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June 20, 2005

Federal Trade Commission
CAN-SPAM Act
P.O. Box 1030
Merrifield, Virginia 22116-1030

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

Dear Sir/Madam:

Empire Corporate Federal Credit Union ("Empire") appreciates the opportunity to comment on the proposed rules to implement the CAN-SPAM Act of 2003 (the "Act"). Empire is proud to count over 1,000 credit unions as members and hopes these revisions will enhance our ability to continue to serve our membership.

The Federal Trade Commission (the "Commission") has proposed rule provisions on five broad topics: (1) defining the term "person"; (2) limiting the definition of "sender"; (3) clarifying that Post Office boxes and private mailboxes are "valid physical postal addresses"; (4) shortening the time a sender has to honor a recipient's opt-out request; and (5) clarifying that a recipient may not be required to pay a fee, provide information other than the e-mail address and opt-out preferences, or take any steps other than sending a reply e-mail or visiting a single Web page to submit a valid opt-out request. In general, Empire supports the proposed rules. Empire's specific comments are set forth below.

Definition of "person"

The Commission is proposing to define the term "person" as "an individual, group, unincorporated association, limited or general partnership, corporation or other business entity."

Empire supports this definition. It believes this broad definition effectively clarifies that the term "person" within the Act is not limited to a natural person.

Definition of "sender"

The Commission is proposing to limit the definition of "sender" to address scenarios where a single e-mail message contains advertisements from multiple entities. In these instances, the proposal states a person will be deemed to be the "sender" if, they initiate the commercial e-mail message and "their" products, services or Internet Web site is advertised or promoted by the e-mail and that person either: (1) controls

the content of the message; (2) determines the e-mail addresses to which the e-mail is sent; or (3) is identified in the "from" line as the sender.

Empire believes this definition is reasonable. It believes it adequately clarifies who the sender of a commercial e-mail message is when a single e-mail contains advertisements from multiple entities.

Definition of "valid physical postal address"

The Commission is proposing to define the term "valid physical postal address" as: (1) the sender's current street address; (2) a Post Office box the sender has registered with the United States Postal Service; or (3) a private mailbox the sender has registered with a commercial receiving agency that is established pursuant to United States Postal Service regulations.

Empire believes this definition is reasonable and that it clarifies the statutory intent of the term "physical" to be a means of identifying and locating the sender as opposed to the actual residence of the sender. Empire agrees with the Commission that the inclusion of P.O. boxes and private mailboxes does not create any greater risk that a sender will falsify information when obtaining such boxes than there is with a sender falsifying their street address in the e-mail.

Timeframe for honoring a valid opt-out request

The Commission is proposing to change the time in which a sender has to effectuate an opt-out request from ten (10) business days to three (3) business days.

Empire does not support this proposed change. Empire believes ten (10) business days is an appropriate timeframe in which to process opt-out requests. Along with allowing adequate time to process the request, the current ten (10) business day timeframe lessens the burden of ensuring these requests get addressed when the person whose responsibility it is to process the request is out sick or on vacation.

Requirements of recipients who wish to opt-out

The Commission is proposing to prohibit the sender from requiring the recipient to pay a fee, provide information other than the recipient's e-mail address and opt-out preferences or take any steps other than sending a reply e-mail or visiting a single Web page to submit a valid opt-out request.

Empire supports this proposed change. It believes it is inappropriate for the sender to charge a fee, seek personal information or require the recipient to visit more than one Web page to submit an opt-out request.

Empire thanks the Commission for the opportunity to share its views on the proposed rules. If you have any questions regarding our comments, please do not hesitate to contact me at 518-292-3803.

Sincerely,

Christiane G. Hyland
Enclosure

cc: Mike Canning, Executive Director, ACCU
Mike Carter, Regulatory Advocacy Coordinator, NYSCUL
Kimberly Dewey, Associate Director, Regulatory Affairs, NAFCU