

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FEDERAL TRADE COMMISSION

I N D E X

INTRODUCTION		PAGE
BY MR. DAVIS:	4	

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FEDERAL TRADE COMMISSION

IN THE MATTER OF:)
CAN-SPAM REPORT TO CONGRESS.)
) Matter No.:
) P044405
)
-----)

WEDNESDAY, JULY 27, 2005
AM SESSION
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

The above-entitled matter came on for
conference, pursuant to agreement, at 10:05 a.m.

1 APPEARANCES:

2 ON BEHALF OF THE FEDERAL TRADE COMMISSION:

3 MICHAEL DAVIS, ESQ.

4 CATHERINE HARRINGTON-MCBRIDE, ESQ.

5 ALLYSON HIMELFARB, Investigator

6 HAJ HADEISHI, Economist

7 600 Pennsylvania Avenue

8 Washington, D.C. 20058

9

10 ALSO PRESENT VIA TELEPHONE:

11 JIM HALPERT, Internet Commerce Coalition

12 JIM BARSZCZ, AT&T

13 LIZ GASSTER, AT&T

14 BETSY BRADY, Microsoft

15 JOSHUA GOODMAN, Microsoft

16 AARON KORNBLUM, Microsoft

17 JOHN ST. CLAIR, MCI

18 MAGGIE MANSOURKIA, MCI

19 JENNIFER JACOBSEN, AOL/Time Warner

20 STUART INGIS, Piper Rudnick

21 JENNIFER ARCHIE, AOL

22 JULIE CLOCKER, Verizon

23 KIMBERLY ADDICOTT, Verizon

24 THOMAS DAILEY, Verizon

25 ELIZABETH BOWLES, Aristotle

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 P R O C E E D I N G S

2 - - - - -

3 MR. DAVIS: Good morning, everyone. This is
4 Mike Davis, and I'm an attorney at the Federal Trade
5 Commission in Washington. The chairperson is Katie
6 Harrington-McBride. However, she will be coming to our
7 conference in just a few minutes. She's not here. I'm
8 also joined in the conference room here in Washington by
9 Allyson Himelfarb, an investigator at the FTC. I
10 understand that Debbie, a court reporter with For The
11 Record, is also on the line. Is that right, Debbie?

12 MS. MAHEUX: Yes, it is, Mike. Thank you.

13 MR. DAVIS: So, Debbie, are you ready to start?

14 MS. MAHEUX: Yes, I am, Mike.

15 MR. DAVIS: Great. Thank you. And also just
16 joining us now in the conference room here in Washington
17 is Katie Harrington-McBride, an attorney here at the
18 FTC.

19 MS. HARRINGTON-MCBRIDE: Good morning,
20 everybody.

21 MR. DAVIS: Thank you all for joining us. We
22 plan to have a talk with you for about the next two
23 hours to discuss the effectiveness and the enforcement
24 of the federal CAN-SPAM Act. Before we get started, I
25 would like to do a call of the roll.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 This call is a little bit larger than some of
2 the calls we're having in a two-week period, and in
3 order to try to help out our court reporter, Debbie, we
4 will have a specific request for you, and that would be
5 when you're ready to speak, if you'll say your full name
6 and the organization that you're with, that will help
7 her not only get used to the sound of your voice but
8 also know exactly who is speaking so that the record is
9 clear.

10 It looks like we have a couple of Jims
11 potentially today, and maybe a few other folks with
12 similar sounding names, so it will be important for you
13 to clearly state your name when speaking.

14 Let's see if Jim Halpert is on the line.

15 MR. HALPERT: Yes, I am, representing the
16 Internet Commerce Coalition.

17 MR. DAVIS: Good morning, Jim. Jim Barszcz, if
18 I'm pronouncing it correctly?

19 MR. BARSZCZ: It's just Barszcz.

20 MR. DAVIS: Okay, Jim, good morning. Liz
21 Gasster? Is there anyone else, Jim, that you're aware
22 of from AT&T this morning?

23 MR. BARSZCZ: No. It should be just Liz and me.

24 MR. DAVIS: So I guess Liz is not on the line
25 yet. How about Gerard Lewis?

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MR. HALPERT: I'm not sure, Gerry, are you on
2 the line? They are a member of the Internet Commerce
3 Coalition and gave me a bunch of information before the
4 call.

5 MR. DAVIS: We had received an indication that
6 he may not be able to make it, so we will indicate that
7 they're not here yet.

8 MR. HALPERT: I can forward any questions that
9 you have for Comcast, if that's helpful.

10 MR. DAVIS: Okay. Let me first make sure there
11 is no one on the line from Comcast. Okay.

12 How about Dina Wong? Dina Wong from Yahoo?

13 Alan Davidson from Google?

14 Betsy Brady with Microsoft? Betsy Brady?

15 MS. BRADY: Here.

16 MR. DAVIS: Okay, Betsy.

17 MS. BRADY: Thank you.

18 MR. DAVIS: Joshua Goodman also with Microsoft?

19 MR. GOODMAN: I'm here.

20 MR. DAVIS: How about Aaron Kornblum?

21 MR. KORNBLUM: Good morning, I'm here.

22 MR. DAVIS: Anyone else with Microsoft?

23 How about Maggie Mansourkia? Sorry about that,
24 Maggie.

25 MS. MANSOURKIA: No, that was great.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MR. DAVIS: Oh, good. John St. Clair?

2 MR. ST. CLAIR: Good morning.

3 MR. DAVIS: Good morning. Jennifer Jacobsen?

4 MS. JACOBSEN: Yes, I'm here from Time Warner,
5 and I'm joined by two people who are representing us and
6 AOL here, Stu Ingis and Jennifer Archie, who are two
7 outside counsel.

