



SPAM: Unwanted Text Messages and Email on Wireless Phones and Other Devices

Background

Many consumers find unwanted texts and email – which can include commercial messages known as spam – annoying and time-consuming. And unwanted texts to mobile phones and other mobile devices can be intrusive and costly. Two laws – the Telephone Consumer Protection Act (TCPA) and the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act – address spam.

Unwanted Texts and the Telephone Consumer Protection Act

The TCPA and the FCC's rules ban many text messages sent to a mobile phone using an autodialer. These texts are banned unless (1) you previously gave consent to receive the message or (2) the message is sent for emergency purposes. This ban applies even if you have not placed your mobile phone number on the national Do-Not-Call list of numbers telemarketers must not call.

For more information on the TCPA and the national Do-Not-Call list, see our consumer guide at: www.fcc.gov/guides/unwanted-telephone-marketing-calls.

Unwanted Texts and Email under the CAN-SPAM Act

The CAN-SPAM Act supplements the consumer protections provided by the TCPA. The CAN-SPAM law bans unwanted email messages sent to your mobile phone if they are “commercial messages.” (Email messages can sometimes appear as texts on your mobile phone, depending on how they're addressed.)

The CAN-SPAM Act defines commercial messages as those that primarily advertise or promote a commercial product or service. The FCC's ban does not cover “transactional or relationship” messages -- that is, notices to facilitate a transaction you have already agreed to -- for example, messages that provide information about your existing account or warranty information about a product you've purchased. The FCC's ban also does not cover non-commercial messages, such as messages about candidates for public office, or email messages that you have forwarded from your computer to your wireless device (but read below about the FTC's rules that may restrict such messages).

Federal rules require the following for commercial email sent to your mobile phone:

- Identification – The email must be clearly identified as a solicitation or advertisement for products or services;
- Opt-Out – The email must provide easily-accessible, legitimate, and free ways for you to reject future messages from that sender;
- Return Address – The email must contain legitimate return email addresses, as well as the sender's postal address.



Giving Your Consent

Under the FCC's rules, texts and commercial email messages may be sent to your mobile phone if you previously agreed to receive them. For texts that are commercial, your consent must be in writing (for example, in an email or letter); for non-commercial, informational texts (such as those by or on behalf of tax-exempt non-profit organizations, those for political purposes, and other noncommercial purposes, such as school closings) your consent may be oral.

For commercial email, your consent may be oral or written. Senders must tell you the name of the entity that will be sending the messages and, if different, the name of the entity advertising products or services. All commercial email messages sent to you after you've given your authorization must allow you to revoke your authorization, or "opt out" of receiving future messages. You must be allowed to opt out the same way you "opted in," including by dialing a short code. Senders have 10 days to honor requests to opt out.

What You Can Do to Stop Unwanted Texts to Your Mobile Phone and Spam in General

You can reduce the number of unwanted texts you receive by taking these precautions and actions:

- Do not display your mobile phone number or email address in public.
- Be careful about giving out your mobile phone number, email address, or any other personal information. Make sure to read through and understand the entire transmitting form. Some websites allow you to opt out of receiving email from partners – but you may have to uncheck a preselected box if you want to do so. Make sure to check for a privacy policy when submitting your wireless phone number or email address to any website. Find out if the policy allows the company to sell your information.
- Do not respond to unwanted texts or emails from questionable sources. Several mobile service providers will allow you to forward unwanted spam texts by simply texting it to 7726 (or "SPAM") to enable the providers to prevent future unwanted texts from the specific sender.
- Check with your mobile service provider about options to block future text messages from specific senders.
- Use an email filter. Some service providers offer a tool that filters out potential spam or channels spam into a bulk email folder. You may also want to consider filtering capabilities when choosing an Internet service provider.
- You may want to use two email addresses – one for personal messages and one for newsgroups and chat rooms. Also, consider using a disposable email address service that creates a separate email address that forwards messages to your permanent account. If one of the disposable addresses starts to receive spam, you can turn it off without affecting your permanent address.
- Try using a longer and unique email address. Your choice of email addresses may affect the amount of spam that you receive. A common name like "mjones" may get more spam than a more unique name like "da110x110".

You can file a complaint with the FCC if you receive:

- An unwanted commercial email message sent to your mobile phone;
- An autodialed or prerecorded telephone voice message or text message to your mobile phone if you didn't consent to the message previously (or it doesn't involve an emergency). The FCC can determine whether the message was sent using an autodialer and thus violates its rules;
- Any autodialed text message on your wireless device, or an unwanted commercial message to a non-wireless device from a telecommunications company or advertising a telecommunications company's products or services, if the message is sent without your prior consent.

There is no charge for filing a complaint. You can file your complaint using an online complaint form found at www.fcc.gov/complaints. You can also file your complaint with the FCC's Consumer Center by calling 1-888-CALL-FCC (1-888-225-5322) voice or 1-888-TELL-FCC (1-888-835-5322) TTY; faxing 1-866-418-0232; or writing to:

Federal Communications Commission
Consumer and Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, SW
Washington, DC 20554

What to Include In Your Complaint

The best way to provide all the information the FCC needs to process your complaint is to complete fully the online complaint form. When you open the online complaint form, you will be asked a series of questions that will take you to the specific section of the form you need to complete. If you do not use the online complaint form, your complaint, at a minimum, should indicate:

- your name, address, email address and phone number where you can be reached;
- the phone number or email address of the wireless device to which the message was sent, and, if a phone number, whether it is on the national Do-Not-Call list;
- date and time of the unwanted message;
- whether the unwanted message advertises or promotes a commercial product or service;
- any information to help identify the sender or the individual or company whose products or services are being advertised or promoted, and whether any of this information was provided in the message;
- whether the unwanted message provided any contact information to allow you to opt out of receiving future messages;
- whether you gave the sender permission to send you messages; and



- a description of any actions you took NOT to receive messages from the sender or individual or company whose products or services are being advertised, and when you took them.

What You Can Do About Commercial Email You Receive on Non-Wireless Devices, Such as Your Computer at Home

The Federal Trade Commission (FTC) has adopted detailed rules that restrict sending unwanted commercial email messages to computers. To find out more about the FTC's rules, visit www.ftc.gov/bcp/edu/microsites/spam/rules.htm. To file a complaint with the FTC or to get free information on spam issues in general, visit www.ftc.gov/spam/ or call 1-877-382-4357 voice; 1-866-653-4261 TTY.

State Anti-Spam Laws

The CAN-SPAM Act is intended to preempt – or replace – state anti-spam laws, but states are allowed to enforce the parts of the CAN-SPAM Act that restrict non-wireless SPAM. Also state laws prohibiting fraudulent or deceptive acts and computer crimes remain in effect.

For More Information

For information about this and other communications issues, visit the FCC's Consumer and Governmental Affairs Bureau website at www.fcc.gov/consumer-governmental-affairs-bureau.

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