



April 16, 2004

Hand Delivered

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

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

The International Cemetery and Funeral Association ("ICFA") respectfully submits these comments in response to the Federal Trade Commission Advance Notice of Proposed Rulemaking and Request for Public Comments regarding the CAN SPAM Act. The ICFA is a nonprofit, tax-exempt trade association representing over 6,100 members including for-profit, nonprofit, religious and municipal cemeteries, funeral homes, crematories, monument retailers, and related businesses primarily in the United States, but also in twenty-four foreign countries.

The ICFA has an interest in three areas identified by FTC in its Request for Public Comment. These areas are 1.) The criteria for determining whether "the primary purpose" of an electronic mail message is commercial; 2.) Clarification of what constitutes a "transactional or relationship message;" and 3.) Modification of the 10-business-day time period for processing opt-out requests. As the rulemaking proceedings go forward, the ICFA would appreciate the opportunity to testify on these three areas and related issues.

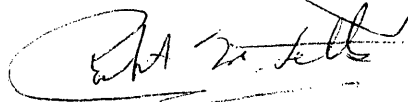
For the purposes of these comments, the ICFA is concerned that the unique relationship between cemeteries and funeral homes, and the families they serve is taken into consideration in the regulations developed by FTC in implementing the provisions of the CAN SPAM Act. For example, family members who own cemetery property or have loved ones interred at a cemetery will have an ongoing relationship with that cemetery for decades and such relationships are often multi-generational. Obviously, this is not the typical relationship between a business and its customers.

Cemeteries will alert families to special events or observances, changes in the cemetery rules, or simple reminders of the rules to avoid misunderstandings. Traditionally, these communications were sent by mail and were often in the form of newsletters. Today, a growing number of cemetery and funeral establishments are sending these communications by email and we expect that number to increase in the future. The ICFA believes that the intent and provisions of the CAN SPAM Act were never intended to restrict these types of electronic communications and we welcome the opportunity to discuss our concerns during the rulemaking proceedings.

In addition, the ICFA concurs with the comments submitted in this rulemaking by the Office of Advocacy, U.S. Small Business Administration, dated March 31, 2004, and with the comments submitted by the American Society of Association Executives, dated April 12, 2004. We request that our comments be entered into the permanent record of this proceeding and that the ICFA will be afforded an opportunity to participate should the FTC hold a public hearing on these issues.

In conclusion, we appreciate your consideration of these matters and urge you to contact me by telephone at 703-391-8400 or by email at rfells@icfa.org should you have any questions. Thank you.

Respectfully submitted,



Robert M. Fells
External Chief Operating Officer
and General Counsel