

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 30, 2007

The Honorable Deborah Platt Majoras
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairman Majoras:

We are writing to you regarding the January 22, 2007, NBC Nightly News segment (transcript enclosed) and a January 10, 2007, press release from Postini (copy enclosed), both calling attention to explosive growth in unwanted e-mail or spam. This is deeply troubling.

As you know, Congress passed legislation in 2003, the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM Act), 15 U.S.C. 7701-7713, to put a lid on this problem. CAN-SPAM bans false or misleading header information and prohibits deceptive subject lines. It also requires that unsolicited commercial e-mail provide recipients with a method of opting out of receiving such e-mail and must be identified as an advertisement. Your agency was given rulemaking and enforcement responsibility. CAN-SPAM also requires the Federal Trade Commission (FTC) to report to Congress on the feasibility of a National Do-Not-E-Mail Registry, as well as requiring reports on the labeling of all unsolicited commercial e-mail, the creation of a "bounty system" to promote enforcement of the law, and the effectiveness and enforcement of the statute.

The FTC December 2005 report to the Congress (copy of Executive Summary enclosed) concluded that "the Commission believes that the Act has been effective in achieving two desired outcomes": (1) adoption of a number of commercial e-mail "best practices" that many legitimate online marketers are now following; and (2) more effective enforcement, pointing to the more than 50 cases (now 90) brought by the FTC, the Department of Justice, State Attorneys General, and internet service providers. Is this still your view?

Much of this activity is conducted overseas. In the waning days of the 109th Congress, Congress passed the Undertaking Spam, Spyware, and Fraud Enforcement With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act), to provide the FTC with enhanced

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investigative and enforcement tools to fight cross-border fraud. The 2005 report also recommended two other steps to further improve the effectiveness of CAN-SPAM: (1) continued consumer education efforts; and (2) continued improvement in anti-spam technology and, in particular, domain-level authentication. Do you feel that enough has been done on these two issues?

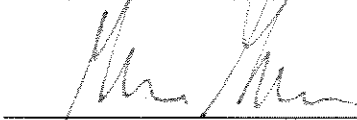
What we have heard recently raises concerns that CAN-SPAM has not really helped to solve the underlying problem. We are considering holding hearings to look into the impact of the statute, including its implementation and enforcement, and the need, if any, for changes to the law. To assist us, we respectfully request that your agency provide answers to our questions and provide the Committee staff with a briefing by no later than Tuesday, February 8, 2007, on this matter.

Thank you for your cooperation and attention to this request. If you have any questions about this inquiry, please contact Consuela Washington, Senior Counsel, at (202) 225-2927.

Sincerely,



Bobby L. Rush
Chairman
Subcommittee of Commerce, Trade,
and Consumer Protection



Gene Green
Member
Subcommittee of Commerce, Trade, and
Consumer Protection



Cliff Stearns
Ranking Member
Subcommittee of Commerce, Trade,
and Consumer Protection



Heather Wilson
Member
Subcommittee on Commerce, Trade, and
Consumer Protection

Enclosures