

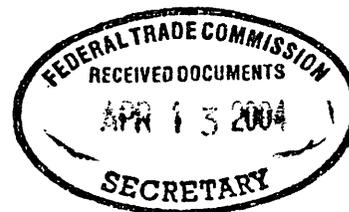
000687

Procter & Gamble

The Procter & Gamble Company
Executive Offices
1 Procter & Gamble Plaza, Cincinnati, Ohio 45202-3315

ORIGINAL

April 13, 2004



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

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

To Whom It May Concern:

The Procter & Gamble Company welcomes the opportunity to provide comments to the Federal Trade Commission (FTC) on the CAN-SPAM Act Rulemaking. Our comments will focus on two aspects of the CAN-SPAM Act: the definition of transactional / relationship messages and "forward to a friend" or "refer a friend" messages.

Introduction:

By way of background, P&G is a global manufacturer and marketer of consumer products. The Company markets nearly 300 brands – including Pampers, Tide, Ariel, Always, Whisper, Pantene, Bounty, Pringles, Folgers, Charmin, Downy, Iams, Crest, Actonel, Olay and Clairol – in more than 160 countries globally. The P&G community consists of nearly 98,000 employees working in almost 80 countries around the world.

P&G was an early adopter of the Internet as a highly effective medium to reach our consumers through relationship marketing. At P&G we do not generally sell our products online, but we do offer information and services to improve the lives of our consumers. P&G uses permission-based marketing as the foundation of our interactions with consumers. We seek to build our relationships with consumers on the basis of transparency and trust. We offer individuals who have provided us with personal information with choices about further communications. We ask whether or not a consumer would like to be contacted about additional offers or services. And we seek where ever we can to provide consumers with a convenient means to tell us, "YES" or "NO", whether we may use the information they provided to re-contact them.

Our consumer research shows that consumers perceive real benefits from sharing their personal information with us. The value that consumers experience is converted into trust which P&G measures by ever increasing subscriptions, low opt-out rates and improved products and services, all which leads to increased brand loyalty and sales.

P&G is deeply concerned about the problem of spam and supported the passage of the CAN SPAM Act last year as a partial solution to managing the flood of unwanted messages in American consumers' email inboxes. In addition to new federal law, we believe that improved

filtering technologies, better international cooperation to shut down offshore spammers, and sound industry self-regulatory practices all have a role in dealing with spam. The true economic impact of spam is far-reaching. Spam jeopardizes consumer relationship programs in which a consumer has chosen to participate. Spammers diminish the effectiveness of email as a medium and taint trusted marketers with an undesirable and unwarranted image.

P&G hopes that these comments help the FTC craft effective rules that clearly delineate between legitimate permission-based marketing and spam.

Definition of Transactional / Relationship Messages:

FTC page 20 Question 8:

“Email messages that deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender are considered transactional or relationship messages under the Act. Should the Commission modify or elaborate on this definition? Why or why not?”

Yes: the Commission should explicitly include in Definition (17) Transactional or Relationship Message, that email sent or received as a result of “electronic subscriptions” is a transactional or relationship message, and not commercial email under CAN SPAM.

Discussion:

The primary purpose of P&G email messages is to deliver an electronic subscription such as a newsletter, or a notice of a subscription newsletter posted on a web page, or to deliver product updates and membership news to consumers who have subscribed to a P&G electronic program or “club”, by completing an on-line subscription.

In order to receive P&G newsletters and other electronic notices and offers from P&G, individuals must clearly take some action, by visiting a P&G web site and affirmatively subscribing to the program. Consumers must provide their email address and potentially other information to subscribe to the desired electronic subscription services. The subscriber can ‘opt-out’ of the subscription at any time, because all electronic subscriptions carry fully functional electronic opt out mechanisms.

Examples of on-line subscription forms for some P&G programs are provided in Appendix 1. Examples of newsletters for some P&G programs that P&G subscribers receive are in Appendix 2.

These programs represent an electronic subscription that is “*goods or services, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender*” and are “*transactional or relationship messages*”.

