

Although I work as a Compliance Officer for a Bank, my responses are my own. I indicated my responses below highlighted in yellow.

Responses to Issues for Comment:

A. General Issues

1. Is there a continuing need for the Rule? Why or why not? Yes there is a continuing need for the Rule. The Rule provides useful and legitimate protections to consumers. Without these protections and the Rule requiring, consumers would be inundated with junk and spam email without an option to opt-out of future emails. I believe that companies would not provide a method of opt-out as well as the other requirements of the Rule if they were not required to and subject to monetary penalties for non-compliance.
2. What benefits has the Rule provided to consumers? What evidence supports the asserted benefits? While I have no evidence to support my asserted benefits, I believe the primary benefit that the Rule provides to consumers is that they can opt-out of future emails from a company when they receive email advertisements from the company. Additionally, those companies that did not comply with the Rule's requirements of providing an opt-out, normally when you reply back to them and let them know they have violated this Rule, they normally cease future communications.
3. What modifications, if any, should be made to the Rule to increase its benefits to consumers? One modification to the Rule that would increase the benefits to consumers is if the Rule was modified to make clear that a company/business is allowed to email information to a consumer upon their request even when the email would otherwise be considered a commercial email message. Email is increasingly becoming a primary mode of contact for consumers with companies, with consumers requesting various different pieces of information through the email including product information. Currently, emails in response to these consumer requests do not appear to be included in the Transactional or Relationship message definition and while these response emails may not fall specifically within the definition of a commercial email message, penalties for non-compliance with the Rule's requirements are steep and often cause legitimate companies that do not have an opt-out mechanism to be conservative and not provide the requested information through email for fear of potentially violating the Rule's requirements.
 - a) What evidence supports the proposed modifications? I have no evidence to support the proposed modification but can say that I have worked for companies that do not allow information to be provided to consumers through email when it is requested by the consumer for fear of violating this Rule.
 - b) How would these modifications affect the costs the Rule imposes on businesses, including small businesses? There should be no increased cost on businesses and small businesses for this modification. It should actually reduce the cost to businesses because the business would no longer need to mail information to a consumer when the consumer originally requested the information via email or allowed for the information to be provided via email.

- c) How would these modifications affect the benefits to consumers? This modification would increase the benefit to consumers because companies would now know they can provide requested information to a consumer via email and would be able to provide the requested information more quickly rather than mailing the information.
4. What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers? I do not have any objective information concerning the impact the Rule has had on the flow of truthful information to consumers and the flow of deceptive information to consumers. Subjectively, I believe the rule has at least partially helped to decrease the flow of deceptive information to consumers although a company that wants to provide deceptive information to a consumer most likely isn't concerned with any rule requirements and restrictions but at least the Rule provides for methods to punish these deceptive companies.
5. What significant costs, if any, has the Rule imposed on consumers? What evidence supports the asserted costs? While I have no evidence to support any asserted costs, as a consumer the only cost that I can think of being imposed would be the cost of time when a consumer must wait for information that was requested via email must be mailed.
6. What modifications, if any, should be made to the Rule to reduce any costs imposed on consumers? See comments in #3 above.
 - a) What evidence supports the proposed modifications?
 - b) How would these modifications affect the benefits provided by the Rule?
7. What benefits, if any, has the Rule provided to businesses, including small businesses? What evidence supports the asserted benefits? While I have no evidence to support my asserted benefit, I believe the Rule provides the benefit to businesses that due to the opt-out mechanism requirement, businesses are afforded the benefit of knowing what consumers do and do not want to receive their advertisements. While this is a hard to perceive benefit, it is useful for a business to know this as I know as a consumer I can be put off by a business that sends to many advertisements to me and will actually stop shopping at the business for this reason.
8. What modifications, if any, should be made to the Rule to increase its benefits to businesses, including small businesses? See comments in #3 above.
 - a) What evidence supports the proposed modifications?
 - b) How would these modifications affect the costs the Rule imposes on businesses, including small businesses?
 - c) How would these modifications affect the benefits to consumers?
9. What significant costs, if any, including costs of compliance, has the Rule imposed on businesses, including small businesses? What evidence supports the asserted costs? There is a cost to providing an opt-out mechanism and storing the opt-out preferences of consumers that every business faces.
10. What modifications, if any, should be made to the Rule to reduce the costs imposed on businesses, including small businesses? No modifications recommended.
 - a) What evidence supports the proposed modifications?

b) How would these modifications affect the benefits provided by the Rule?

11. What evidence is available concerning the degree of industry compliance with the Rule?

I can say that I do still receive what I would classify as a commercial email message at least five times a month from companies trying to sell their product or service to me in which the email does not identify itself as an advertisement nor does it contain a functioning opt-out mechanism, in my roll with my current employer. Given the number of email solicitations I receive in a month, this is a relatively small number.

12. What modifications, if any, should be made to the Rule to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications? No comment.

13. Does the Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how? None that I am aware of although I have heard that there are some state laws that are more restrictive but that is understandable.

a) What evidence supports the asserted conflicts?

b) With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not?

B. Specific Issues

1. Should the Commission modify the Rule to expand or contract the categories of messages that are treated as transactional or relationship messages? Yes.

a) Why or why not? See comments provided in #3 above. It would clarify that these types of response emails are allowed, or not allowed if that is the intent of the Rule.

b) What evidence supports such a modification? See comments provided in #3 above.

c) How would this modification affect the costs the Rule imposes on businesses, including small businesses? See comments provided in #3 above.

d) How would this modification affect the benefits to consumers? See comments provided in #3 above.

2. As discussed above, the Rule tracks the CAN-SPAM Act in prohibiting the sending of commercial email to a recipient more than ten business days after the recipient opts out. Should the Commission modify the Rule to reduce the time-period for processing opt-out requests to less than ten business days? No.

a) Why or why not? I feel ten business days is sufficient. A number of businesses use third-party service provides to help comply with the Rule's requirements and restrictions which requires both the providing and receiving of information between the two parties. Ten business days helps to ensure sufficient time for the various necessary communications.

b) What evidence supports such a modification? No evidence supports my comments.

c) How would this modification affect the costs the Rule imposes on businesses, including small businesses? No cost due to no modification.

d) How would this modification affect the benefits to consumers? No affect.

3. Should the Commission modify the Rule to specify additional activities or practices that constitute aggravated violations? No comment.

- a) Why or why not?
- b) What evidence supports such a modification?
- c) How would this modification affect the costs the Rule imposes on businesses, including small businesses?
- d) How would this modification affect the benefits to consumers?