8 MR. DAVIS: Jennifer, J E N N I F E R?

9 MS. JACOBSEN: Right.

10 MR. DAVIS: Then Archie.

11 MS. JACOBSEN: A R C H I E

12 MR. DAVIS: Very good. Thanks to the three you.
13 How about Lloyd Nault? Anyone with BellSouth this
14 morning?

15 MR. HALPERT: They're an Internet Commerce
16 Coalition member again, and I can forward any questions
17 you have for them.

18 MR. DAVIS: All right. Thanks. I guess that
19 was Jim Halpert?

20 MR. HALPERT: Correct.

21 MR. DAVIS: Thanks, Jim. Maybe three people
22 from Verizon, Julie Clocker.

23 MS. CLOCKER: Here.

24 MR. DAVIS: All right, Julie. Kimberly
25 Addicott?

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MS. ADDICOTT: I'm here.

2 MR. DAVIS: Thomas Dailey.

3 MR. DAILEY: I'm here.

4 MR. DAVIS: Anyone else from Verizon? And
5 Elizabeth Bowles.

6 MS. BOWLES: Bowles.

7 MR. DAVIS: Bowles, Elizabeth, good morning.

8 MS. BOWLES: Good morning.

9 MR. DAVIS: Is there anyone else not from the
10 FTC on the line.

11 MS. GASSTER: Liz Gasster from AT&T just joined.
12 I'm sorry to be a couple minutes late.

13 MR. DAVIS: Hi, Liz.

14 MS. GASSTER: Hi.

15 MR. DAVIS: Very good. So also we might have a
16 couple of folks from our Bureau of Economics at the FTC.
17 Is anyone on the line?

18 MR. HADEISHI: Yes, Haj Hadeishi here.

19 MR. DAVIS: Haj Hadeishi is from the FTC's
20 Bureau of Economics, and perhaps Lou Silversin will be
21 joining us later, but apparently he's not on right now.

22 Okay. Debbie, do you have any thoughts about
23 this large group or should we just get started?

24 MS. MAHEUX: We can just get started, but please
25 make sure you state your names and speak close to your

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 microphones.

2 MR. DAVIS: In December of 2003, Congress
3 enacted and the President signed the CAN-SPAM Act which
4 among other things directed the FTC to report on the
5 effectiveness and enforcement of the CAN-SPAM Act.
6 FTC's report is due to Congress by middle of December,
7 this coming December.

8 The FTC has been gathering data since the
9 passage of the Act, and this interview is with Internet
10 service providers, and I realize that some of your
11 companies are large and there may be other business
12 units in addition to the ISP units, but for the sake of
13 brevity, I'll just consider most folks on the line to be
14 affiliated in one way or another with an ISP.

15 This interview will be transcribed for the
16 record and will be part of the record for the report.
17 This interview is just one of several ways the FTC is
18 seeking information that would be relevant for the
19 record on the effectiveness and enforcement of the Act.

20 Because today's call is being transcribed for
21 the record by a court reporter who is listening to the
22 call, it is very important that when you wish to speak,
23 you begin by stating your name and your affiliation.
24 For example, this is Mike Davis with the FTC. If you
25 don't remember, one of us may speak up and stop you and

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 ask you to identify yourself, but the call will proceed
2 much more efficiently if you make a note of this now.

3 Finally, and to be absolutely clear, your views
4 expressed here today will be transcribed for the record
5 and may be appended to the report to Congress or
6 otherwise made public, just so everyone is clear on
7 that.

8 Are there any questions before we begin?

9 MS. BRADY: This is Betsy Brady. I have two
10 questions for you.

11 MR. DAVIS: All right, Betsy.

12 MS. BRADY: One is will we have a chance to take
13 a look at the transcript before it's finalized?

14 MR. DAVIS: The answer is yes. I have something
15 to say about that at the end of the call, but basically
16 the transcript will be circulated to everyone by Allyson
17 Himelfarb, who is the person who invited you to attend
18 this call, and we'll be asking for a fairly quick
19 turnaround, and we'll be asking for you to send back
20 your changes in red line format, so that we'll be able
21 to see what changes you're asking for, and that will
22 happen I think about 10 days, 12 days after the call,
23 some time like that.

24 MS. BRADY: My other quick question is: Is
25 there a way to supplement the record of this call if

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 during the course of the call we get a question that we
2 want to weigh in but can't do so immediately?

3 MR. DAVIS: Yes, we invite that, and one way to
4 do it would be to send me an Email message, and I'll
5 give you my Email address later, but I'll also give it
6 to you quickly now. Mdavis@ftc.gov, M as in Mike, D A V
7 I S @ F T C . G O V.

8 MS. BRADY: Thank you very much, Mike.

9 MR. DAVIS: Thanks. Well, here's what we have
10 in mind for today. We're going to cover four main
11 topics on this call. The first will be marketplace
12 developments or technological changes since the passage
13 of the Act, in December of 2003, that may affect the
14 practicality or effectiveness of the Act, and this might
15 include developments that you're aware of and some that
16 we may be aware of, perhaps changes in filtering,
17 methods of authentication, new or increasing use of non-
18 traditional devices for receiving Email like hand-held
19 devices and cell phones, et cetera.

20 Secondly, we'll move into an area about the
21 extent to which the international transmission of Email
22 may affect the effectiveness of the Act and suggestions
23 for changes, so that will be about offshore computers.

24 The third topic is about ways in which
25 consumers, especially children, can be protected from

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 obscene and pornographic material and will be
2 referencing the FTC's Brown Paper Wrapper/sexually
3 explicit rule from 2004.

4 Finally, the fourth topic will be a march
5 through the provisions of the CAN-SPAM Act, taking them
6 one by one, and discussing thoughts that you have about
7 the effectiveness and enforcement of each provision in
8 the CAN-SPAM Act.

9 For each of these four main areas, I will ask a
10 series of questions, and again ask that if you have any
11 information responsive to any of the questions, you
12 please verbally signal your interest and state your name
13 and your organization, and we will call on you, and then
14 you can begin to provide your answer.

