Before the
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

COMMENTS
of the
DIRECT MARKETING ASSOCIATION, INC.

on the

CAN-SPAM Act Rulemaking, Project No. R411008

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I. Introduction, Summary, and Background

The Direct Marketing Association ("The DMA") is pleased to submit these comments on the Federal Trade Commission's ("Commission") request for public comment on the "CAN-SPAM Act Rulemaking, Project No. R411008." 16 C.F.R. Part 316; 69 Fed. Reg. 11776 (March 11, 2004). The DMA also submitted comments on March 31, 2004 opposing the creation of a "National Do Not E-Mail Registry."

The DMA is the largest trade association for businesses interested in direct, database, and interactive marketing and electronic commerce. The DMA represents more than 4,000 companies in the United States and 53 other nations. Founded in 1917, its members include direct mailers and direct marketers from 50 different industry segments, as well as the non-profit sector. Included are catalogers, financial services, book and magazine publishers, retail stores, industrial manufacturers, Internet-based businesses, and a host of other segments, as well as the service industries that support them.

The DMA member companies have a major stake in the success of electronic commerce, and are among those benefiting from its growth. The DMA's leadership extends to the Internet and electronic commerce through its subsidiaries the Internet Alliance and the Association for Interactive Marketing.

Last year, The DMA supported passage of the CAN-SPAM Act, Pub. L. No. 108-187. The DMA supported this Act because it believes that it will help in the battle against spam. Spam is clogging consumer inboxes in a manner that is significantly hurting the ability of DMA members, legitimate businesses that send e-mail for commercial purposes, to communicate with consumers. The Act creates a uniform and predictable national standard for senders and recipients of commercial e-mail. These standards empower consumers with an opportunity not

to receive further commercial e-mail messages. Likewise, requiring senders of commercial e-mail messages to provide a postal address will demand accountability. The Act also empowers ISPs and attorneys general to seek legal action against spammers—already some DMA-member ISPs have done just that.

The DMA believes that the Act is not intended to interfere with the sending of legitimate commercial e-mail. There are several instances where the FTC can provide clarity to the Act to avoid the potential for unintended consequences and burdens on legitimate senders of commercial e-mail and improve the consumer experience with respect to e-mail, including providing clarity to help consumers understand the rules that apply to this space. (The DMA undertook such an effort earlier this year with the publication of its Quick-Glance Guide to the CAN-SPAM Act, http://www.the-dma.org/cgi/disppressrelease?article=540.) Specifically, the DMA believes that the Commission, in this rulemaking, should:

- provide an objective standard that business can use to determine, prior to sending messages, whether the e-mail has a "primary purpose" that is commercial in nature. The Commission should acknowledge specific scenarios where a message does not have a primary purpose that is "commercial" in nature. For example, e-mail that would not have been sent "but for" a transactional or relationship purpose, such as account or billing statements, would not have a primary purpose that is commercial and would be subject to the transactional exemption of the statute;
- provide clarity for what entities are "senders" with respect to an e-mail message. The Commission should clarify that in situations where there exist multiple advertisements in the e-mail that each advertiser is not a "sender";

- indicate that "tell-a-friend" messages are not "commercial" e-mail messages, particularly in the absence of payment, consideration, or inducement;
- expand the categories of messages considered to be "transactional or relationship" messages to include: (1) e-mail where there exists affirmative consent or where the customer had requested the communication; (2) one-to-one e-mail sent in the business-to-business context regarding ongoing account management; and (3) e-mail that is directly related to a product or service already purchased or requested;
- lengthen the time frame for honoring opt-out requests from 10 business days to 31 calendar days;
- establish a time limit of no more than three years for maintaining opt-outs;
- recommend against requiring a label in the subject line of an e-mail message; and
- recommend against creating a reward system that would be logistically difficult to administer and would divert Commission enforcement resources.

II. What Factors Determine the "Primary Purpose" of an E-Mail?

The statute requires the Commission to issue rules to determine what constitutes the "primary purpose" of a message, and the Commission has asked for factors it should use in making this determination. The Commission should set forth factors that provide businesses with an objective standard to determine the primary purpose of a message.

While e-mail messages may be sent for a number of purposes, under the Act there can be only one primary purpose to an e-mail message. The statute defines "commercial e-mail" as "any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose)." The statute specifically uses the word "the" to modify "primary

purpose," rather than "a." The result of this definition is that a message can have only one primary purpose under the statute.

