



June 23, 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:

I am writing to express serious concerns regarding the contemplated reduction in the CAN SPAM Act opt-out period from 10 days to 3 days. Topica is an email service provider, hosting email lists for approximately 4,000 commercial clients, plus an additional 40,000 community discussion lists which we host at no charge to the listowner or subscribers. Given our role in the marketplace as one of the larger email service providers, we feel that we have a clear and compelling view of the actual operation of the email industry.

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.

Topica's opt-out processing is well within the 3 day period being contemplated. However, our clients operate under a variety of corporate structures and relationships with partners or vendors. Moving from the period set under the CAN SPAM Act (10 days) to 3 days will create an impossible threshold for opt out processing in many common situations our clients encounter. 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, or companies using outsourced advertising or media agencies to handle their online relations. 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,

Carter Hostalley /
Chief Executive Officer