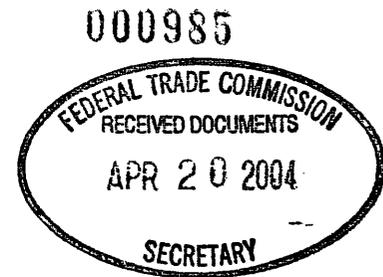


To: The Federal Trade Commission
Re: CAN-SPAM Act Rulemaking, Project No. R411008



Commissioners,

The CAN-SPAM Act has been a positive move toward controlling the growing problem of unsolicited bulk email. However, the manner in which certain parts of the Act will be implemented raise some serious concerns for consumers and merchants alike.

The possibility of applying merchant specific suppression lists to the sending of solicited email is by far the most alarming concern for businesses as well as individuals. It's extremely difficult to see any good coming from such a requirement.

In the simplest implementation of suppression lists, whenever someone unsubscribes from a list through an email message that mentions one or more products or services that are determined to be commercial in nature, the address of that person must be sent to the merchant(s) involved and added to their suppression lists.

Anyone mentioning commercial products or services in a way that might be defined as advertising must make sure that people on the merchants' lists don't get the emails containing those references.

There are so many extremely serious problems associated with this idea that I find it hard to figure out where to begin. With that in mind, let me apologize beforehand for the random thoughts that follow, because I can't even begin to determine my primary concern and develop a list accordingly.

First, I guess I should start with the problem of the definitions of "unsolicited" vs. "solicited" email and the people that are the focus of any new laws. Obviously, "unsolicited" mail is the focus of any SPAM laws for the simple fact that it is not requested and is a pain in the neck for legislators, business owners, and consumers. However, "solicited" mail is requested and authorized by consumers for their benefit.

Honest business owners do everything possible to leave complete control to the individuals requesting or consenting to receive any mail. In doing so, they make it very clear that the contact info of these individuals will never be shared or distributed in any way whatsoever.

Being honest publishers, how can they go back on their promise of confidentiality, being required to distribute the addresses to another party? In this case, the merchant(s). On this note, in the future, how can any publisher make a promise to the consumer that their information will never be shared and that they have complete control?

Now let's take a look from a consumer standpoint.

As a consumer, there are a number of different reasons that I might unsubscribe from a particular list. Some of the most likely reasons include:

1. I'm not interested in the content anymore.
2. The publisher sends too much mail, which would have nothing to do with any advertisements.
3. I might get too much mail in general and want to reduce the amount I get, which also has nothing to do with any ads.
4. I may find that I start to disagree with the publishers' opinions or convictions, which also has nothing to do with any products or services.
5. I might mistake the mail for SPAM (which I do often) or it might seem like it's from a different publisher (which I also do often).
6. I might want to get that publication at a different email address.
7. If I'm going on a vacation and want to reduce the amount of mail I need to go through when I get back, I might temporarily unsubscribe.
8. I might notice that I stopped getting material I requested, therefore, I would unsubscribe in order to subscribe again. Many publishers don't allow duplicate subscriptions.

These are just the reasons that have nothing to do with any product or service that is mentioned in the mail. There are many more, however, these are the common reasons for which I unsubscribe.

Now, as a consumer, I devour anything and everything on a specific topic that greatly interests me. So naturally, I subscribe to numerous publications on many topics. Many similar publications may recommend the same products and services.

Suppression lists would inevitably cause me to stop getting content that I really want. I lose control of what I get and don't get, which would be an enormously frustrating situation.

If I unsubscribe for any of the above reasons, and stop getting material because of a small ad that I probably didn't even look at, I might have to stop unsubscribing, just to make sure I get what I want.

Now, we need to look at the business or merchant standpoint as it relates to the consumer.

There are so many technicalities involved with the implementation of suppression lists that many businesses would cease to be profitable, thus leaving the consumer without products and services that would be of great benefit.

Many products and services have multiple benefits. One publisher may bring one benefit to light while another advantage made evident by someone else. If I were to unsubscribe from one list it would cause me to stop receiving mail from another list, which would not be of any benefit. I may never know the single most important factor of a particular

product or service for my particular situation.

Also, I read many reviews of products and services. Numerous publishers provide details of why certain services are bad. If I unsubscribe from a list that recommends a resource, I would stop getting material from someone that suggests I stay away from the same product or service. I would stop getting mail that is of great benefit. This is terrible to say the least.

From a business/merchant standpoint, I could probably write a book on the pitfalls of implementing suppression lists and the massive problems they would cause to small businesses as well as the economy as a whole. However, I'm sure you've received plenty of mail detailing this point of view, so I will leave it at that.

I believe, and hope you agree, that the problems facing just the consumer point of view is more than enough to reconsider the implementation of suppression lists.

Final Thoughts:

The people SPAM laws fight to attack are those individuals that harvest lists, are able to hide their source, and send millions of emails at a time without getting caught. Most of these people live in other countries where our laws have no effect.

If such despicable people were to get their hands on suppression lists, we would inevitably see countless lawsuits for which honest merchants had no fault or control.

Also, these same vermin would be able to use discussion boards and forums to develop lists to SPAM to based on specific topics in order to put competitors out of business by causing them undue lawsuits and expenses.

Lastly, it is vital that consumers have as much control over what they get and why as possible. If we stray from this basic principle there's no telling what catastrophic consequences will result.

I truly understand the difficulties in dealing with SPAMMERS, however, it's important to realize that stringent laws and requirements really only effect honest publishers and businesses and have little or no effect on those that SPAM.

Thank you for giving us an opportunity to voice our opinion.

Respectfully,

Jigar Banker
Panama City, FL USA