



WISCONSIN REALTORS ASSOCIATION
4801 Forest Run Road, Suite 201
Madison, WI 53704-7337
608-241-2047 ■ 800-279-1972
Fax: 608-241-2901
E-mail: wra@wra.org
Web site: <http://www.wra.org>

Walter Hellyer, CRB, CRS, GRI, Chairman
E-mail: corky@propertydoor.com

William Malkasian, CAE, President
E-mail: wem@wra.org

March 23, 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," 69 *Federal Register* 48, 11775-11782
(March 11, 2004)**

Dear Sir or Madam:

On behalf of the Wisconsin Association OF REALTORS® (WRA), 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 a membership association representing over 14,000 members, we increasingly use e-mail to communicate with members and therefore have a significant interest in the outcome of this rulemaking process.

While the WRA supports the Commission's efforts to control fraudulent, misleading and abusive unsolicited e-mails and e-mailing practices, we are concerned that the establishment of a Do-Not-E-mail Registry ("Registry") will penalize trade associations, membership organizations, and non-profits engaging in legitimate e-mail communications with members.

The WRA routinely uses e-mail to inform members about political and legislative developments, forward legal and broker supervision pointers, deliver committee notices and agenda as well as our monthly magazine and monthly legal publication, and advise members about services and products such as education classes, reference manuals and our annual convention. These e-mails are an important part of our service as an association and transmit information that is expected as a benefit of membership. We believe that the establishment of a Registry will require the WRA to institute compliance measures which will result in some members not receiving notice of valuable membership benefits and will ultimately distort members' perceptions of the benefits they are actually receiving.

In addition to our concerns with communication restrictions that would be imposed by a Do-Not-E-mail Registry, we are also concerned with the significant threat to our members' privacy that could occur should the security of a Do-Not-E-mail Registry be breached by spammers. As many computer security experts have indicated, the creation of an effective, secure and enforceable Do-Not-E-mail Registry is not as simple a task as creating a Do-Not-Call Registry and enforcement system. Unless carefully crafted and controlled, a Do-Not-E-mail Registry system could be used or "gamed" to identify and confirm the existence of legitimate e-mail addresses which then would be subjected to abusive spam e-mail. It would be ironic if the very system that is proposed to protect e-mail users were used to expose individuals and firms to the very abuses that supporters of a Registry believe will be eliminated by its creation.



REALTOR is a registered mark which identifies a professional in real estate who subscribes to a strict Code of Ethics as a member of the NATIONAL ASSOCIATION OF REALTORS.

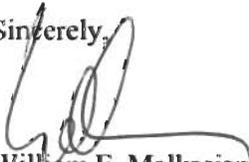
Our members have also voiced concerns that a Registry would not be effective to stop sophisticated spammers because so many senders of spam disguise their identity and the origination of the message. This makes it hard to understand how the Registry will prevent this abuse from continuing when it is so difficult to even identify the source of many e-mails. There is a concern that the Registry would not stop abusers from transmitting to e-mail addresses in the Registry with little fear of being caught. Some of our members would prefer that all resources be devoted to developing technology that will effectively apprehend those who abuse our modern electronic technology.

If the FTC endeavors to establish a Do-Not-E-mail Registry, we believe much careful research and beta-testing is required before any Registry is implemented so that it not be a prime target for attacks by illegitimate spammers and unscrupulous computer hackers.

Given the challenges of creating a safe, secure and effective system, a Registry will not be an inexpensive undertaking. Since development and maintenance costs will most likely be borne by the users of the Registry, we believe that a Do-Not-E-mail Registry would have a significant economic impact on our association and members by imposing significant compliance costs. These expenses would be layered on top of compliance costs imposed last year when the WRA and our members were subjected to several new federal regulations (Do-Not-Call regulations, Do-Not-Fax regulations and CAN SPAM provisions). These newly imposed compliance measures, which have greatly impacted the ordinary course of communication with our members and throughout the real estate industry, have yet to be absorbed. The imposition of additional and significant Registry compliance obligations would be truly problematic.

Once again, we 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 trade associations, membership organizations non-profits and their member/client bases.

Sincerely,



William E. Malkasian, President

cc: National Association of REALTORS®