15 Also, since this is a technical area, and all of
16 you are experts in this area, there may be, from time to
17 time, a term or an acronym that some of us may not be
18 familiar with, and to ensure that we have a clean
19 record, we may ask that you just spell out for us what
20 the concept is that you're describing. We would like to
21 have a record that even moderately sophisticated readers
22 can understand and enjoy.

23 So let's get started with the first issue, which
24 is regarding marketplace developments or technological
25 changes since the passage of CAN-SPAM in 2003 that may

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 affect the practicality or effectiveness of the Act, and
2 I'll just start off with a specific question, whether
3 you think there are any new or increasingly used methods
4 for receiving Email used by consumers such as cell
5 phones and hand-held Email devices and others, and if
6 so, do those developments impact the practicality or
7 effectiveness of the CAN-SPAM Act?

8 MS. HARRINGTON-MCBRIDE: Just so we don't stump
9 the panel, this is Katie. I guess one thing I would
10 like to say about the scope of your remarks here, and I
11 recognize we've told you 17 times that you're going to
12 be transcribed here and are on the record, but I hope
13 that that won't mean that if you know something
14 anecdotally, you won't feel free to mention it, because
15 obviously you all bring a great expertise to the table.

16 We had an ongoing dialogue with all of you
17 before the CAN-SPAM Act, and certainly since its
18 passage, but if there is information not that you come
19 into possession of because of the work that you do or at
20 your day job, but because of additional reading that you
21 do or there are studies that you may have seen or other
22 data sources you would want to point us to, please feel
23 free in this call to so state and to let us know about
24 those sources.

25 This doesn't have to be from personal knowledge

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 that you speak.

2 MR. GOODMAN: This is Joshua Goodman from
3 Microsoft.

4 MR. DAVIS: Hi, Joshua.

5 MR. GOODMAN: The reason I'm being quiet is that
6 I personally am not aware of important technical changes
7 since the passage of the Act. There haven't been, that
8 I'm aware of, big changes in how people access their
9 Email. There have been small growths in certain areas
10 but not enough to impact things substantially.

11 MR. DAVIS: Let me ask a specific question,
12 whether you have any thoughts on whether wireless
13 devices are capable of accessing, for example, opt-out
14 links or whether small hand-held devices display a
15 sufficient amount of characters for the subject line to
16 display something like the sexually explicit labeling
17 requirement?

18 MR. GOODMAN: Well, certainly, you know, the
19 subject line, since that comes at the very beginning, if
20 you can see any part of the subject, you're going to see
21 that. As far as opt-out links, that depends on the
22 particular device, but I think there are relatively few
23 people -- first off, many people don't use the opt-out
24 links, even when they're available, and second off, I
25 think there are relatively few people who access their

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 Email mostly or exclusively from such a small device,
2 and so when they got back to a larger computer, if they
3 couldn't do it from that device, they could certainly do
4 it some other way.

5 Also sometimes it isn't an opt-out link.
6 Sometimes it's an instruction to say reply to the
7 particular message, and typically if you can read mail,
8 you can also send it, so you can certainly imagine
9 people for whom it's a problem, but it would probably be
10 a relatively small number.

11 MR. DAVIS: That was Joshua Goodman?

12 MR. GOODMAN: Yes.

13 MR. DAVIS: Thank you.

14 MS. BOWLES: This is Elizabeth Bowles. I
15 actually use one of those to check my mail, and as far
16 as I know, the opt-out links work, but I don't
17 personally use them, just to back up what Josh just
18 said. I don't use opt-out links, but if I did, they
19 would work on my hand-held device.

20 MR. DAVIS: Thank you. While we're speaking
21 about opt-out, let me ask you whether you might have any
22 information, perhaps any data or if you've seen any
23 study that supports what might be some form of
24 conventional wisdom that if a user chooses to do some
25 sort of unsubscribe or opting out, it might result in

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 negative consequences.

2 One such consequence could be actually
3 subjecting themselves to more unsolicited commercial
4 Email. Another consequence could be that there might be
5 some exposure to certain types of malware. I'm
6 wondering if you have any information or any thoughts
7 about that, any dangers, so to speak, associated with
8 unsubscribing or opting out.

9 MS. MANSOURKIA: This is Maggie Mansourkia.
10 I'll go ahead and say something about that, which is
11 that I certainly don't have any specific numbers or
12 exact data as to how often there would be a negative
13 consequence, but I think going back to Katie's request
14 that we include just general knowledge and anecdotal
15 evidence, I think most heavy users of Email generally
16 shy away from clicking on opt-out buttons or sending
17 opt-out requests, unless it's a very well established
18 company or business, and they know they can rely on that
19 company because of its brand or because of the
20 relationship or what have you.

21 By the way, those are most of the companies in,
22 which case that they would not want to click on the
23 opt-out button because they do want to receive Emails.
24 I think the general notion is that it's best to not
25 respond in any way, including the opt-out to anyone that

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 you receive commercial Emails from whom you don't know.

2 Everyone that I have talked to regarding those,
3 that's kind of the one thing, if they don't know
4 anything else about the Act or any laws in any other
5 part of the world, if they don't happen to live in the
6 U.S., that's one thing they know, and they'll
7 immediately say, Oh, my gosh, don't touch the opt-out
8 button.

9 MR. KORNBLUM: This is Aaron Kornblum at
10 Microsoft. I think that this guidance to customers and
11 consumers is being amplified now with the onset of
12 phishing, and the guidance in the Emailed or
13 generally --

14 MS. MAHEUX: Mr. Kornblum, you are not coming in
15 very clearly, I'm sorry.

16 MR. KORNBLUM: -- to consumers not to click on
17 Emails or generally, and I think that that could include
18 or be interpreted to be any links in the Email.

19 MR. DAVIS: Why don't we switch away from
20 opt-out for a moment, and let me ask you specifically
21 whether there have been any changes to Email filtering
22 that affect the practicality or effectiveness of the
23 Act's, and if you don't think there has been much in the
24 last 19 months, I wonder if you would like to answer in
25 the alternative, about what may be in the near future,

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 the next four months, eight months, anything that you
2 crystal ball allows you to see in say the near term
3 going forward.

