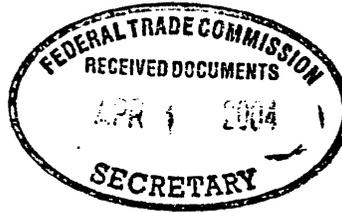


Reed Elsevier

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March 31, 2004

Via Electronic Filing

Mr. Donald S. Clark
Secretary
Federal Trade Commission
Office of the Secretary, Room 159-H
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: CAN-SPAM Act Rulemaking, Project No. R411008—
Do Not E-Mail Registry

Dear Secretary Clark:

Reed Elsevier Inc. thanks the Commission for this opportunity to submit comments on the Commission's pending report to Congress setting forth "a plan and timetable for establishing a nationwide marketing Do-Not-E-Mail registry."

Reed Elsevier is one of the world's leading publishing and information companies, employing more than 20,000 people in the United States. Reed Elsevier provides critical information in both hard copy and electronic formats to the government, scientific, legal, educational, and business communities. Through our divisions, including Reed Business Information, Reed Exhibitions, Harcourt Education Group, LexisNexis, and Elsevier, e-mail communications have become a vital part of Reed Elsevier's business and services.

All of our divisions use e-mail in a variety of ways, including to communicate with and offer choices to current and potential customers about their product and service offerings, to provide up-to-date information via e-mail newsletters, to conduct surveys and other market research, to provide subscriber account expiration and renewal information, and to legitimately advertise their own and third parties' products and services. In addition, Reed Elsevier provides many services that are available solely in electronic form or as an alternative to hard copy. For instance, we currently are

developing digital editions of periodicals normally published in print form. Twelve of our publications currently have digital editions, with one title available only in electronic form. Seventeen additional titles are now having digital editions developed and will be available by mid-year. Approximately 10-12% of our readers have opted to receive publications in digital editions rather than in print, and we plan to expand this aspect of our business to serve increasing customer demand.

Reed Elsevier has an interest in eliminating spam to ensure a healthy e-mail medium to communicate with consumers. While we support efforts to combat spam, we are concerned about the creation of a Do-Not-E-Mail Registry ("DNE Registry"). We believe the proposed DNE Registry, however well intended, would not reduce spam for a number of reasons. The spam problem is caused by entities that do not follow the law and that take steps to avoid detection and anti-spam measures. These entities would not follow a DNE Registry and, as a result, the e-mail sent by such bad actors would not be impacted by it.

A Do-Not-Call Registry can be effective because companies that violate the registry can usually be identified, fined, and made to comply with the law. A DNE Registry, on the other hand, would not work because spammers routinely falsify or conceal their identities, are difficult to catch, and disregard the law. By using false and misleading information or impersonating innocent organizations, spammers distribute millions of anonymous spam messages. For this reason, the location of a sender of e-mail often cannot be determined. While a telemarketer who violates the Do-Not-Call Registry can be identified, it would be much more difficult, if not impossible, to track down spammers who violate a DNE Registry.

Moreover, providing spammers with access to a DNE Registry in order to remove those e-mail addresses from their lists may have the opposite effect of spammers using those addresses to expand their databases. In reality, a DNE Registry is likely to have the unintended consequence of providing unscrupulous spammers with a new directory of potential targets. Likewise, unauthorized access and distribution by a hacker could provide an opportunity for millions of verified e-mail addresses to be distributed to spammers around the world.

Reed Elsevier also is concerned that a DNE Registry could restrict e-mail that individuals have indicated they would like to receive. This concern is particularly evident in relation to the "domain-wide" opt-out that the Commission is evaluating. Under a "domain-wide" registry, domain holders could register their domains not to receive commercial e-mail. Such an approach would eliminate the ability to send e-mail, including e-mail a customer has requested, such as electronic product updates or digital editions of periodicals, to customers in a domain that is placed on a DNE Registry.

Likewise, a DNE Registry could restrict the delivery of products and services that individuals have indicated they would like to receive. Unlike telephone solicitations, e-mail communications are used not only to promote new products and services, but to deliver them. While a Do-Not-Call Registry prohibits unwanted solicitations, a DNE

Registry could unintentionally block or complicate the delivery of products and services that consumers want and have affirmatively requested.

Reed Elsevier is concerned that, in this emerging electronic marketplace, development of any registry could stifle business growth and innovation and, in turn, lead to potential job losses. Nascent markets like the market for digital editions of periodicals offer great promise. Such innovation will create new products and services that consumers want. Technological advances additionally will produce business growth and the creation of new jobs. These beneficial results, however, would not be realized if an unintended consequence of a registry is to stifle such growth and development.

For these reasons, the Commission should recommend against the creation of the DNE Registry. Reed Elsevier commends the Commission for its significant efforts in combating spam and appreciates this opportunity to comment on the idea of a DNE Registry. We look forward to continuing to be a resource to the Commission as it implements the CAN-SPAM Act.

Sincerely,

REED ELSEVIER INC.

By: 

Steven Manzo

Vice President, Government Affairs

cc: Ronald Plesser
Stuart Ingis
Piper Rudnick LLP