The statute also is clear that the test is what the e-mail's "primary purpose" is. By using these terms, we believe that Congress intended this test to be one focused on the purpose of the sender. In order to decide whether an e-mail is "commercial" in nature, it must be determined what the "primary purpose" of the message is from the sender's perspective. In situations where the e-mail has purposes that include "commercial e-mail" and a "transactional or relationship" message, the Commission asks which of these purposes is the "primary purpose."

The Commission asks several questions about the factors it should use in determining the primary purpose of a message including:

- whether the term "primary purpose" could be interpreted to mean that an e-mail's commercial advertisement or promotion is more important than all of the e-mail's other purposes combined;
- whether a "net impression" standard that is used in laws enforced by the Commission should be applied to make this determination;
- whether the percentage of the text that is "commercial" vs. another purpose should be determinative; and
- whether the determination of the primary purpose should be based on whether the commercial aspect of the e-mail financially supports the other aspects of the e-mail.

The DMA believes that the first three of these criteria could be useful in determining the primary purpose of a message as long as the Commission sets forth sufficient objective criteria that businesses can use to determine, prior to sending a message, the message's primary purpose. We do not believe that whether the commercial aspect financially supports the other aspects is

particularly helpful. An advertisement can be lucrative without it becoming the primary purpose of the e-mail.

However, the DMA believes that the simplest test and easiest for businesses and consumers to understand is a "but for" test. This test, simply put, would be that the e-mail would not be sent but for the commercial purpose.

There exist numerous e-mail messages that are sent primarily for a reason that would be categorized as "transactional or relationship" in nature, for example, billing or account statements. Such messages would be sent irrespective of whether there is any advertisement or promotion in the message or a particular advertisement or promotion. Simply because these messages may contain advertising does not mean that their primary purpose is commercial. The Commission should make clear that such e-mail does not have the primary purpose of "advertisement or promotion" and, thus, is not considered commercial e-mail. Under the "but for" test, these e-mails would not be sent but for the transactional or relationship purpose and, therefore, would not have a "commercial" purpose as their primary purpose.

This test has a number of merits. First, it is far simpler to apply than other criteria and it is objective. Second, it gets to the core of what is the primary purpose of sending an e-mail, which is clearly the intent of the law. Third, it is flexible enough to work across numerous types of e-mail.

E-mail that provides substantial editorial content also should not be considered to be commercial e-mail. The primary purpose of such messages is not the commercial advertisement or promotion of a commercial product or service. Newsletters are an example of widely used methods of communication with legitimate editorial content that should not be treated as commercial e-mail. Such communications provide recipients with content regarding

developments in the marketplace, certain products or services, or other information. In many cases, newsletters do not contain offers within the text of the messages. In other instances, newsletters contain advertisements that are incidental to the editorial content. The Commission should clarify that, in both instances, such e-mail messages are not commercial e-mail.

III. Who is a Sender?

The DMA requests that the Commission clarify that in many situations where there are multiple advertisers in an e-mail message each advertiser is not a "sender" under the Act. Potential interpretations of the Act have been considered that could result in treating each advertiser in an e-mail message that contains multiple advertisers as a sender. We do not believe that Congress intended this result.

This difficulty comes from the Act's definition of the term "procure." A sender of a message includes entities that "procure" messages from another entity. The term "procure" means "intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one's behalf." The intention of this statutory definition is to prevent spammers from having others send messages that they would be prohibited from sending because they have received opt-outs. We agree with this goal. However, Congress did not intend for advertisers and other legitimate actors that are not attempting to avoid the law and who honor consumer opt-outs to become "senders" for any e-mail where the advertiser's product or service is advertised or promoted.

We also think another important goal of the Act is accomplished through this interpretation—that consumers better understand who they are dealing with and know whom to contact.

A. Treating each advertiser as a sender would create significant problems

Treating each of multiple advertisers within a commercial e-mail as a "sender" would create unnecessary problems and unintended consequences. Multiple senders in a message could be required to scrub multiple suppression lists of different entities, a very complex and costly proposition. Similarly, providing multiple opt-outs would result in consumer confusion. Finally, sharing of opt-out suppression lists could create significant privacy issues.