4 (Discussion off the record.)

5 MS. JACOBSEN: This is Jennifer Jacobson from
6 Time Warner. Speaking on behalf of AOL I would say that
7 there has been a steady increase in the effectiveness of
8 an innovation of technological tools, both on the back
9 end in terms of what we're seeing on the network side,
10 and also on the front end with what the consumers see,
11 what the consumer sees and have available to them to do
12 their own sort of filtering within their inbox, and we
13 think this has led to reduction in spam in people's
14 inboxes.

15 MS. GASSTER: This is Liz Gasster with AT&T, and
16 we would second what Jen Jacobsen has said. We're
17 using, as I'm sure all others on the call are, a variety
18 of technologies, not just filtering, that are making a
19 difference both in our networks in terms of what we
20 carry on our backbone, but certainly in the consumers'
21 inbox improving that situation, and Jim Barszcz, who is
22 on the line also from AT&T, may have additional detail
23 there, but we would second that experience.

24 MS. HARRINGTON-MCBRIDE: This is Katie. Is
25 there a short list of technologies you could list for us

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 beyond filtering that you are using as a backbone?

2 MR. BARSZCZ: This is Jim Barszcz from AT&T.

3 Well, we're a big company, and we're doing various
4 things in various parts of it. In our ISP business, we
5 are most concerned with identifying IP addresses that
6 send us spam predominantly. I don't know if that's at
7 the right level of specificity, but that's where I would
8 begin.

9 MS. HARRINGTON-MCBRIDE: Okay. I am obviously
10 much more of a novice than any of you on the call, but
11 that sounds like a kind of filtering, identifying where
12 it's coming from and blocking it.

13 MR. BARSZCZ: Blocking is different from
14 filtering. We track the history of the IPs that send us
15 mail. If we know that the stream of mail consists
16 mostly of spam, we'll block all mail from that IP.
17 (Chances are that the remaining mail from that IP will
18 also be spam -- we just didn't recognize it.)

19 If I can also mention, right now a huge portion
20 of our spam, incoming spam, is not borderline mail from
21 marketers who might be following rules or might not be
22 following rules, but it's mail being sent through zombie
23 networks. It's undoubtedly spam, and it's coming
24 offshore from compromised end-user's machines.

25 So it's not mail that is likely to be affected

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 or controlled by regulation at this point.

2 MS. HARRINGTON-MCBRIDE: Okay.

3 MS. BOWLES: This is Elizabeth Bowles with
4 Aristotle. We actually are significantly smaller than a
5 lot of the ISPs on the phone, but we do a similar thing
6 to what Jim was just referring to. We have dual levels,
7 and we don't call the first level a filtering, but it is
8 a block. We do look at IP addresses, and if we
9 determine that an IP is sending close to 100 percent
10 spam, we'll block it at the outset.

11 And that represents about 80 percent of the spam
12 that comes into our market, so I would second what Jim
13 just said about where the spam is coming from, being 80
14 percent of the stuff coming into our network is coming
15 from machines that just do that, and then the other 20
16 percent we send through what are traditionally
17 considered filtering systems where we actually analyze
18 each piece and say, Okay, this is spam, this isn't, and
19 then we deliver the legitimate mail.

20 That's been very successful for us. We have an
21 almost zero percent false positive rate. For
22 newsletters and things like that that actually are not
23 technically spam get through, but we block virtually 100
24 percent of things that are considered spam by our
25 customers.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MS. HARRINGTON-MCBRIDE: Okay.

2 MR. GOODMAN: This is Joshua Goodman again. So
3 without going into too much detail about the specific
4 technologies, we certainly have been making a lot of
5 progress both in terms of developing new technologies,
6 but also in terms of deploying the technologies that we
7 knew about or had started, so sometimes it takes awhile
8 for a product cycle to get stuff out there.

9 Since the passage of the Act, we've shipped our
10 filters and improvements to our filters on many more of
11 our Email products. Also I think around the time the
12 Act passed, there were still some people who had very
13 little or no filtering, and now I personally don't know
14 anybody without filtering, although I'm sure there are a
15 few people.

16 The other thing I wanted to comment on is that I
17 also attended a conference on anti-spam, which was a
18 semi-academic conference that we held just last week,
19 and we had about 26 papers, and of those about 15 were
20 about future ways to improve spam filtering even more,
21 and so you can definitely see the technology moving
22 forward as we go in to the future.

23 MR. DAVIS: Why don't we move on to any
24 exchanges regarding authentication and how that might be
25 affecting the practicality or effectiveness of the

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 CAN-SPAM Act.

2 MR. GOODMAN: This is Joshua Goodman again. I
3 want to comment on a common misperception about
4 authentication, which is some people think that if you
5 know the identity of the sender, you'll be able to stop
6 all spam, and because it's so easy to get new identities
7 or to find people whose identity doesn't have a
8 reputation, that's not the primary goal of most
9 authentication systems.

10 The primary goal is to allow good senders to get
11 a good reputation, and to allow things like safe listing
12 to work so that you can put somebody on your safe list
13 and then not have a spammer pretend to be that person
14 and get through your filter and to prevent various kinds
15 of fraud. So we see authentication as a key part of
16 anti-spam strategy, but people shouldn't expect that
17 even if we had 100 percent adoption, that it would solve
18 the spam problem.

19 MS. JACOBSEN: This is Jennifer Jacobson. From
20 AOL's perspective, we would echo that exactly. We think
21 that's exactly right.

22 MR. DAVIS: Let me ask whether there are any
23 marketplace developments or technological changes that
24 we haven't yet talked about that you think might affect
25 the practicality or the effectiveness of the Act?

