

Before the Federal Trade Commission
Washington, D.C. 20580

Comments of Glube's - Business Services

Definitions, Implementation and Reporting under the CAN-SPAM
Act - Project No. R411008

Federal Register Notice (16 CFR Part 316)

dated: April 20, 2004.

Glube's - Business Services (Glube's) is pleased to be presented this opportunity to comment on the proposed rulemaking contemplated by the Federal Trade Commission under the Controlling the Assault of Non-Solicited Pornography And Marketing (CAN-SPAM) Act. Glube's is a sole proprietorship. The owner is an individual by the name of John Glube who resides in Toronto, Canada. Glube's business operations are conducted entirely or predominantly on the Internet.

The mission of Glube's includes providing information to very small enterprises concerning regulatory requirements for online marketers.

The initial effort by Congress to address the problem of unsolicited e-mail sent in bulk is a needed first step. Glube's - Business Services supports and adopts the earlier filing by the International Council of Online Professionals as filed on March 27, 2004. An online copy may be found at <http://www.i-cop.org/ftc-comments2.htm>

Glube's also asks the Commission to take into consideration the following additional material:

The FTC Wants To Hear From You
an article by John Glube of the Journal found at <http://www.learnsteps4profit.com/csp.html>
(along with the various articles and materials referenced therein.)

- and -

Suppression, Suppression
A Guest Commentary by John Glube found at <http://www.talkbiz.net/ramblings/weblog.php>

The specific burden the CAN-SPAM Act will impose upon Glube's involves its publication of two true opt-in newsletters, with messages being sent with affirmative consent and subscribers being able to simply opt-out from

receiving email notice of further issues by way of Internet based mechanism.

The first newsletter is called Head's Up, A Copywriter's Journal (the Journal) and the second titled Rules? What Rules? (Rules).

The Journal and Rules are presently free publications supported by moneys generated from the marketing of products and services by Glube's as an affiliate for third party merchants to subscribers.

The Journal and Rules do not run paid advertising or solo advertising. The marketing of affiliate products or services is primarily in the form of a recommendation or product review included within issues of these newsletters and the recommendation or review contains a link to the merchant's site, although other methods are utilized including the giving away of reports and booklets which includes advertising.

In essence, if issues of the Journal and Rules sent by email to subscribers are treated as commercial electronic mail messages for regulatory purposes under the CAN-SPAM Act, so imposing the mandated opt-out requirements, meaning notice of subscriber opt-outs have to be sent to third party merchants, (apart from all the technical issues surrounding this process) Glube's will have two choices:

- * Refuse to release subscriber information to third party merchants to avoid placing us in violation of our commitment made to subscribers to hold their contact information in confidence and also to ensure compliance with Canadian Data Privacy Laws; or,

- * Withdraw from the United States market place.

The commitment to hold subscriber information in confidence is fundamental to the relationship between Glube's and more importantly Glube's owner and his subscribers. To breach this undertaking would destroy the essential bond of trust which exists between publisher and subscriber.

Ultimately this trust is all that a publisher has in running his or her online newsletter.

The first choice also exposes Glube's and more importantly its proprietor, John Glube to the risk of civil prosecution under the CAN-SPAM Act, this law having extra-territorial affect and applying to all those who communicate by email with American consumers.

The second choice means Glube's will have to change its entire business model and start afresh, losing over a year's worth of effort in building its business online.

Neither choice is palatable and we believe was not the intended consequence of Congress when it passed the CAN-SPAM Act.

Glube's understand this draconian situation cannot be avoided by simply sending notice of publication and publishing the issues online.

Although Glube's understands legislative interpretation is textually based, this position is reinforced given the Act's title, being a law to regulate interstate unsolicited commercial email, along with the underlying public policy basis for the Act, to give consumers a right to opt-out from further receipt of commercial email.

Both of these concerns are satisfied as subscribers of the Journal and Rules give Glube's affirmative consent to receive the Journal and Rules and subscribers to these publications have the right to opt-out from receiving further issues of the Journal and Rules by way of a simple Internet based mechanism. Click a link and you are gone.

For these reasons Glube's asks the Commission to give favorable consideration to the recommendations contained in the earlier submission made by the [International Council of Online Professionals](#) as augmented by the comments contained in [The FTC Wants To Hear From You](#) (along with the referenced materials) and [Suppression, Suppression](#).

All of which is respectfully submitted.

This 20th day of April, 2004 at Toronto, Canada

Glube's - Business Services

Per: John Glube