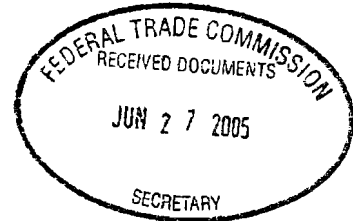


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June 27, 2005



BY HAND DELIVERY

Donald S. Clark
Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

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

Dear Mr. Secretary:

I submit these comments pursuant to the Federal Trade Commission's (the "Commission") publication of proposed regulations ("Proposed Regs") further implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the "Act"). 70 F.R. 25426 (May 12, 2005). Baker & Hostetler LLP represents direct marketers and others who are concerned about legitimate marketing efforts, efficient communications with consumers, and protection of proprietary information, including data about consumers.

The Commission should clarify the definition of a "sender" in a manner that will both further efficient communications in the marketplace and safeguard the privacy of consumer data as well. Specifically, I will address questions 1.b and 1.c regarding the definition of "sender" and the treatment of certain third-party list providers, that is, those who own the list and originally obtained permission from persons on the list. See 70 F.R. at 25450.

A. Brief Overview

Much of the Commission's proposed clarification of the term "sender" arises in the context of a single e-mail that contains the ads or promotional material of multiple advertisers. The focus, understandably in that context, is to find a way that allows compliance by a single "sender" that is consistent with the language and policy of the Act. The Commission expresses due regard for the logistical problems that would arise