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 Maybe we could go back to Jim Barszcz's point
2 about zombie drones, which are innocent user's machines
3 hijacked by spammers as a result of insecure
4 connections. Do you think the use of spammers by
5 zombies or networks have had an impact on the
6 effectiveness of CAN-SPAM?

7 MR. BARSZCZ: This is Jim Barszcz again. Part
8 of the way CAN-SPAM is supposed to work, as I understand
9 it, is to allow for companies to sue spammers. The
10 prevalence of zombie networks makes it very difficult to
11 identify who the bad actors are. I think it's less
12 likely that there would be any kind of action taken
13 against spam that's coming in through those means.

14 MR. HALPERT: This is Jim Halpert for the
15 Internet Commerce Coalition, and the CAN-SPAM Act was
16 actually very forward looking. Both AOL and the
17 Internet Commerce Coalition pushed very hard to give
18 prosecutors tools to seek criminal penalties against
19 spammers who engage in this behavior.

20 As we have heard, the problem is that a lot of
21 it goes on in other countries, but sometimes one can
22 trace that activity back to these spammers who live in
23 the United States. This is, above all, an international
24 enforcement challenge though and something that we hope
25 that U.S. government will raise with Interpol and other

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 international law enforcement because to the extent that
2 there is swift cooperation in terms of sharing evidence,
3 it's easier to track how it has happened and often to
4 find somebody who actually does do business in the
5 United States and is trying to hide their trails. So
6 that's really an enforcement issue.

7 The tools are in the CAN-SPAM Act, and we are
8 somewhat disappointed that the prosecutors, while the
9 FTC has done civil enforcement, have not chosen to use
10 some of the criminal tools that we worked very hard to
11 make sure are part of the Act, and we believe that many
12 of the hard core spammers in the United States can and
13 should be in jail right now, and while that will not
14 eliminate ultimately the flow of Email that comes from
15 outside of the country and is originated outside of this
16 country, it will send a strong message to people who are
17 thinking of getting into this business in the United
18 States that crime does not pay.

19 Right now civil enforcement is inadequate given
20 the nature of these people's businesses. They're shady
21 operators, and the thought that they might go bankrupt
22 is an insufficient deterrent to keep them from engaging
23 in spam.

24 So this is a point that really the CAN-SPAM Act
25 right now is ahead of enforcement practice, but if

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 government resources are devoted to that, rather than
2 passing any sort new enough laws, would be the best way
3 to deter spam in the United States.

4 MR. DAVIS: Does anyone think that spammers can
5 facially comply with the CAN-SPAM Act, sort of including
6 opt-out, that they noted that they are selling something
7 and that this is an advertisement but then otherwise use
8 new technology to customize their messages or their
9 campaigns to avoid detection as a source of large
10 volumes of spam?

11 MS. ARCHIE: This is Jennifer Archie for America
12 Online. I would think that at least for the one client
13 I've served in this area, it's really not possible to
14 end up in the member's inbox without doing something
15 that violates the criminal provisions of CAN-SPAM
16 anymore because you must be, by definition, deceiving
17 filters, and the particular methods may vary and evolve
18 and morph, but our experience has been that when we find
19 a significant fingerprint, we've never not been able to
20 identify a U.S. actor to go after, at least uncover the
21 identity.

22 They may turn up in the Philippines or Costa
23 Rica or here or there, but they have always done
24 something that violates the criminal, and therefore the
25 rights, consumer's right, civil liabilities,

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 Internet using always-on connections, I think that that
2 creates more incentive to utilize some of the zombie
3 computer techniques that were mentioned previously on
4 the call.

5 Spammers or those that operate those infected
6 computers, which might be two separate groups
7 completely, see these machines as a way that they can
8 transmit spam in high volume, day or night, without the
9 knowledge of the true owner of the machine, and so
10 unlike a dial up connection which is on or perhaps
11 connected to the Internet for a short period of time,
12 those always-on connections provide always-available
13 opportunities to infect and to hijack home machines and
14 then use them to transmit spam through relays.

15 I also wanted to add or amplify a comment
16 concerning the overseas spam connection, and I think
17 that the FTC's participation in the London Action Plan,
18 which is a group focused on enforcement across borders
19 and the sharing of information, I think is very exciting
20 and encouraging, and I think it's important to push
21 other international agencies to cooperate more in this
22 space.

23 I think that for some time there's been an
24 understanding that most spam originates in the United
25 States and that the problem is ours to solve, but we're

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 would prevent or help to prevent end user machines from
2 getting compromised and sending mail directly out to the
3 Internet, which is one of the ways that the zombie
4 networks work.

5 MR. GOODMAN: This is Joshua Goodman from
6 Microsoft, and I want to point people to a paper from
7 the recent conference on Email and anti-spam called
8 "Understanding how Spammers Steal your Email Address and
9 Analysis of the First Six Months of data from Project
10 Honey Pot," by Matthew Prince, and that's available at
11 www.ceas.cc, the Conference on Email and anti-spam.

12 So they did a very nice analysis focusing on web
13 harvesters and trying to understand where these people
14 were coming from, and it's a difficult technical
15 question because there are many ways to obscure things,
16 but that's the best source of information I know of to
17 answer your question.

18 MR. DAVIS: Josh, are all of the papers or most
19 of the papers from the conference now available online?

20 MR. GOODMAN: They're all available online.

21 MR. DAVIS: Thank you.

22 UNIDENTIFIED SPEAKER: Could you please repeat
23 that URL.

24 MR. GOODMAN: www.ceas, Charlie, Echo, Alpha,
25 Sierra, .cc, dot Charlie Charlie.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MR. DAVIS: Is there a general feeling that the
2 amount of Email originating in or transmitted through
3 other countries has changed since the passage of
4 CAN-SPAM? Do you think it has gone up?

5 Let's see. As you may know, the FTC works
6 closely with various international organizations to
7 monitor Email and trends. Are there any additional
8 thoughts about these initiatives or others that could be
9 under taken?

