

# TARGET CORPORATION

1000 Nicollet Mall  
Minneapolis, Minnesota 55403

March 31, 2004

Federal Trade Commission  
CAN-SPAM Act  
Post Office Box 1030  
Merrifield, VA 22116-1030

Submitted Via Email:

<http://www.regulations.gov>

## **Re: CAN-SPAM Act Rulemaking, Project No. R411008**

Target Corporation appreciates the opportunity to submit comments in response to the Advanced Notice of Proposed rulemaking (“Notice”) relating to the CAN-SPAM Act and, in particular, the National Do Not E-mail Registry.

Target Corporation (“Target”) operates large-store general merchandise formats, including discount stores, moderate-priced promotional and traditional department stores, as well as a direct mail and on-line business called target.direct. The company currently operates 1,577 stores in 47 states. This includes 1,249 Target stores, 266 Mervyn's stores and 62 Marshall Field's.

Target believes that implementation and rigorous enforcement of the CAN-SPAM Act will result in the elimination of spam without jeopardizing the development of e-commerce. Conversely, the creation of a do-not-e-mail registry is not the appropriate solution to address the spam problem. Target opposes the creation of a do-not-e-mail registry because it will not prevent spam. Instead, a registry would create significant privacy and security risks for our customers, inhibit our ability to develop e-commerce channels, hinder our ability to legitimately communicate with our customers, and will impose unnecessary costs on our business.

- **A “do not e-mail” registry will not reduce spam.** The spam problem is a result of bad actors who do not follow the law and take steps to avoid detection and anti-spam measures. As a result, these actors will not follow a “do not e-mail” registry. In most cases, it is very difficult, if not impossible, to find spammers. For this reason, it will be difficult to identify and enforce against spammers who violate a “do not e-mail” registry. As a result, the spam sent by these bad actors will not be impacted by a registry.
- **A “do not e-mail” registry will set unrealistic expectations for consumers.** If a “do not e-mail” registry is created, consumers will have the expectation that spam will be reduced or eliminated from their inboxes. This will not occur, as the bad actors will continue to send spam.
- **A “do not e-mail” registry will hurt the development of e-commerce.** Restrictions that could limit the sending of legitimate commercial e-mail threatens to impede our ability to

develop our e-commerce business. We are constantly looking for innovative business models that will strengthen our relationship with our customers using electronic mail. A “do not e-mail” registry will, by creating a broad category of individuals to whom e-mail cannot be sent, limit such innovations.

- **A “do not e-mail” registry poses significant privacy and security risks with respect to the e-mail addresses on the registry.** If a registry were distributed to tens of thousands of senders of commercial e-mail, there is a significant likelihood that the list will be compromised and the e-mail addresses will become available to bad actors. If spammers obtain the list of the e-mail addresses that are on the registry, they will use it as a list of recipients to whom to send spam.
- **E-mail that consumers want may not reach the consumer as a result of a registry.** There may be categories of e-mail that individuals want to receive that will not be able to be sent to those who place their names on the registry. For example, an individual may have consented to receive e-mail and signed onto a registry. There may be categories of e-mail that fall outside of the scope of ‘transactional and relationship’ messages that an individual has requested that then could not be sent to individuals on the registry.
- **A “do not e-mail” registry will impose unnecessary costs on legitimate senders of commercial e-mail.** Scrubbing lists for each commercial e-mail that is sent will result in significant costs to our business with no benefit in reduction of spam to consumers. Such additional costs will ultimately be built into our products and services.

For all of these reasons, we strongly urge that the Federal Trade Commission, in its report to Congress, recommend against the adoption of a do-not-e-mail registry at this time.

Sincerely,  
Nathan K. Garvis  
V. P. Government Affairs  
Target Corporation