

June 13, 2005

Federal Trade Commission  
CAN-SPAM Act  
Post Office Box 1030  
Merrifield, VA 22116-1030



Re: CAN-SPAM Act Rulemaking, Project No. R411008

Dear Secretary:

On behalf of IMN (iMakeNews, Inc.), I am happy to provide the following comments on the current regulations proposed under the CAN SPAM Act. IMN is an application service provider that delivers e-communications solutions for boosting business performance by using e-newsletters, html email, micro-sites, and blogs, with robust tracking and analytics. Given our role in the marketplace, we feel that we have a clear and compelling view of the actual operation of the email industry. Based on this perspective, we write today to express serious concerns with any further limitations on the opt out processing period found with the CAN SPAM Act.

As you know, the FTC has proposed reducing the processing period for opt out requests under the CAN SPAM Act from 10 to 3 days. In other words, companies sending commercial electronic mail messages must cease sending further messages within 3 days of receiving an opt out from a recipient. To be clear, our company -- indeed our entire industry -- is committed to respecting consumers' requests not to receive commercial email. We stand in strong support of the 10 day opt out requirement in the CAN SPAM Act. And we certainly do not want to send commercial email to recipients who do not wish to receive such messages.

However, moving from the period set under the CAN SPAM Act (10 days) to 3 days will create a impossible threshold for opt out processing in many common situations. The CAN SPAM Act creates the need for the transfer of opt out lists (suppression files) within and between organizations. The transfer of such files can easily require more than three days in large organizations with highly distributed operations. Mandating a 3 day opt out processing period will put many well-intentioned companies unnecessarily out of compliance with the Act. Additionally, it is common practice for many organizations to plan and program their email campaigns well in advance of the actual distribution. In such situations, the list of email addresses that a campaign will be delivered to may be determined up to a week prior to the actual delivery of the message. Requiring a 3 day opt out period will seriously impair the strategic use of email marketing by requiring last-minute changes to previously scheduled campaigns.

Perhaps most importantly, there has been no evidence that we are aware of that would suggest that consumers receive any more commercial email during the opt out period. I know that I can speak on behalf of all legitimate companies in the email industry in saying that an opt out request is not seen as an opportunity to send spam for 10 additional days.

For these reasons, we strongly encourage you to not reduce the opt out processing period set by the CAN SPAM Act.

Sincerely,

Peter Mesnik  
Founder and CTO  
IMN (iMakeNews, Inc.)