1. Scrubbing against multiple suppression lists would be operationally very complex and costly

Treating each advertiser as a sender of an e-mail would result in each e-mail having to be scrubbed against each advertiser's list of individuals who have opted out of receiving future commercial e-mail ("suppression list"). Scrubbing against multiple suppression lists prior to sending of a message would be a complicated and expensive process. This is particularly true when a third party is required to conduct such multiple suppression activities. If companies were required to run suppressions for multiple lists, timing and costs for legitimate marketing could be significantly impacted in such a way that this type of marketing may become less efficient in many instances. Additionally, this type of marketing may no longer be possible under the law, as these difficulties could significantly impact businesses' ability to meet the current 10-business-day requirement to honor opt-outs. The unfortunate result would be that consumers could have fewer opportunities to receive third party offers in which they might be interested from businesses that can deliver special offers to their customers.

2. Creating multiple opt-outs would result in consumer confusion

Treating each advertiser as a sender would create consumer confusion. The Act requires that senders provide the ability to opt out in each message, as well as a valid physical postal address. Consumers would be confused by multiple opt-outs, and would not realize the impact

of their opt-out. Consumers would wonder whether the opt-out applies to each advertiser, to all of the advertisers, or for similar messages from all of the advertisers. The DMA believes that consumers do not expect to be able to opt out of receiving messages from an advertiser simply because one of possibly many advertisements may be included in the content of an e-mail from an unrelated sender. Moreover, we believe that clearer rules will result in less consumer confusion and fewer complaints, allowing the Commission to focus on bad actors.

3. Sharing of "suppression lists" would create significant privacy and security issues

The sharing of suppression lists would creates significant privacy issues. Many advertisers have committed to their customers in their privacy policies that they will not share e-mail addresses with third parties for any purpose. The Commission and businesses have taken considerable measures over the last few years to ensure in the e-commerce environment that information practices are stated in privacy notices and that these statements are adhered to. Forcing a regime that requires e-mail addresses to be forwarded to a third party for scrubbing in many instances would violate this commitment.

Privacy and security concerns are particularly evident in areas where there already are legal requirements governing the sharing of information. For example, the due diligence and security requirements under the Gramm-Leach-Bliley Act could be significantly increased if customer lists are transferred to third parties where this did not previously occur. This also would result in a significant increase in operational costs for businesses.

Finally, requiring multiple suppressions would significantly increase the number of times databases containing e-mail addresses would be transferred to third parties who may not normally have that information. This could result in increased opportunities for hackers to capture e-mail addresses and possibly other identifying information and use it for spamming

purposes or identity theft. In addition, third parties may have access to such information but may have different security protections in place than the originating entity. Consumers may be more comfortable with some entities having their personal information than others, but requiring these suppressions would take this choice away from consumers.

B. The Commission should provide criteria to determine who is a "sender"

The Commission should provide criteria that will allow businesses to determine who is a sender prior to e-mail being sent to the recipient. The DMA believes that the following criteria can help avoid the problems that result from multiple senders, while providing consumers with sufficient opportunity to opt out of receiving messages from entities from which they do not wish to receive messages. The DMA does not believe that this list is exhaustive, rather it sets forth criteria that begin to provide the types of factors necessary to provide clarity for businesses that send or advertise in commercial e-mail.

1. "But for" test

An important criterion that can be used to determine whether the presence of multiple advertisers requires distinct opt out obligations is whether a message would have been sent irrespective of the inclusion of a particular advertisement. If a "sender" would have sent the message regardless of the advertiser, the advertiser should not be considered to be a "sender." Advertisers would not be "senders" in an e-mail that is sent by one "sender" and that may contain advertisements of varying advertisers. However, an e-mail that would not have been sent irrespective of an advertisement would not necessarily make the advertiser a sender.

2. Advertiser provision of recipient e-mail addresses

If an advertiser does not provide the sender with a list of e-mail recipients to whom that message will be sent, then we propose that the advertiser not be treated as a "sender." For an

advertiser to "procure" a message and become a sender, the message must be sent on the advertiser's behalf. The DMA believes that a required criterion for whether a message is sent on "one's behalf" should be whether the entity provides a list of recipient e-mail addresses. Such a result is consistent with the intent of the Act to prohibit entities from having others "front" for them and send messages to individuals who have opted out of receiving messages directly from the entity. In instances where an advertiser does provide the "sender" with the e-mail addresses of recipients, then such list should not include any e-mail address that has opted out of receiving messages directly from the advertiser. Provision of e-mail addresses, would not, by itself, result in an advertiser becoming a sender.

