

## The Next Generation of Solutions

When the CAN-SPAM Act took effect on January 1, 2004 there was little technology available to enforce the law as written and even less clarity on what exactly needed to be enforced. The Federal Trade Commission has often commented officially in remarks and publications that the promise of new technology would make it possible to reasonably enforce the law. This day has finally arrived.

Rather than developing rules for an untouched market, the CAN-SPAM Act's legislative intent was in part designed to both standardize and regulate the amount and quality of email being received by consumers in the United States in an email marketplace described at the time as the Wild West. Legislative intent was to address a huge problem: too much spam. From those days in 2002 and 2003 of the Act's authoring, the email industry's understanding of the spam problem has grown tremendously as has numerous technologies around authentication, compliance, reputation and deliverability. An eco-system is evolving that brings a comprehensive set of real solutions to the email marketing industry.

The idea of spam is now tiered into legitimate commercial email from companies with in-depth compliance programs, who monitor reputation each day and enforce not only regulations in the CAN-SPAM Act, but their own best practices and internal corporate email sending policies on themselves and sending partners. "Collaborative Compliance" is not only what's next, it's what's now. Congress and the FTC need to know that these companies not only exist but are proliferating and influencing and in many cases requiring sending partners to have compliancy programs in place.

The remaining bottom tier of email is what the average consumer would regard as almost unintelligible junk. This gulf is being widened by ever-evolving filtering and blocking technology that can literally turn off a Sending IP and stop the flow of email from it. This can create conflicts where the standards and laws of one country are different to those of another country. Since technology doesn't often recognize political boundaries, the final step in email's development will be accepted global compliance standards.

LashBack is the first and only company to offer a complete CAN-SPAM Compliance Monitor and Resolution solution to email marketers. Currently, LashBack products, services and data are being leveraged by leading email marketers and service providers with many more companies in the process of adoption. LashBack is watching in real time our client companies improve their sending reputations and not only accept—but enforce- CAN-SPAM compliance and sending best practices.

This is the critical component to solving the spam problem: enforcement is now possible in a consistent, standardized and equitable system which rewards compliant senders, penalizes non-compliant practices technologically and financially and identifies and separates criminal actions, from non-compliance issues. LashBack believes it must advocate equitably for every party to the email eco-system: consumers, receivers, ISPs, ESPs, affiliates, publishers, ad networks, agencies and advertisers. Philosophically LashBack believes we need to evolve from the "fighting" spam mentality, to a position where each party is again equally advocated for. We respectfully ask the FTC and Congress to allow Authentication, Compliance, Reputation and Deliverability technologies to reach full adoption to assess the impact on the amount and quality of email received by consumers in the United States.

Furthermore we ask the FTC and Congress to address issues unknowingly created by the CAN-SPAM Act including "Suppression List Abuse" wherein marketers who develop lists of consumers who opt out of email offers have those stolen or harvested and those consumer receive even more email from the act of opting out.

We thank the FTC for this opportunity to share our insight and ideas on the challenges and opportunities we see in email marketing.

Sincerely,

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