Forward to a Friend or Refer a Friend Messages:

FTC PAGE 23: Question 3

“The Act defines “initiate” to mean originate or transmit, or procure the origination or transmission of, a message. In turn, the term “procure” means to pay, provide consideration, or “induce” a person to initiate a message on one’s behalf.

- a. Do "forward-to-a-friend" and similar marketing campaigns that rely on customers to refer or forward commercial emails to someone else fall within the parameters of "inducing" a person to initiate a message on behalf of someone else?
- b. Are there different types of such "forwarding" marketing campaigns? What forms do these campaigns take?
- c. Should these marketing campaigns have to comply with the Act? "

A. It is important for the FTC to understand that there are different definitions of "refer a friend" programs, such as ones that allow a web site visitor or email recipient to easily forward information that they find useful to a friend or a few friends. These refer a friend programs are not "marketing campaigns that rely on customers to refer or forward commercial emails". Examples of simple refer a friend programs are described in 3B. Forward to a friend messages do NOT necessarily provide consideration or induce a person to initiate a message; refer a friend are frequently a convenient mechanism for one person to convey useful information to another person.

B. Yes: there are different types of forward to a friend messages that are more like a "routine conveyance".

C. No: Simple refer a friend messages that allow a web site visitor or a recipient of an email to forward interesting information to friends should not be subject to the act. Requiring refer a friend messages to comply with the opt-out provisions of the law would create significant complexity, potentially requiring opt-out mechanisms between receiving-friend and sending friend, and remove the value and convenience these conveyance mechanisms provide to consumers.

Discussion

Refer a friend messages are valuable to business because they provide an effective way to tap into the power of "early adopters", individuals who like to tell their friends about interesting information they find on the Internet. Individuals who utilize refer a friend messages like to find new offers or new information and want to be able to tell their friends about good information and special offers they find on the internet.

Individuals who receive refer a friend messages are more confident visiting a web site or trying out a product that is recommended by a friend, particularly when the referral message directs them to a product sample or coupon. Consumer research shows that individuals who use referrals and individuals who receive referrals value the opportunity to easily have these types of messages conveyed. Inducement-type campaigns, where referrals are rewarded with a discount, coupon or free sample, tend to have less credibility with the recipient and can even result in a negative impression. Research conducted by P&G Consumer Relations indicates that P&G does not receive complaints concerning refer a friend messages conveyed via a P&G refer a friend mechanism.

P&G's refer a friend programs are "generated on the fly" from the web site or an email message. The referring friend provides the email name of the friend, and a simple text message. Technology puts the message together with either a link to the web site, or the message to be delivered, and conveys the message to the friend. The names of the recipients are never saved

or stored. The refer a friend process described is more like a "routine conveyance – the transmission, routing, relaying, handling, or storing , through an automatic technical process, of an electronic mail message for which another person has identified the recipient or provided the recipient address"

P&G places several controls on refer a friend messages:

- The recipient messages indicate that the referring friend is the individual who provided the name by either placing the recipient email address in the "from" line or in the "re" line that flags the subject material.
- The subject line is not deceptive, and indicates that the message is about the commercial information the friend wanted them to know about.
- The message content is in simple text that contains a link to the website or the message.

Examples of P&G's implementation of refer a friend messages (both from the sending and receiving perspective) are in Appendix 3.

Conclusion:

P&G appreciates the opportunity to share our views on these important issues that the FTC staff is considering as you craft rules to implement the CAN-SPAM Act. We welcome the opportunity to answer questions or provide further background to the FTC staff as needed. Please do not hesitate to contact me (513-983-4224) or Carolyn Brehm in P&G's Washington office (202-393-3406) for further information.

