

Dear FTC,

I did not attend the e-mail Spam Forum last week, but I believe it is critically important that issues of broadcast e-mail be addressed, and I thank the FTC for hosting this dialogue.

One critical issue that cannot be stressed enough is that of legitimate, solicited e-mail, and legitimate e-mail broadcasters, being blacklisted or otherwise blocked by broad-brush, blanket anti-spam policies and technologies. A large group of legitimate e-mailers increasingly caught in the crossfire between pro- and anti-spammers are associations. From trade groups representing manufacturers and retailers, to professional societies of educators and physicians, frequent mass communication to and among members is the lifeblood of associations. And associations are increasingly turning to – and relying upon – e-mail because of its speed and economy. Many associations are now beginning to find that their broadcast e-mail, typically newsletters and news alerts sent exclusively to their members and nonmember paying subscribers, are being blocked by large and small ISPs and e-mail administrators that erroneously "see" association e-mail broadcasts as spam. In a few cases, I have heard of associations having their Internet domains blacklisted.

My association is a typical case. The Association for Career and Technical Education (ACTE) has about 30,000 members, largely high school and college instructors, administrators and counselors. We have nearly 15,000 e-mail addresses for these members. Every one of our members pays annual dues to belong to ACTE, and in exchange we promise them and they expect to receive publications from us, which now include e-mail newsletters. Every one of our members has complete freedom and authority to conveniently unsubscribe themselves from any communication from us they choose not to receive.

Typically, we e-mail newsletters to all our members (except those who have unsubscribed) about four times per month. We use an off-the-shelf broadcast e-mail program. Typically, about 4,000 e-mails bounce, some 30% of the total. Certainly, a percentage of these bounces are simply inaccurate addresses. But we know for a fact that many of our e-mails are bouncing because ISPs and e-mail administrators are blocking our e-mail using blanket spam identification technologies and processes that see our legitimate and solicited e-mail as spam. Our e-mail is not spam. It is not promotion. It is news. It is asked for. It is part of our member offerings. In some cases it is paid for.

Like most associations, our expertise is in legislative issue advocacy, member education, public awareness, community-building and communication -- not in technology wherewithal. I say this because from various quarters within the arcane community of Internet technologists come rumors of technological work-arounds that in limited ways can help get the e-mail through. But some of these solutions are said to rely on the same kind of Internet sleight-of-hand that has made e-mail spammers so difficult to identify and stop!

In your deliberations and in the development of policies to define and control spam, it is vitally important that those who will have the means to employ anti-spamming technologies and processes, be legally required to:

- 1) Accurately distinguish between spammers and legitimate broadcast e-mailers; and

2) Allow legitimate broadcast e-mail to be delivered.

Thank you for taking the time to include this concern in your deliberations.

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