10 MR. GOODMAN: Could you please repeat the
11 question?

12 MR. DAVIS: Sure. The FTC works closely with
13 various international organizations to monitor various
14 Email trends and laws. Do you have any thoughts about
15 these initiatives or other initiatives that could be
16 undertaken? For example, could the use of immediate
17 economic restraints against spammers in other countries
18 prove effective? If so, how could this be implemented?

19 MR. BARSZCZ: This is Jim Barszcz again. Just
20 to repeat for a second, I think if we could get service
21 providers to block Port25 access and also to implement
22 outbound spam filtering, it would be a great help to
23 everybody. That's something that providers can do.

24 MR. DAVIS: Thank you, Jim.

25 MR. DAILEY: This is Tom Dailey from Verizon.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 To state the point a little more generally, I think the
2 more you can force mail through legitimate MTAs and
3 ISPs, the more control you're going to have over the
4 amount of spam that's coming out of any particular
5 country's ISP base, largely because a lot of spammers
6 occupy dynamic space, and so our that's our observation.

7 MR. DAVIS: Does anyone think that stricter
8 standards for domain name registrars might aid in
9 addressing the spam problem?

10 MR. HALPERT: This is Jim Halpert. Yes, that's
11 been one of the concerns of our members. It's also a
12 significant issue for phishing.

13 MR. DAVIS: Okay. Any other thoughts or
14 comments about the international dimension to spam and
15 the effectiveness of the Act with regard to that?

16 MR. HALPERT: This is Jim Halpert. In terms of
17 encouraging cooperation also among law enforcement
18 authorities in countries where the ISP industry is more
19 fragmented would be helpful. As spammers begin to go to
20 the equivalent of lawless states to conduct their Email
21 activity, it's helpful if there isn't a centralized ISP
22 industry, and there are small players whose connectivity
23 are used by spammers to be able to go to law enforcement
24 authorities and be able to obtain evidence.

25 MR. DAVIS: Thanks, Jim.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MR. KORNBLUM: Aaron Kornblum of Microsoft.
2 Just to add or supplement that answer, training is
3 equally as important to help Internet service providers
4 and government agencies in other nations to help
5 understand the problem, how to investigate spam and how
6 to pursue spammers that might be in their jurisdiction.

7 MR. DAVIS: Thanks, Aaron. Well, we'll move on
8 now to the third of three specific issues that Congress
9 asked us to look at in this report, which we'll be
10 submitting to them in the next few months.

11 This issue relates to protecting consumers,
12 including children, from the receipt and viewing of
13 commercial Email that is obscene or pornographic, and
14 you may know the FTC released a rule in April of 2004
15 dealing with a mandatory label, sexually explicit, and
16 we released that rule pursuant to the CAN-SPAM Act, and
17 we're wondering whether you think that has been
18 effective in protecting consumers, including children,
19 from receiving and viewing obscene or pornographic
20 Email.

21 MR. ST. CLAIR: This is John St. Clair from
22 Microsoft. Just a quick anecdote on that. I think
23 personally the answer is, no, because I have yet to see
24 and receive any spam personally or be aware of any spam
25 that has used such labels, so that's just my personal

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 experience, but I have to say, no, because I don't think
2 people are using the labels that would then protect
3 people from then viewing that material.

4 MR. DAVIS: I don't know. Is it possible your
5 filter is just not showing it?

6 MR. ST. CLAIR: It is possible, yes. However,
7 it is also likely that people that are going to send
8 such material are not going to use those labels because
9 if they were, they would be flattered out, so I guess
10 what I'm trying to say is I have not received material
11 that may be deemed offensive, but at the same time, I'm
12 also not aware of not receiving it and having the labels
13 on there that would then have it filtered out.

14 I don't think it's being used, and it's not also
15 reaching me without it being used.

16 MR. HALPERT: This is Jim Halpert, and I'll
17 speak by personal experience as well, to personal
18 experience as well here. The Email that makes it
19 through to our office computers at DAL Piper Rudnick,
20 and we have many thousands of people who work at that
21 domain now, so it's a target for spammers -- but the
22 Email that makes it through the ISP filters in Possini,
23 and this is actually sexually explicit, is never
24 contained in the ADV adult label in my experience.

25 I probably receive two or three of these Emails

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 every month, and I've never seen one bearing that label.

2 MS. ARCHIE: This is Jennifer Archie. I think
3 the better audience for that would be within the
4 subscriptions to porn community, which there is a large
5 number of people in America that subscribe and ask for
6 that sort of content, whether they're getting the sort
7 of labeling on their messages where you would see the
8 labels. It would be the legitimate quote, unquote,
9 adult content people using some kind of marketing, doing
10 any kind of Email marketing.

11 We've seen a dramatic drop in the amount of porn
12 kind of forcing its way into a member's inbox. There is
13 a fair amount, obviously it's unlabeled, but adult
14 material forcing its way into chatrooms and into instant
15 messaging. That's perhaps been an effect of CAN-SPAM
16 that is the kind of root for attempts to get the public
17 exposed to that material, seeing if you can get kids to
18 click on it.

19 It's shifted over to IM and chatrooms in large
20 part.

21 MR. DAVIS: Can anybody comment on the extent to
22 which ISPs may be filtering on the FTC's mandated
23 explicitly sexual label?

24 MR. BARSZCZ: This is Jim Barszcz. We use an
25 industry-leading vendor for our spam filtering, and they

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 don't share with us their criteria for filtering. I can
2 say from my recollection that I have seen in my screened
3 mail folder messages with subject lines, containing the
4 label "sexually explicit."

5 I just went to check, and I don't have any
6 examples today, but I do think some of that is being
7 sent and some of it is being filtered out.

8 MR. GOODMAN: So this is Joshua Goodman from
9 Microsoft. I think it's worth mentioning a couple of
10 related trends, so one is that an increasing number,
11 maybe even most modern Email clients do some sort of
12 image blocking. They don't block all images, but they
13 do block many images, and so if somebody does send
14 sexually explicit material, it's less likely that the
15 recipient will see it, unless they opt-in, unless they
16 say, Yes, show me the image, for instance.

