

Comerica Incorporated

March 26, 2004

Federal Trade Commission
Office of the Secretary
Room 159-H
600 Pennsylvania Ave, NW
Washington, DC 20580
Attention: Project No. R411008

ORIGINAL



000009

Re: CAN-SPAM Act Rulemaking, Establishment of a National Do Not E-mail Registry

Dear Sir or Madam:

The following comments are provided on behalf of Comerica Incorporated, a \$53 billion bank holding company located in various states including California, Florida, Michigan, and Texas. Comerica appreciates the opportunity to comment on this proposal.

Background

The CAN-SPAM Act, which took effect on January 1, 2004, imposes a series of new requirements on the use of commercial electronic mail messages. CAN-SPAM also requires the Commission to prepare and submit to Congress four separate reports within the next two years. The first of the four reports is a report on establishing a nationwide marketing Do Not E-mail registry, which must be submitted by June 16, 2004. The following are our comments regarding establishing a nationwide Do Not E-mail registry.

Practicality of Registry:

Although having a Do Not E-mail Registry similar to the Do Not Call Registry appears to be a way to reduce unsolicited e-mails, in practicality it may give those who abuse e-mail one-stop shopping for e-mail addresses. One of the reasons that the Do Not Call Registry works so well is that the majority of unsolicited marketing telephone calls are from legitimate companies. Thus, the implementation of the National Registry has worked well for both consumers and businesses. The bulk of unsolicited e-mail however, is from individuals using deceptive tactics and illegal scams, many of which originate offshore. These e-mails will not be reduced and will ultimately give those individuals a single place to get their lists of e-mail addresses. If an individual is masking their e-mail identity, it will be highly unlikely that they will comply with the laws and the nominal fee to purchase the registry will be worth the efficiency of obtaining the list of e-mail addresses.

Pricing a National Do Not E-mail Registry will be an issue. Unlike the National Do Not Call Registry, there is no way to determine the location of an e-mail address. Therefore, everyone purchasing the E-mail Registry will have to purchase the entire registry.

Technical Feasibility:

Telephone communication lines are regulated and each number is identified with a specific individual or entity. E-mail addresses are not. Since there is often no additional cost, it is common practice for individuals to have multiple e-mail addresses. Given the multitude of e-mail addresses, the size of a National Do Not E-mail Registry would be astronomical. Maintaining a database with potentially over 200 million records would be a challenge and would also add cost to businesses to house the database and reduce employee productivity. With the frequency in which e-mail addresses come and go it will also be impossible to keep the registry current. It is likely there will be a significant number of invalid addresses at all times, thus adding to the size of the registry. These differences would make it technically unfeasible to ensure compliance with the use of a National Do Not E-mail Registry.

In addition, Internet vendors generate new addresses under which they will send e-mail and as needed, close the account before it can be determined who owned the address. The establishment of a National Do Not E-mail Registry is not necessary to prevent this practice. Other provisions of the CAN SPAM Act prohibit this type of behavior. A National Do Not E-mail Registry will not add any value for consumers and will create added burden to legitimate businesses complying with the provision.

Privacy:

In recent months incidents of phishing and spoofing have significantly increased. Government agencies as well as corporations and organizations have been targeted by these scams. One of the recent scams was the creation of a web site to appear to be the National Do Not E-mail Registry. This scam highlights the ease with which individuals could utilize a National Do Not E-mail registry to their benefit and to the detriment of consumers. Consumers will lose privacy by placing their e-mail addresses on this registry.

Enforceability:

Due to the technical savvy of those individuals who perform Internet scams, enforceability of the use of the registry will only occur for legitimate businesses. Legitimate businesses do not need the National Registry in order to comply with the wishes of consumers. Consumers can best be served with the opt-out provision currently in the law. Legitimate businesses will honor the opt-out requests of their customers and consumers because it is in their best interests.

Conclusion

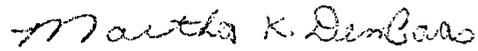
Although the National Do Not Call Registry has worked extremely well to reduce the number of unsolicited telemarketing calls, a National Do Not E-mail Registry cannot be placed in the same category. Education to the public regarding why utilizing the registry is not practical and will not accomplish the desired results is critical. If the public understands the reasons behind the decision not to implement a National Do Not E-mail Registry and their ability to opt-out of receiving unsolicited commercial e-mails from companies, they will be satisfied with why the National Do Not E-mail Registry was not implemented.

Comerica commends the Federal Trade Commission for their efforts in implementing a system that will be advantageous to consumers and businesses. Thank you again for the opportunity to comment on this important issue.

Sincerely,



C. Vance Borngesser
Vice President
Corporate Legal



Martha K. DenBaas
Vice President
Corporate Public Affairs