

June 27, 2005

Federal Trade Commission
Office of the Secretary
Room H-159
600 Pennsylvania Avenue, NW.
Washington, DC 20580

TO WHOM IT MAY CONCERN,

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

This is in response to question A(4) in the notice:

What changes, if any, should be made to the proposed Rule to minimize any cost to industry or consumers?

A single email is not a problem, but a collection of emails is. However, the CAN-SPAM Act is based on definitions relating to single email. This could potentially lead to unnecessary litigation and wasted resources, which is not the intention of the CAN-SPAM Act.

By supplementing the definitions to take into account that collection of emails is the true problem, potential unintended consequences of the Act can be avoided. This can be accomplished by distinguishing the “act of spamming” from the emails that are created. For this purpose, the following definition is offered:

Spamming is the use of any electronic communications medium to send unsolicited messages in bulk, indiscriminately -- unlike sending to a selected group in normal marketing¹.

Using this definition, it is possible to set the threshold under which CAN-SPAM Act is triggered. The current definitions relating to single messages can then be applied. This solution eliminates situations in which legal action could be initiated, based on the CAN-SPAM Act, without the existence of reasonable cause for such legal action.

Respectfully submitted,

George Mattathil
CEO, Strategic Advisory Group
george@StrategyGroup.net

¹ From Wikipedia: http://en.wikipedia.org/wiki/Spam_%28electronic%29 The current version is an update I made to the earlier version. The earlier definition was, “‘Spamming’ is the use of any electronic communications medium to send unsolicited messages in bulk.”