



Atlanta, Brussels, New York, Tucson and Washington, DC

September 13, 2004

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: CAN-SPAM Act Rulemaking, Project No. R41108
addressing the definition and implementation of the Act as set
forth in sections 3(2)c and 3(17)(B)

Dear Sir or Madam:

The Kellen Company, an association management firm, provides management services for 70 national, international and state associations. These associations are trade associations and professional societies and foundations classified by the Internal Revenue Services as 501(c)(6) or 501(c)(3) organizations.

These tax-exempt organizations exist to serve their members and constituencies in accordance with their tax-exempt purposes. In doing so, these organizations rely heavily on electronic notices and communications, for example, about related educational seminars, reports on business and professional challenges and the benefits of membership.

In many cases, these organizations have modest budgets directed toward their established purposes. The record keeping associated with the commercial electronic mail message provisions of the CAN-SPAM Act present an onerous burden for these organizations.

Specifically, on behalf of our client associations, we respectfully request that the Federal Trade Commission further clarify its rule-making to expressly exempt from the definition of "commercial electronic mail message (CEM)", e-mail transmitted by a tax exempt nonprofit organization **primarily related to one or more of the organization's duly authorized tax exempt nonprofit purposes.**

Additionally, we urge the FTC to specifically provide in its regulations that any e-mail transmitted by a tax exempt nonprofit organization to a current member or donor, regardless of its commercial content, is not subject to the CAN-SPAM Act because such member communications are "transactional or relationship" messages as defined in Section 3(17)(A) and (B) of the CAN-SPAM Act.

Sincerely,

A handwritten signature in black ink that reads "Richard E. Cristol".

Richard E. Cristol
Executive Vice President