Sincerely,

Sandra R. Hughes
Global Privacy Executive
The Procter & Gamble Company
2 Procter & Gamble Plaza
TN-07, Box 20
Cincinnati, OH 45202
hughes.sr@pg.com

Attachments

APPENDIX 1: EXAMPLES OF SUBSCRIPTION FORMS

HEALTH EXPRESSIONS

SUBSCRIPTION PAGE



Sign Up for Your Free Newsletter

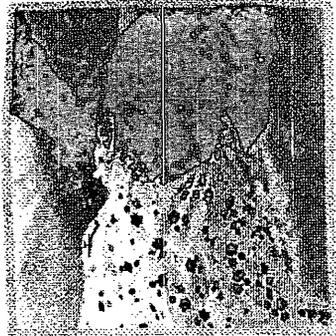
Register here to receive the Health Expressions newsletter! You'll be among the first to hear about the latest inspired health solutions, plus you'll enjoy special offers, samples, coupons, and sweepstakes from trusted brands like Crest®, Vicks®, Prilosec OTC™, Metamucil®, NyQuil®, Pepto-Bismol®, ThermaCare®, PUR®, and Actonel®. All the information you give us will be kept private and will not be sold to any other company.

* Required Fields

First Name:*
Last Name:*
Address:*
City:*
State:* 
Zip Code:*
Email:*
Date of Birth:* Month - please specify - 

APPENDIX 1: EXAMPLES OF SUBSCRIPTION FORMS

PAMPERS



Welcome to Pampers.com. When you fill out the information* below, you will gain access to the site's many member benefits, including *The Parent Pages*, a monthly email newsletter that's customized for your baby's age and stage of development. You'll also be able to get answers to your toughest questions from the experts at the Pampers Parenting Institute™—24 hours a day.

Once you finish registering, Pampers.com will send you a free welcome kit, complete with valuable coupons for Pampers products. You will be automatically entered in this month's Pampers Welcome Sweepstakes for a chance to win a year's supply of free Pampers products. And as a Pampers.com member, you will have the opportunity to receive special product previews and samples before they hit store shelves. Get ready to discover your baby's world!

*All information will be kept private.

Canadian users, [click here](#)

The Parent Pages Newsletter

Customized newsletters tailored to the age and stage of each child packed full of great ideas and advice from leading child care experts.

Tell us about yourself

* Indicates required information

* Year You Were Born (e.g., 1970):

* First Name:

* Last Name:

* E-mail Address:

* Retype E-mail Address:

Password:

Your password will be required to review or change your information.

* Password (6-14 characters – case sensitive):

* Retype Password:

Membership Code:

606687

APPENDIX 1: EXAMPLES OF SUBSCRIPTION FORMS

HOME MADE SIMPLE

easy solutions for busy living.



subscribe to our FREE NEWSLETTER

Sign up here for the Home Made Simple **newsletter!** You'll be among the first to know about special offers, samples, coupons, and sweepstakes we offer from time to time from brands like Cascade®, Dawn®, Febreze®, Mr. Clean®, and Swiffer®. All the information you give us will be kept private and will not be sold to any other company.

* Required Fields

First Name: *

Last Name: *

Address: *

City: *

State/Province: *

Zip/Postal Code: *

Country: *

Email: *

Date of Birth? * Month:

Year:

Please select your language preference: *

Where did you hear about Home Made Simple?:

If you have a promotional code, please enter it here:

Now it's simple to keep in touch with friends or share some of the fun ideas on the Home Made Simple site.

SPECIAL OFFERS



Here's your chance to win a new Home Cafe system and a year's supply of Millstone or Folgers coffee!



Enter for a chance to win a year's supply of Cascade Scent Expressions.

[See All Newsletter Offers](#)

easy solutions from our sponsors

Make cleaning fun for kids.

Dust hard-to-reach areas with ease.

Simplify dishwashing.

Remove red stains and odors from dishes.

[see all solutions](#)

APPENDIX 1: EXAMPLES OF SUBSCRIPTION FORMS

CLUB OLAY

OLAY CLUB OLAY

HOME ABOUT US CONTACT US MY PEOPLE MY PROFILE MY ACCOUNT MY ORDER

Love the skin you're in

We are a connected community of women. Though unique, our experience binds us. Our wisdom makes us stronger. And our sharing enriches us. Restores us. Restores our sense of beauty, inside and out. That's the beauty of loving the skin you're in. And that's the beauty of Club Olay. [Click here to join Club Olay.](#)

Our Charter:
As a member of Club Olay, you'll have exclusive access to an amazing resource of inside information, special member offers, free samples, and skincare technologies. Olay communicates to Club Olay members primarily through email and only when there is valuable new information and/or offers available. On the average, this is typically about once each month.