3. Indication in the message or "from" line of the party sending the message

If the e-mail is clearly identified as being from a particular "sender," and that "sender" provides an "opt-out" and otherwise complies with the Act, that entity is the "sender" and not any other advertisers in the message. In this instance, the "sender" is not sending the message "on behalf" of the advertiser. If the recipient opts out of receiving the message, then the "sender" would longer be able to send messages to the recipient, irrespective of whether entities provide advertising content in the messages.

4. Control of the e-mail

The final criterion we recommend to determine whether a message is sent on one's behalf is what entity controls the placement of the advertisement in the e-mail. Without control over the placement of the advertisement in an e-mail, the e-mail is not being sent on "one's (the advertiser's) behalf." For example, in instances where banner advertisements occur in e-mail messages, where the advertiser does not control the particular advertisement that appears in the message, because the advertiser cannot control whether or not the message is sent, the advertiser

would not be a sender. Control should not include companies' control over advertisement approval or controls over third parties' e-mailing practices, as these are important controls that help consumers and businesses ensure that senders are sending appropriate and non-deceptive content in a non-deceptive manner.

IV. Forward-to-a-Friend Messages

The Commission asks how "forward-to-a-friend" and similar marketing campaigns that rely on customers to refer or forward commercial e-mails to someone else should be treated under the Act. "Forward-to-a-friend" messages have become a very popular method for businesses to provide a simple means for one friend to tell another friend about a good or service of a company. Usually, a forward-to-a-friend capability is provided on a web site of a business that offers a good or service. One individual can fill in the e-mail address of a friend and the friend will receive content describing the good or service. For example, an individual can send information to a friend about a new book or soundtrack that the friend's favorite author or musician has released. There is no indication that forward-to-a-friend messages are the source of spam or consumer dislike. In fact, consumers have embraced such messages, which have become a modern day "word of mouth."

Subjecting these types of messages to the provisions of the Act, including opt-out, suppression, and inclusion of a physical postal address would be difficult. These "forward-to-a-friend" systems are generally not designed to include these requirements of the statute. For example, individuals who forward such messages do not have systems in place to provide for opt-outs. These are not businesses, but rather ordinary citizens telling their friend about an item of interest. Requiring each friend to provide opt-outs, etc. is simply impractical. Likewise, in such situations, business "forward-to-a-friend" systems generally do not have opt-out capabilities

in place. To require that businesses develop opt-out capabilities for such messages would be extremely costly and produce an undesired result in forcing the maintenance of the list of friends that are being referred. An individual could be told that he cannot send a message to his friend because of the content of the message.

Businesses that offer "forward-to-a-friend" messages should not become "senders" for e-mail sent as a result of such services, particularly where the consumer is not receiving payment, consideration, or inducement to send the message. The "friend" who is sending the message would, in most cases, fall outside of the opt-out requirements of the Act because the friend's purpose in sending the message is not "commercial" e-mail, sent for the primary purpose for that sender to advertise or promote that sender's good or service, but rather informational, to just tell their friend about something that might interest them. For these reasons, the Commission should indicate in its rules that forward-to-a-friend messages are not commercial e-mail where there is not payment, consideration, or inducement.

V. Transactional and Relationship Messages

The Act authorizes the Commission to expand or contract the categories of messages treated as "transactional or relationship" messages. The DMA believes that each of the five enumerated categories in the statute is a transactional or relationship message and should be maintained. The DMA recommends that the Commission expand these categories to include e-mail sent with consent or at the consumer's request. These categories also are transactional or relationship in nature; their addition to this group would provide businesses with certainty regarding sending certain types of messages.

Many messages where consent exists are already encompassed in the existing categories of "transactional or relationship" messages. For example, in § 3(17)(A)(v) of the Act, e-mail

sent to deliver goods or services that the recipient has agreed to is consensual e-mail. There is, however, a category of consensual e-mail that may not fit within this or the other categories enumerated in the Act. In all instances where an individual requests an e-mail, that e-mail should be a transactional or relationship message. In such instances, the requirement of opt-out, suppression, and other inclusions are wholly unnecessary. It is clear that if an individual requests e-mail, then he desires to receive such e-mail. Creation of a category for consent would provide businesses with certainty when sending such messages that they do not need to take the steps of analyzing the e-mail under the Act and determining who is the sender and its corresponding requirements.

