



March 23, 2004

Federal Trade Commission
CAN-SPAM Act
P.O. Box 1030
Merrifield, VA 22116-1030

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

Dear Commissioners:

I write today on behalf of the Michigan Association of REALTORS® and its 30,000 members state-wide to encourage your support in limiting the CAN-SPAM Act to fraudulent, deceptive, and abusive commercial electronic mail practices. As a professional trade association, we and our members, routinely use E-mail to communicate and therefore have a significant interest in the outcome of this rulemaking process.

In passing the CAN-SPAM Act, Congress recognized the importance of electronic mail as a "popular means of communication relied on by millions of Americans on a daily basis for personal and commercial purposes." §2(a)(2). Our association is made up of real estate professionals that rely on E-mail as a cheap and effective means of communication. Stringent regulations on the use of commercial electronic mail could have very real and serious implications on the real estate industry and legitimate business as a whole.

Our association is fully aware of the nuisance "junk" e-mail creates and the costs and inconvenience that are associated with keeping it out of our inboxes. We support the intent of Congress and the Commission to curb the amount of SPAM and target those businesses sending unsolicited deceptive, fraudulent, pornographic, or misleading messages. However, the commission should be as direct as possible in addressing these problems to prevent trampling on the rights and practices of legitimate businesses in contacting their customers.

Perhaps the most troubling of the proposed rules is the possible creation and regulation of a Do-Not-E-mail registry. REALTORS®, like other businesses, have been affected by the implementation of the recent Do-Not-Call rules and any further restrictions placed on their communications could mean the difference between success and going out of business.

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The biggest problem a registry will face is how to let legitimate business contact continue while correctly punishing and putting an end to the SPAMers. Just like the recent Do-Not-Call registry, a Do-Not-E-mail registry has the danger of over regulating. As always, government restrictions and regulations on commerce aimed at punishing the bad-actors mean increased costs to those rightful businesses when it comes to compliance. Given the challenges of creating a safe, secure and effective system, a registry will not be an inexpensive undertaking. Since development and maintenance costs will most likely be borne by the users of the registry, we believe that a Do-Not-E-mail registry would have a significant economic impact on our association and members by imposing significant compliance costs. These expenses would be layered on top of compliance costs imposed last year when our association and members were subjected to several new federal regulations (Do-Not-Call regulations, Do-Not-Fax regulations and CAN SPAM provisions). These newly imposed compliance measures, which have greatly impacted the ordinary course of communication with members and clients, have yet to be absorbed. The imposition of additional and significant registry compliance obligations would be truly problematic for our organization.

Furthermore, as a professional trade association we commonly uses E-mail to inform members about industry and legislative developments as well as professional development courses, new products or services, and industry-related conventions. Such E-mails are an important part of our service as an association and transmit information that is expected as a benefit of membership. We believe that the establishment of a registry will require the association to institute compliance measures which will result in some members not receiving notice of the benefits that their membership conveys and will ultimately impact members' perceptions of the value of association membership

In closing, I would like to thank the Commission for allowing us to comment on the proposed rules. I strongly urge you to take into account the importance of electronic mail to legitimate industries in the United States when promulgating these rules. A balance must be struck between ending fraudulent and abusive practices and allowing the free-flow of business communications via electronic mail.

Sincerely,



Cathy Sherman Bittrick, Treasurer
Michigan Association of REALTORS®