



## Pennsylvania Association of Resources for People with Mental Retardation

---

1007 North Front Street  
Harrisburg, PA 17102  
Phone 717-236-2374  
Fax 717-236-5625

April 19, 2004

Secretary Donald S. Clark, Secretary  
Federal Trade Commission  
CAN-SPAM Act  
Post Office Box 1030  
Merrifield, VA 22116-1030

**Re: Comments by the Pennsylvania Association of Resources for People with Mental Retardation (PAR) on the following proposed FCC Rulemaking: CAN-SPAM Act Rulemaking, Project No. R411008**

Dear Secretary Clark,

The Pennsylvania Association of Resources for People with Mental Retardation (PAR) thanks the Federal Trade Commission (FTC) for the opportunity to provide written comments on the above referenced proposed rulemaking. PAR is a statewide association whose members provide the full range of supports and services to individuals with mental retardation in over 3,200 locations in the Commonwealth in addition to numerous non-residential and in-home supports.

PAR understands that the Can-Spam Act (the "Act") is trying to reduce unwanted spam, but feels that the definition of "commercial email" is too broad with its inclusion of nonprofit associations. As an element of PAR's mission to ensure the continuing improvement of the quality of supports and services given by our community providers, PAR relies on email to notify members of all opportunities available to help them in their mission, and such notices often includes the cost of the opportunity.

For example, PAR often uses email to remind members to register for an annual meeting or educational conference or to notify them of a new mission-related product or service available to them. Under the new FTC rules, such emails could be considered "commercial" and ultimately classified as "spam." PAR believes that having our communication classified as such is unnecessary and contrary to the purpose of membership, when members specifically pay to receive such information

The broad definition of “commercial emails” and the inability to distinguish between the communications of nonprofit organizations and for-profit, commercial entities needs to be clarified. One possible solution is to expand the definition of “transactional or relationship messages” to include emails between nonprofits and their members. The definition of transactional or relationship messages currently does not create an exception for messages to persons with whom the sender has an “established business relationship.” All legitimate nonprofit communications should fall under this definition as they are intended to provide valuable information under the terms of an existing member relationship.

When asked about whether nonprofits should be included in the related Do-Not-Call registry, FTC Commissioner Timothy Muris expressed his opinion that nonprofits do not seem to be part of the problem. PAR agrees with Commissioner Muris that nonprofits are not at the root of, or even a major part of, the problems related to unsolicited communications and believes that the FTC should recognize that the same is true for email communication with members.

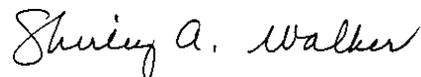
In view of the facts that:

1. All of our communications are based on a relationship with our members,
2. Our members’ desire to receive such communication was clearly indicated by their purchase of a membership in our organization, and
3. PAR is fulfilling an obligation to our members through any form of communication,

PAR recommends that email communication from nonprofits to members should be exempt from the broad definition of “commercial electronic mail message.”

We are available to provide clarification on our comments or submit additional input as needed. Thank you for giving our comments and recommendations your thoughtful consideration.

Sincerely,



Shirley A. Walker  
President and CEO