

Department of Privacy
1 Becton Drive MC 090
Franklin Lakes, NJ 07417
tel: 201.847.7461
fax: 201.847.5942
www.bd.com



June 23, 2005

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

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

To Whom It May Concern:

Thank you for the opportunity to provide public comments regarding proposed rule changes to the CAN SPAM Act of 2003. The comments below are specifically directed at the proposed rule change for companies who send commercial e-mail have to honor opt out requests from 10 days to 3 days.

There are several reasons that would make complying with proposed change to a 3 day time requirement to honor opt out requests unworkable and unmanageable. The first is that a commercial e-mail is broadly defined under the Act and could be more than an e-mail generated by a system. It could be a single e-mail sent from an individual of one company to an individual of another company. Because of this broad definition, there should not be an assumption that a simple technology system exists to handle an opt out request. Especially in a manual environment, 3 days is not workable, particularly in the event of holiday weekends.

Furthermore, the opt-out process itself can be very complex, as many companies also must synchronize multiple e-mail databases, forward opt-out requests to third parties, or otherwise manually process opt-out requests, all of which takes a certain amount of time no matter how quickly or efficiently done. The proposed rule change to a 3 day requirement would require extensive investment in both process and technology over and above what companies have already made to meet the current 10 day requirement. Finally, the change would particularly effect and burden small businesses, which have fewer resources than larger companies. For the reasons listed above, we respectfully urge the FTC to keep the 10 day requirement intact.

Again, thank you for the opportunity to provide comments regarding proposed rule changes and for giving them your serious consideration.

Sincerely,

Ron Miller
Associate Privacy Manager

June 21, 2005

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

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

Dear Secretary:

On behalf of aQuantive, Inc., I am happy to provide the following comments on the current regulations proposed under the CAN SPAM Act. aQuantive, Inc. is the parent company of Avenue A | Razorfish, the largest independent interactive agency. Given our role in the online advertising marketplace, we feel that we have a clear and compelling view of the actual operation of the email industry. Based on this perspective, we write today to express serious concerns with any further limitations on the opt out processing period found with the CAN SPAM Act.

As you know, the FTC has proposed reducing the processing period for opt out requests under the CAN SPAM Act from 10 to 3 days. In other words, companies sending commercial electronic mail messages must cease sending further messages within 3 days of receiving an opt out from a recipient. To be clear, our company -- indeed our entire industry -- is committed to respecting consumers' requests not to receive commercial email. We stand in strong support of the 10 day opt out requirement in the CAN SPAM Act. We certainly do not want to send commercial email to recipients who do not wish to receive such messages.

However, moving from the period set under the CAN SPAM Act (10 days) to 3 days will create a impossible threshold for opt out processing in many common situations. The CAN SPAM Act creates the need for the transfer of opt out lists (suppression files) within and between organizations. The transfer of such files can easily require more than three days in large organizations with highly distributed operations. Mandating a 3 day opt out processing period will put many well-intentioned companies unnecessarily out of compliance with the Act. Additionally, it is common practice for many organizations to plan and program their email campaigns well in advance of the actual distribution. In such situations, the list of email addresses that a campaign will be delivered to may be determined up to a week prior to the actual delivery of the message. Requiring a 3 day opt out period will seriously impair the strategic use of email marketing by requiring last-minute changes to previously scheduled campaigns.

Perhaps most importantly, there is no evidence of which we are aware that would suggest that consumers receive any more commercial email during the opt out period. I know that I can speak on behalf of all legitimate companies in the email industry in saying that an opt out request is not seen as an opportunity to send spam for 10 additional days.

For these reasons, we strongly encourage you to not reduce the opt out processing period set by the CAN SPAM Act.

Sincerely,

Linda Schoemaker
Senior Vice President and General Counsel
aQuantive, Inc.

aQuantive

Exact

Chip House
VP, Privacy & Deliverability
ExactTarget, Inc.
4945 Emerson Avenue South
Minneapolis, MN 55419

June 23, 2005

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

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

Dear Secretary:

I am providing the following comments regarding the current regulations proposed under the CAN-SPAM Act on behalf of ExactTarget, Inc. ExactTarget is a high-growth software company with over 3,000 clients worldwide. We provide online software for permission-based email communications, for clients ranging from members of the Fortune 500 to small- and medium-sized businesses. Given our role in the marketplace, we have a clear and compelling view of how legitimate businesses use commercial email in their everyday operations. Based on this perspective, we are writing to express serious concerns with further limitations on the opt-out processing period found in the CAN-SPAM Act.

Under the CAN-SPAM Act, the FTC has proposed reducing the processing period for opt out requests from ten to three days. In other words, companies sending commercial electronic mail messages must cease sending further messages within three days of receiving an opt out from a recipient. To be clear, our company -- indeed our entire industry -- is committed to respecting consumer requests not to receive commercial email. We stand in strong support of the Act's current ten day opt out requirement.

Reducing the current ten day period set under the CAN-SPAM Act to just three days, however, will create an impossible threshold for opt out processing in many common situations. One specific concern relates to the existing requirement to transfer opt out lists (suppression files) within and between organizations. This process alone can easily require more than three days for large organizations with highly-distributed operations, or between a marketer and a third party acting on their behalf. For example, many large organizations require that a marketing division "check out" an email list before it can be used for mailing purposes. Oftentimes this list is given to a service provider who may provide list hygiene, data appending, segmentation, and other email or list services before sending the communication. These hygiene and data manipulations may also take longer than three days. Under the proposed rules, this process would be mandated to be completed within three days. Certainly this is limiting beyond the scope intended by the proposed rule.