Our Philosophy:
Loving the skin you're in isn't just about how you look. It isn't about glamour, style, or fashion. It's about beauty, inside and out. It's about skin that glows with the knowledge that you are the best you can be. Skin that is yours, and yours alone. Olay embraces every woman's skin and cares for it like no other. Because we know that loving the skin you're in is the most beautiful feeling of all.

OLAY CLUB OLAY

HOME ABOUT US CONTACT US MY PEOPLE MY PROFILE MY ACCOUNT MY ORDER

Love the skin you're in

JOIN CLUB OLAY

New Member
[Sign me up!](#)

Returning Member
Enter your E-mail address and Password:

E-mail address:

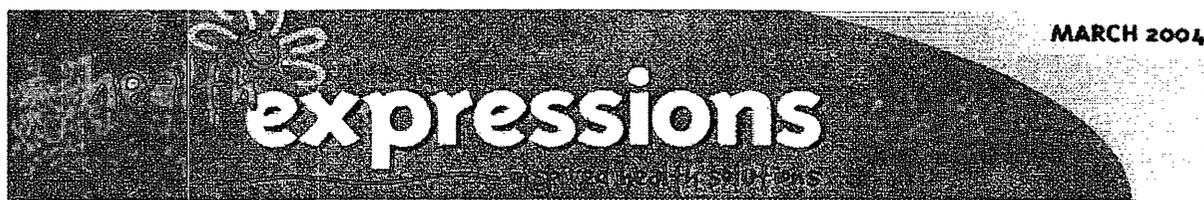
Password:

[Oops, I forgot my Password](#)

[Unsubscribe](#)

[Privacy Statement](#)

APPENDIX 2: EXAMPLES OF E-SUBSCRIPTION NEWSLETTERS



As winter melts away into spring, you're probably more than ready to get out for some fresh air and exercise. If spring brings sniffles along with flowers, consult our list of cold, allergy, and sinus symptoms. This resource may help you find out how to get the relief you need. Plus, find out how you can get a refreshing night of sleep even when stress bears down on you. Also in this issue, discover ways to help improve your memory, and information that may lower your cholesterol.

in seasonal health

Colds, Allergies, and Sinuses: Identifying Your Sniffles and Sneezes

Spring is in the air—and so are germs and allergens. Find out how to determine which one is responsible for your first sniffles of the season. [more >](#)



in stress busters

Get to Sleep—Even When You're Stressed

Don't let stress keep you from getting your beauty sleep. Follow these steps to help you catch some Zzz's tonight—and feel better tomorrow. [more >](#)

in life stages

Get Your Brain in Gear!

Forgot your keys again? Stop fretting over your forgetful self and start using these mind-sharpening methods to improve your memory. [more >](#)

in living well

Fabulous Foods to Lower Cholesterol

Want to ace your next cholesterol test? Bring our list of cholesterol-improving foods on your next grocery trip and get results. [more >](#)

next issue...

Rejuvenate for spring with brain-boosting foods and activities, spring-cleaning moves that burn calories, and more.

visit our sponsors



000687

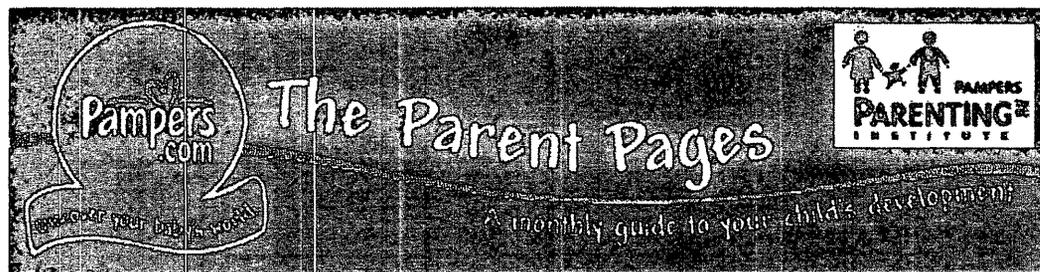
Please do not reply to this message. Your question or comment will not be answered. If you would like to ask a question, or find out more information about Health Expressions, please [click here](#).