An additional concern has been raised by several DMA members regarding one-to-one e-mail sent in the business-to-business context regarding ongoing account management, by an individual or employee of a company who is directly responsible for managing the account relationship. Such e-mail generally is sent to individuals or small groups of existing clients, and not on a mass mailing basis. The Act could be interpreted to require that each of these e-mails contain an opt-out and be run against the company's suppression list. Such a result would require a major redesign of company e-mail systems and would result in recipients not receiving e-mail that they expect. The DMA does not believe that this is a result intended by Congress. For this reason, the Commission should clarify that such messages are "transactional or relationship" in nature.

Additionally, The DMA believes that the Commission should clarify § 3(17)(A)(v) to ensure that it includes all e-mail that is directly related to a product or service already purchased or requested. This section currently includes e-mail that has a primary purpose "to deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under

the terms of a transaction that the recipient has previously agreed to enter into with the sender." This section should not be limited to delivery of goods or services. For example, there are many e-mails, such as account opening statements and other documents that establish the terms of a relationship or service, that are related to a transaction and should be included as transactional and relationship messages.

VI. Ten-Business-Day Time Frame to Honor Opt-Out Requests

The Commission asks whether the 10-business-day time frame for acting on an opt-out request is appropriate. The experience of The DMA members indicates that 10 business days is an insufficient amount of time to honor opt outs. The 10-business-day time frame should be extended to 31 calendar days.

Businesses often contract with third parties to conduct their e-mail campaigns. Coordinating the current suppression list with the recipient list in a campaign is a complicated process involving multiple parties. This is particularly true in instances where multiple parties' suppression lists need to be coordinated. For instance, many vendors need to have the clean list five or more business days prior to the first distribution to address upload and processing time on their end and to have time to perform quality checks of populated test messages. Before the file can be sent to a vendor, senders often need to determine the files to be used (including the population to be marketed), run suppressions to clean the file, and perform quality checks.

In addition, e-mail sent to a particular list may be distributed over a couple of days to ease the strain on fulfillment sites and customer relations departments. Reducing the amount of time for this chain of events to occur arguably would hurt consumers by compromising the quality of lists and content, as well as response times. For these reasons, The DMA recommends that 31 days is a more practical time frame to allow for suppression. This number is consistent

with the Commission's recently amended Telemarketing Sales Rule for businesses that engage in telemarketing to suppress numbers on the federal do-not-call registry. Having this aspect of the two rules be the same also would reduce consumer confusion for both channels as consumers would better understand the timing of an opt-out.

VII. Duration of Time to Maintain Opt-Out Requests

The Commission asks whether there are additional issues, other than those specifically raised in the ANPRM, that it should address under the authority provided under § 13(a) of the Act. The DMA requests that the Commission create a time limit for maintaining opt-out requests. This time frame should be no more than three years. It is estimated that 32% of e-mail addresses change annually. Return Path, Inc. and Global Registry, LLC, *Lost Relationships: The Collateral Damage of E-Mail Address Changes*, October 16, 2002, at 2. Over time, the list of e-mail addresses that have requested not to receive further commercial e-mail will grow to include a large percentage of e-mail addresses that are no longer functional.

Suppression of e-mail addresses has operational and monetary costs that grow with the size of the list. In the e-mail context, addresses are retired very frequently or recycled and reactivated to other users. For instance, some providers of e-mail accounts and addresses retire e-mail addresses after a period of non-use as short as 30 days, and then reassign them shortly after they are retired. Not recognizing this fact could impact legitimate marketing by decreasing the marketable populations without much gain for consumers. For these reasons, The DMA requests that the Commission establish by rule that after two to three years, businesses no longer need to maintain opt-out requests.

VIII. Valid Physical Postal Address

The statute requires that the sender of a message include a valid physical postal address. This section serves an accountability function by helping ensure that the sender of a commercial e-mail message can be contacted and identified. For this reason, The DMA believes that the effect of the statute should be that a sender could be found. Where the sender is otherwise locatable as a result of being a registered entity under corporate law or federal securities registration, then a P.O. box would satisfy this condition and a street address would not be required. Where the entity is not readily locatable, a physical address should still be required.