17 We've also seen a trend in fewer graphic
18 pornographic spams and fewer pornographic spams overall,
19 so it may be that pornographers want to comply with the
20 Act. They realize that they'll be filtered if they do,
21 and they simply give up or it may just be that there are
22 other trends. It may be that porn spam is generally
23 less effective now as people have already seen
24 whatever they might be tempted to click on, but for
25 whatever reason we're seeing a decrease in porn spam in

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 general.

2 MR. HALPERT: This is Jim Halpert. I don't know
3 if this is what's going on in the minds of people in the
4 industry, but the CAN-SPAM has made sending porn spam a
5 relatively high risk activity in terms of criminal
6 prosecution between the ADV Adult and the falsification
7 provision, and so people who are legally sophisticated
8 and concerned about criminal prosecution might pursue
9 other ways of disseminating pornography because this has
10 opened up new tools for prosecutors to pursue the porn
11 spam industry that are not available in other contexts.

12 MR. DAVIS: Thanks. Are there any additional
13 comments on the private sector tools made available
14 perhaps by ISPs or Email service providers that shield
15 consumers from obscene or pornographic Email? Any
16 thoughts on the effectiveness of any software that
17 disables links in Emails sent by those not in the
18 subscriber's address book?

19 MR. GOODMAN: This is Joshua Goodman from
20 Microsoft again. Just to repeat what I said previously,
21 most of our current Email clients do block at least some
22 images, and that is effective in reducing the number of
23 people who inadvertently see pornographic images.

24 MR. DAVIS: Thanks, Joshua.

25 MR. BARSZCZ: This is Jim Barszcz. About half
For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 of our users use a web mail interface, and we have
2 offered an ability to not display HTML, and to switch
3 off images as well. So the protection against offensive
4 images is available not not only in clients but it's in
5 web mail as well.

6 MR. DAVIS: Do you have any names that you would
7 like to provide of those products?

8 MR. BARSZCZ: The web mail is our proprietary
9 web mail interface for our customers.

10 MR. DAVIS: Okay. It's known as web mail?

11 MR. BARSZCZ: The webmail interface we offer our
12 members is called the AT&T Message Center.

13 MR. DAVIS: Okay. Thank, Jim.

14 MR. GOODMAN: This is Joshua Goodman. To name
15 another product, Microsoft Outlook has some image
16 blocking.

17 MR. DAVIS: Thanks, Joshua.

18 Okay. Any other thoughts on the pornographic
19 Email and the effectiveness of the CAN-SPAM Act to
20 protect consumers?

21 Why don't we move on to the fourth topic then,
22 and it deals with the effectiveness of the various
23 provisions of the Act, and there are several of them.
24 Most of them are civil provisions. We would like to
25 march through them one by one, and if we do that, we

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 come first to the criminal provisions, and we would like
2 to discuss whether these provisions achieve their
3 purpose, how effective they have been and whether there
4 are any concerns about the enforcement of any of the
5 criminal provisions or any of the criminal penalties
6 provided in the CAN-SPAM Act.

7 MR. HALPERT: This is Jim Halpert. As the
8 person who helped draft this provision working with the
9 Senate Judiciary Committee Staff, along with others who
10 are concerned about this problem, there hasn't been
11 enough enforcement. These are very effective, as
12 Jennifer Archie explained, at covering all the ways that
13 spammers try to trick ISP filters and falsify their
14 identity to get spam through and hide their trails, and
15 spammers violate these provisions pretty regularly, and
16 it's just a matter of devoting resources.

17 ISPs stand ready to work with law enforcement to
18 help them put together cases, and there have been a few
19 criminal prosecutions under state law in Virginia, but
20 the record here thus far has been disappointing in terms
21 of the IP industry stands ready to work with law
22 enforcement and to help wrap cases up and above for
23 prosecutors, but prosecutors have not used these tools,
24 which are very still applicable and very well drafted
25 for the problems that are raised by spam that are

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 getting into end user's inboxes, and it would be great
2 if there were additional resources available and some
3 additional interest in the Department of Justice in
4 prosecuting spammers who regularly engaged in these
5 crimes.

6 What the Act has drafted effectively catalogs
7 what spammers are doing.

8 MS. ARCHIE: The criminal provisions.

9 MR. HALPERT: Yes, yes. That was Jennifer
10 Archie.

11 MS. ARCHIE: Jennifer Archie.

12 MR. KORNBLUM: This is Aaron Kornblum at
13 Microsoft. One of the things that we've started to
14 think about here is the wording of the criminal
15 provisions concerning open proxies which set numerical
16 requirements, numerical thresholds concerning the number
17 of messages that must be sent to a particular open proxy
18 in a given period of time, and that's what we've started
19 to think about is that language concerning the
20 particular single open proxy.

21 One of the things that we have seen with the
22 increased use of zombie or infected machines that send
23 spam is actually a reduction in the number of individual
24 messages being sent through any given infected machines,
25 and simply an increase in the number of machines that

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 are infected and then mail is sent through.

2 So something that we've been thinking about is
3 perhaps to redefine the number of messages through a
4 particular machine in a given period of time or perhaps
5 rather to aggregate or simply to prohibit sending mail
6 through open proxies, rather than just through a single
7 IP, it could be through a single machine or group of
8 machines to more broadly define that because I think
9 that's one of the techniques that we have observed
10 spammers utilizing to spread the wealth, so to speak,
11 across a larger number of machines sending a smaller
12 volume of mail through a single machine.

13 MR. DAVIS: Thank you.

14 MR. HALPERT: This is Jim Halpert. Personally I
15 don't have the CAN-SPAM Act in front of me to comment on
16 that, but I believe it's possible to aggregate the
17 volume of messages among multiple machines.

