposed system you would develop. The FTC expects that the data collected in the registry would be the government's property and cannot be used for any non-governmental purpose other than ensuring compliance with a

National Do Not E-mail Registry. Any registry system would also be expected to comply with the requirements and standards of the Federal Records Act, Rehabilitation Act (e.g., section 508), the Privacy Act, the E-Government Act of 2002, and any other applicable statutes, regulations, or orders;

14. Describe the specific billing and collection mechanisms you would use if fees are charged to access the registry;
15. Provide any additional technical information that will assist in understanding your response to this RFI;
16. Briefly describe your company, products, services, history, ownership and any other information you deem relevant. In particular, describe any projects you have been involved in that are similar in concept to what is described in this RFI, including management and operations approach, security requirements, including policies and practices for personnel background checks or clearances, and any relevant lessons learned;
17. Describe any necessary additions or modifications to rules, standards, or protocols (e.g., FTC rulemaking, E-mail protocol changes (RFC for Sendmail), changes in standards set by ICANN) that would enhance the effectiveness, enforcement, or security of your proposed registry format.
19. Include any suggestions on acquisition strategies that the FTC should use for this project, e.g., performance based statement of work, turn-key approach, two-stepped sealed bidding, etc.;

20. Include any comments on the structure of the requirements for formal Request for Proposals (“RFP”) responses and suggestions for the evaluation of such formal responses;
21. Include the relevant information if your services are available on a GSA schedule or other contract vehicle. Identify Special Item Numbers (SIN) under your GSA contract applicable to the services/products required to build the registry.
22. Identify the commercial performance matrix and incentives that should be used.

General Information

Response Date: March 10, 2004

Contracting Office Address:

Federal Trade Commission, Financial Management Office, Acquisitions,
600 Pennsylvania Avenue, NW, Washington, DC 20580

Points of Contact:

Daniel Salsburg

Federal Trade Commission, Division of Marketing Practices

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202-326-3402

Five copies of a response to this RFI should be either hand delivered or sent via an overnight courier service to Daniel Salsburg at the above address.

Respondents to the RFI may be contacted for additional information or clarifications concerning their RFI response if the FTC determines it to be necessary.