We urge the Commission to consider post office boxes to meet the "valid physical postal address" requirement where the sending entity is readily locatable through corporate or security registration. Post office boxes often have proven to be the best channel for large companies to handle a wide range of inquiries and complaints. In fact, many entities have a number of addresses where they handle mail that often are not street addresses. This approach would ensure that consumer inquiries are handled effectively, especially when a company is operating several different businesses from multiple locations. Moreover, it is cost effective for large companies to direct mail to various locations based on the product or type of inquiry.

As a result, many, if not all, of the current processes for major companies are built around post offices boxes. Mandating the use of a street address would require those companies to create new processes and staffing, as well as training. Even with these changes, the chance for error using a street address may be greater than for a post office box, and response times could be longer because processes would become more complicated.

IX. "ADV" Labeling on E-Mail Solicitations Will Not Reduce Spam

The Commission is required to submit to Congress, within 18 months of enactment of the Act, a report that sets forth a plan to require commercial electronic mail to be identifiable from its subject line through the use of "ADV:" or a comparable identifier or an explanation of any concerns the Commission has that cause the Commission to recommend against this plan. The DMA believes that the Commission should recommend against such a plan. Simply stated, spammers will not abide by such a requirement. The Act already requires that senders of commercial e-mail provide clear and conspicuous indication that a message is an advertisement or solicitation. The DMA believes that any further labeling requirement is unnecessary and will not help combat spam.

Prior to enactment of the CAN-SPAM Act, numerous state laws required that e-mail solicitations contain an "ADV:" label in the subject line of an e-mail message. This label was intended to allow recipients to identify unsolicited commercial e-mail from the subject line of the message. This labeling requirement had no effect in combating spam. When the Commission analyzed spam as part of its report *False Claims in Spam*, the Commission determined that compliance with the "ADV:" requirement was "sparse." In fact, only 2% of the spam analyzed by the Commission followed this requirement. *False Claims in Spam*, A Report by the FTC's Division of Marketing Practices, April 30, 2003, at 11.

Rather than combating spam, such a labeling requirement would be burdensome for businesses and could create a system where Internet service providers could elect to block all messages with such a label. Such a system could result in many of the same problems that The DMA described in its March 31 comments on the do-not-e-mail registry would exist for a domain-wide registry. For example, a labeling requirement could create significant problems

when recipients want to receive messages from an individual company if the ISP is blocking all labeled commercial e-mail. Significant questions exist as to how recipients who want to receive commercial e-mail within an ISP that blocks labeled mail would be able to receive commercial e-mail that they desire. Additionally, requirement of any label in a subject line takes up valuable space that is better used to describe the subject of the message.

X. Reward System

The Commission is required to submit to Congress a report within nine months of enactment of the Act that sets forth a system for rewarding those who supply information to the Commission about violations of the Act. The DMA opposes the creation of such a system and recommends that the Commission recommend against its creation. Such a system would create significant management and administrative law issues, is not likely to be effective, and could have the adverse effect of increasing computer hacking.

Creation of such a system would raise significant management issues and administrative law issues for the FTC. It would raise significant logistical questions regarding who should obtain the bounty and how this would be communicated and administered, and would have to be designed to address the potential for abuse which could exist with such a system. For instance, protections would have to be built in to resolve debates between two or more individuals who all submitted a complaint. The creation of such a system could result in a diversion of resources from the Commission's spam fighting efforts. Ironically, more of the Commission's resources likely would be used to determine who should get the reward rather than on efforts to prosecute spammers.

A reward system is not likely to be effective. Identifying and prosecuting spammers is a complicated undertaking. Significant expertise is required to track down spammers; both the

FTC and ISPs have entire departments devoted to identifying them. Creating a reward system would provide an incentive for the public, with no experience or understanding of appropriate law enforcement techniques, to attempt to identify spammers, and could result in encouraging computer hacking. For this reason, empowering individuals to attempt to engage in such complicated activities is unlikely to be effective.

Conclusion

The DMA appreciates this opportunity to comment on the important issues raised in the ANPRM. We look forward to continuing to work with the Commission as it issues its proposed rules.

Respectfully submitted,

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