18 MS. ARCHIE: Attributable to a particular actor.

19 MR. HALPERT: Yes, but we can get back and
20 supplement the record. Aaron, if you Email me your
21 contact info, I'll be happy to talk to you off line
22 about it.

23 MR. KORNBLUM: Terrific. This is Aaron
24 Kornblum. I would echo those comments concerning
25 increased support from DOJ for enforcement. I think

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 that criminal enforcement is critical to the success of
2 the law, and the more that criminal enforcement action
3 can be taken to state and federal level, the more of a
4 deterrent message that will be created and sent to
5 spammers or to would-be spammers.

6 MS. ARCHIE: This is Jennifer Archie for America
7 Online. Anecdotally, I've never had an interaction with
8 a prosecutor where you really were telling them the
9 particular facts relating to a particular spam
10 conspiracy where they couldn't readily perceive the
11 criminality of the conduct and that it was something
12 worthy of their attention.

13 When you are able to engage in that kind of a
14 detailed dialogue, often it becomes a resource question
15 for them, if there's any loose ends that are needed to
16 be tied up, owing to the difference between the civil
17 burden of proof and a criminal burden of proof. That is
18 difficult for them to get grand jury time, to get the
19 resources to do search warrants, to get prosecutors
20 really focused.

21 You can have very committed agents and then a
22 prosecutor decides they're moving on to something else,
23 but they always are able to understand the criminality
24 of the conduct and that it's worthy of the federal
25 government's attention. The second point I'd make is

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 that until you're able to engage with them on a detailed
2 level about a particular case, there is an impression
3 that this is not criminal conduct and that spam of
4 innocent people should simply delete it. All of us who
5 live and work in this field, day in day out, have grown
6 accustomed to treating this as a serious criminal
7 matter, deserving of felony sentences. But prosecutors
8 out there don't view it that way.

9 I think until you engage them on the specifics,
10 they may think of it as kind of a useful search warrant
11 tool or something that can be an arsenal, but they would
12 much rather bring an identity theft case or maybe
13 something under a different statute.

14 We did have one experience with the Southern
15 District of New York where the judge even was going to
16 reject the plea under CAN-SPAM. Simply not
17 understanding it at all, I think he thought that somehow
18 the content of the spam message had to be deceptive or
19 something. With the help of the Department of Justice,
20 the prosecutor, who did a quick step back and wrote a
21 very substantial letter to the judge, and he quickly got
22 on board. All by way of saying that it's not
23 instinctive to a prosecutor that this is a topic or the
24 sort of case that he or she is going to make her career
25 by bringing.

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 MR. HALPERT: Although Elliott Spitzer figured
2 it out. This is Jim Halpert. There have been a number
3 of state prosecutions, one in New York and one in
4 Virginia, but what's important for the public to
5 understand and in particular for the law enforcement
6 community to understand is that the way the spammers get
7 their Email messages through the consumers involve fraud
8 and involve hacking.

9 And those are the tools of the spammer's trade,
10 and it's important to criminalize not the sending of
11 spam but hacking and fraud in situations that cause
12 tremendous economic burdens and serious inconvenience
13 and sometimes harassment of consumers.

14 MS. ARCHIE: If the State prosecutor who did the
15 two-week jury trial in Virginia was not currently
16 serving active duty in Iraq, I think he could be put on
17 the road to explain this to all prosecutors just how
18 simple and successful this was and it was very easily
19 presented to a jury over two weeks. They
20 quickly grasped it, drove right to the heart of it, were
21 not distracted by any of the issues that the media would
22 say what they might think the real issue was as to why
23 spam should be criminal.

24 These are good cases to bring. I think it's a
25 good story to tell, but the federal prosecution

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 enforcement of that particular provision?

2 MR. GOODMAN: This is Joshua Goodman. I'll just
3 say that I think that it's a fantastic provision in the
4 sense that it puts spammers in sort of a catch 22.
5 Either they can use a non deceptive subject line, which
6 is going to make many fewer people open their mail or
7 they can use a deceptive subject line and risk violating
8 the Act. So I think it's extremely helpful.

9 MR. DAVIS: Thank you. There are a few
10 additional requirements that are related. One is that
11 the Email should contain a functioning return address or
12 other opt-out mechanism that must work for 30 days, and
13 there's also a safe harbor written into the Act so that
14 there's a temporary unavailability, that does not
15 constitute a prohibition.

16 So this is a provision about the return address
17 and the opt-out mechanism. Any thoughts about the
18 enforcement or the effectiveness of that or perhaps any
19 data about the compliance that you may be aware of, the
20 compliance of senders of commercial Email with that
21 requirement?

22 The similar prohibition is on the transmission
23 of commercial Email after the consumer has opted out.
24 There's a ten-day window currently for that. Any
25 thought on the effectiveness of the enforcement or the

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 people. Of course that was all filed in the comments on
2 discretionary rulemaking, but I just wanted to be clear
3 on that also.

4 MS. MANSOURKIA: This is Maggie Mansourkia. I
5 think there are many reasons why a company would not be
6 able to comply in any less than ten days, and as Stu
7 mentioned, the record is pretty clear, certainly from
8 MCI 's standpoint. We provided a good bit of
9 information on instances where a company that's not very
10 small and very limited to one line of business wouldn't
11 be able to do it in less than ten days.

12 So we can certainly reiterate everything that we
13 provided to the record before, but I think a review of
14 our comments on that issue would provide more than
15 enough evidence as to instances of why many legitimate
16 companies would really need the full ten days.

17 MR. INGIS: One more point on that, Stu Ingis
18 again. To our knowledge, there is no record of abuse of
19 when somebody has opted out, abuse that in seven more
20 days a lot of messages are being sent in that window.
21 We're not aware of anything that's been put in the
22 record on that point.

23 MR. DAVIS: Okay. There's another provision in
24 the Act that has three subparts, and they basically deal
25 with sort of identification. The first one is that the

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