Mandating a three-day opt out processing period will unnecessarily put many well-intentioned companies out of compliance with the Act and impede the strategic use of email.

Another common example is with a distributed sales organization, like a national real estate company with representatives at remote locations who send commercial email on behalf of the company. Opt-outs received by individual representatives need to be honored by the entire company. Without a link to the corporate database, the representative cannot quickly or easily provide opt-outs back to the corporate database. The corporation can also not easily remove the names themselves, or communicate the change to other representatives to ensure the opt-out is honored. If a second

Exact

representative were to send commercial mail to the consumer after the three-day period, that email would be out of compliance of the new rules. Certainly similar challenges exist with a ten-day standard, but they are mitigated in most situations by manual processes that may not be practical inside of three days. There are countless examples of franchises, or national retailers that could find themselves in similar situations, especially if they have disparate databases and processes.

Perhaps most importantly, we are aware of no evidence that would suggest consumers receive more commercial email during the opt-out period. I can confidently speak on behalf of all legitimate companies in the email industry in saying that an opt-out request is not seen as an opportunity to send spam for ten additional days. Legitimate marketers honor the opt-outs as soon as possible, often immediately – whereas spammers do not honor them at all.

For the reasons cited above, we strongly encourage you not to reduce the opt-out processing period set by the CAN-SPAM Act. Such a change would only harm legitimate businesses for whom the rule is designed to protect, rather than impede spam from the lawless individuals that choose to purposefully mislead and deceive consumers.

Thank you for taking time to read our objections to the proposed rules. We look forward to other rulemaking proposed in this session that clarifies the law and preserves legitimate uses of the email medium.

Sincerely,

Chip House
VP, Privacy & Deliverability
ExactTarget, Inc.

June 23, 2005

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

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

Dear Secretary:

I am writing to express serious concerns regarding the contemplated reduction in the CAN SPAM Act opt-out period from 10 days to 3 days. Topica is an email service provider, hosting email lists for approximately 4,000 commercial clients, plus an additional 40,000 community discussion lists which we host at no charge to the listowner or subscribers. Given our role in the marketplace as one of the larger email service providers, we feel that we have a clear and compelling view of the actual operation of the email industry.

As you know, the FTC has proposed reducing the processing period for opt out requests under the CAN SPAM Act from 10 to 3 days. In other words, companies sending commercial electronic mail messages must cease sending further messages within 3 days of receiving an opt out from a recipient. To be clear, our company -- indeed our entire industry -- is committed to respecting consumers' requests not to receive commercial email. We stand in strong support of the 10 day opt out requirement in the CAN SPAM Act. And we certainly do not want to send commercial email to recipients who do not wish to receive such messages.

Topica's opt-out processing is well within the 3 day period being contemplated. However, our clients operate under a variety of corporate structures and relationships with partners or vendors. Moving from the period set under the CAN SPAM Act (10 days) to 3 days will create an impossible threshold for opt out processing in many common situations our clients encounter. The CAN SPAM Act creates the need for the transfer of opt out lists (suppression files) within and between organizations. The transfer of such files can easily require more than three days in large organizations with highly distributed operations, or companies using outsourced advertising or media agencies to handle their online relations. Mandating a 3 day opt out processing period will put many well-intentioned companies unnecessarily out of compliance with the Act. Additionally, it is common practice for many organizations to plan and program their email campaigns well in advance of the actual distribution. In such situations, the list of email addresses that a campaign will be delivered to may be determined up to a week prior to the actual delivery of the message. Requiring a 3 day opt out period will seriously impair the strategic use of email marketing by requiring last-minute changes to previously scheduled campaigns.

Perhaps most importantly, there has been no evidence that we are aware of that would suggest that consumers receive any more commercial email during the opt out period. I know that I can speak on behalf of all legitimate companies in the email industry in saying that an opt out request is not seen as an opportunity to send spam for 10 additional days.

For these reasons, we strongly encourage you to not reduce the opt out processing period set by the CAN SPAM Act.

Sincerely,

Carter Hostalley /
Chief Executive Officer

Linda A. Harris
Re: CITI-2120062912XXXX

July 6, 2005

UNIFUND CORPORATION
11802 Conrey Rd Ste 200
Cincinnati, OH 452491074

Dear Sir/Madam:

I am writing to you to request that you verify a debt as required by the Fair Debt Collection Practice Act. I discovered that you had acquired my debt with Associates National Bank, an account that I opened in September 1998. The partial account number (per your records-Equifax credit bureau) is CITI-212006212XXX. I have not been contacted by your company and found out about the collection status from my credit report, and it is that debt that I wish you to verify. Please send me such verification, a one time correspondence to this address: PSC-14, Box 555191, Camp Pendleton, CA 92055.

Aside from verification of the debt, I request that you do not communicate with me about the debt. I will contact the debtor and come to an agreement, or with your company, in the near future. I was under the impression this debt was being taken care of and it comes as quite a surprise that it has not. The Fair Debt Collection Practice Act, 15 USCA Section 1692c requires that you honor this request.

Apart from sending me verification, please do not send or make any other communication. Your cooperation will be appreciated.

Sincerely,

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

