



**Property Casualty Insurers
Association of America**

Shaping the Future of American Insurance

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March 26, 2004

Federal Trade Commission
Office of the Secretary
"CAN-SPAM Act Rulemaking, Project No. R411008"
Room 159-H
600 Pennsylvania Ave., NW
Washington, DC 20580

RE: Comments on CAN-SPAM Act Rulemaking, Project No. R411008,
As published in the Federal Register on March 11, 2004

Dear Sir/Madam:

The Property and Casualty Insurers Association of American (PCI) offers the following comments on the Advance Notice of Proposed Rulemaking, as published in the Federal Register on March 11, 2004. Comments contained in this letter are limited to the nationwide Do Not E-Mail Registry, which are required to be submitted on or before March 31, 2004. PCI reserves the option to provide comments on other aspects of the CAN-SPAM on or before April 12, 2004, as specified in the Advance Notice of Proposed Rulemaking.

PCI is composed of more than 1,000 member companies, representing the broadest cross-section of insurers of any national trade association. PCI members write \$154 billion in annual premium, 38 percent of the nation's property/casualty insurance. Member companies write 47.1 percent of the U.S. automobile insurance market, 37 percent of the homeowners market, 31.2 percent of the commercial property and liability market, and 38.8 percent of the private workers' compensation market. PCI members utilize a variety of distribution systems and marketing techniques, including e-mail.

On behalf of our member companies, PCI respectively submits the following comments and asks that they be made part of the official record.

Nationwide Do Not E-Mail Registry

The commission has requested comments on the establishment of a nationwide Do Not E-Mail Registry. Pursuant to the CAN-SPAM Act, the commission is required to submit a report to Congress by June 16, 2004 on establishing a nationwide Do Not E-Mail Registry.

We view the difficulties associated with the development of this database as being similar to those associated with the Commission's earlier consideration of a national Do-Not-Call database. This nationwide Do Not E-Mail Registry will be costly to develop and maintain; it also would put at risk the disclosure of private email addresses for those who enroll in this database.

Clearly, maintaining this database would be a complicated and costly task, especially given the infinite number of available e-mail addresses and the frequency by which users either change or acquire additional addresses. Unlike telephone numbers, there is no portability of e-mail addresses. So, as Internet providers compete for customers, the registry would face a continuous churning of e-mail addresses as e-mail users are lured from one provider to another.

As a result, insurers seeking to use e-mail as a form of marketing would be required to frequently access the constantly changing database in order to update their records. The cost of such action would be significant and would result in increased insurance costs for all Americans.

We also question whether the registry would be effective against unwanted e-mails. While we can see that those who enter their e-mail address in this registry would obtain some protection from domestic spam offenders, the most egregious senders will simply move their operations outside U.S. jurisdiction. We do not believe that this registry will stop spam. At best, it will only move the senders of spam e-mails outside of the United States. Those who sign up for this registry will soon realize that it is not a valid deterrent.

The proliferation of unwanted spam e-mails is an international issue, and the proposed registry would offer no deterrence to non-US spammers. The proposed registry will only serve as a burden to those U.S. businesses, including insurers, that use e-mail as a legitimate marketing tool.

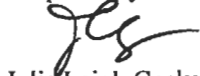
Conclusion

PCI does support the elimination of unwanted spam e-mails. Clearly, this is becoming an increasing burden on e-mail users, providers and their systems. However, we do not believe that a nationwide Do Not E-Mail Registry will have any material impact on this problem. Senders will simply continue to send spam e-mails, cloaking their identity to avoid enforcement of the CAN-SPAM Act or will simply move their operations to a non-US situs. The registry will not prevent spam e-mails but will only place added compliance burden on legitimate United States-based businesses, including insurers.

PCI appreciates the opportunity to comment on the pending CAN-SPAM Act rulemaking. On behalf of our more than 1000 member companies and their hundreds of millions of policyholders, we support the FTC in its effort to eliminate unwanted spam e-mails, but we do not believe the proposed registry will have little, if any, impact on the problem.

If you have any questions, please feel free to contact me at (202) 639-0473; Julie.Gackebach@PCIAA.net, or Lamar Whitman at (202) 639-0490; Lamar.Whitman@PCIAA.net.

Respectfully Submitted,



Julie Leigh Gackebach