

Of specific concern to ARTBA is the NOPR's proposal to shorten the period of time in which an "opt-out" request must be honored from ten to three business days. Allowing only three days to honor an "opt-out" request would place an unreasonable hardship on non-profit trade associations, especially those without large staffs or multiple dedicated IT personnel to handle such matters. State associations which often have considerably smaller staffs with even fewer personnel to dedicate to such issues could be particularly impacted by this new requirement. As such, shortening the time limit for honoring an "opt-out" request to three days is an unfair and restrictive burden to place on non-profit trade associations.

The NOPR states that a primary reason for shortening the time in which to honor an "opt-out" clause is the fear of "mail-bombing," or sending an increased amount of e-mail messages within the ten day window before the "opt-out" clause must be honored. This fear should not apply to non-profit trade associations. As already described, the mission of a trade association is to provide member services and goodwill between an association and its members is essential. Thus, it would run completely counter to any established notion of good business for an association to alienate any member by "mail-bombing" them for ten days prior to honoring an "opt-out" request.

The NOPR also mentions that products are "in development" to allow instantaneous honoring of "opt-out" requests. Requiring trade associations to expend unplanned resources on such technology would divert funds from other important member service obligations. Also, it would effectively transform non-profit trade associations into a "captive marketplace" for producers of CAN-SPAM compliance software.

Allowing ten business days, as opposed to three, for trade associations to honor "opt-out" requests gives the flexibility needed to both continue member service activities and abide by the intent of the CAN-SPAM Act. However, if the FTC does determine such a course of action is warranted, ARTBA requests that an exemption be made for non-profit trade associations.

Again, we respect the intent of the CAN-SPAM Act, but do not believe Congress intended to impose unreasonable staffing burdens on non-profit organizations or limit member services provided by trade associations when the measure was enacted. We urge the FTC to focus its implementation on objectionable and unwanted e-mail communications and not legitimate communications between consenting parties.

Sincerely,

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