[contact us](#) | [legal terms](#) | [privacy](#) | [unsubscribe](#)

P&G Privacy Inquiries, 2 Procter & Gamble Plaza, TN-7, Cincinnati, OH 45202

© 2004 Procter & Gamble. All Rights Reserved.
All copy and claims valid only in the U.S.

APPENDIX 2 : EXAMPLES OF E-SUBSCRIPTION NEWSLETTERS



JUST THE TWO OF YOU "This is a time for some baby sitting help. A mother needs a chance to get out of the house, and both parents need to feel together again. Each parent could be refueled by taking time to do something fun together. Having fun is an important part of family life."

Taking Care of Baby

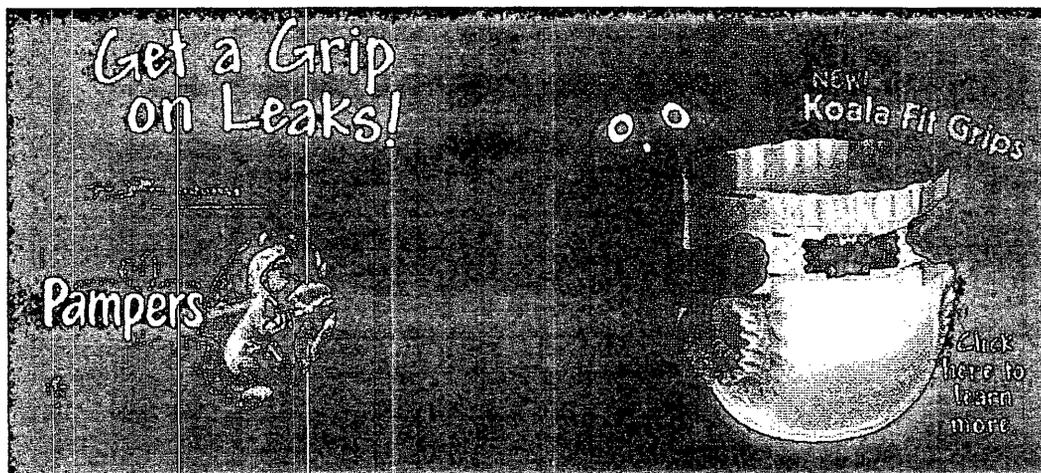
STOCKING YOUR MEDICINE CABINET With a baby around the house, it's more important than ever to make sure you have the right stuff in your medicine cabinet. Here are a few items recommended by Dr. Dixon:

- Emergency and Poison Control Center phone numbers
- Saline (mild salt solution) nose drops and a nasal bulb to help clear your baby's runny nose when she has a cold. Don't use the nasal bulb on her ears, though—it's not safe.
- Small cuticle scissors or baby nail scissors for cutting your baby's nails
- Acetaminophen drops in the right dose for your child's current weight
- A thermometer
- Petroleum jelly for diaper rash, body lotion to keep your baby's skin soft and smooth, and antibiotic ointment

And be sure to **remove** these items, among others:

- Aspirin—it can cause a severe liver disease called Reye's Syndrome in children
- Bubble bath—it can irritate your baby's skin and cause bladder irritation in girls
- Deodorant or antibacterial soap—they're too strong for babies' skin

For the complete lists of what to leave in and what you'll have to do without, [click here.](#)



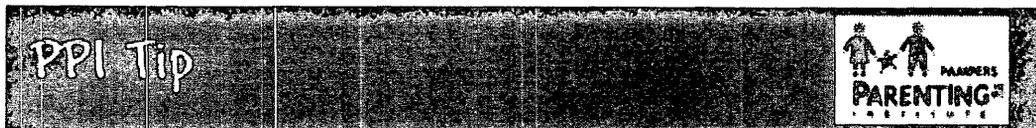
Just for Mom

CHOOSE WISELY Now that you're a parent, it's key for you and your family to choose a good health care plan, if you have that flexibility. Children have more and different healthcare needs than adults--from preventive care to coverage for illnesses and emergencies. A good plan for your child should include:

- Ongoing care by the same primary-care provider. It's essential for a doctor to be able to see the patterns and issues in your child's development and for you to have a consistent, comfortable relationship with your child's provider. In a managed-care environment, this person will be the gatekeeper for all of your child's referrals to specialists.
- Pediatric-care specialists on the panel of providers. An adult cardiologist, for example, has very different expertise than a pediatric cardiologist, as they deal with very different problems. The same applies to other specialists. You want the best if your child has a special need.
- Coverage for behavioral problems and mental-health concerns. These affect 30 percent of children, and prompt professional help will eliminate some devastating long-term problems. Your child is more likely to need a specialist in this area than all other areas combined. These services can bankrupt you if you're not covered.
- Coverage of neonatal care. Some plans exclude the first 30 days of life--the period for which you need the most protection.
- Clear, comprehensive emergency care when you are out of town. Families on the go have to be confident that they can get help when they need it.

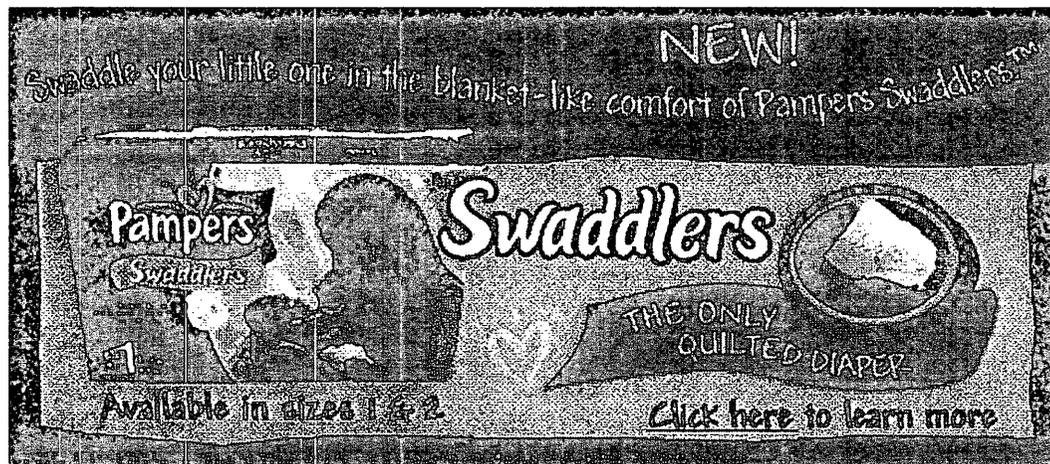
Evaluate your health-plan options with these tenets in mind. If your employer doesn't have a child-friendly plan, discuss it with the personnel director or the person making the decisions for the group. Call your county or state health department to find out what options you have in public care. There are millions of unspent dollars allocated for child health within and outside of the Medicaid program each year because families don't know about them. You may qualify for full or partial pay programs or get supplemental funds to buy private healthcare coverage. When it comes to your child's health, don't skimp.

To read more from Dr. Peter Gorski about your relationship with your child's healthcare provider--[click here](#).



FAMILIES ON THE GO To get the most from traveling as a family, let your baby set the agenda and the pace. Second, plan and prepare well. As on all great expeditions, traveling with a baby requires packing the right food, clothing, and gear, including a first-aid kit. Here are a couple of tips to get you started:

- If you're nursing, your baby's all set. But bring extra water for yourself, as traveling can leave you parched. If you're formula feeding, use bottled water to mix formula—or better yet, pay a little more for ready-to-feed formula.
- Infants shouldn't go out on the water. For older children, if you're going to be near water, bring a life vest that fits your child. Don't count on finding the right size at the destination.
- Baby wipes are essential on trips. They're great not only for diaper changes, but also to clean everyone's hands, reducing the risk of passing along infections.
- After a diaper change in a public place, be sure to wipe off the changing area.
- Have your baby sleep in her portable bed for a few nights (or a few naps) before you leave to get her used to it before you go on the road.
- Plan lots of down time and rest periods for you and the baby.



This Month's Headlines

HOW TV HELPS MAKE CHILDREN FAT Numerous studies have shown that the more television children watch the more likely they are to be overweight or obese. To find out more about this association, the Henry J. Kaiser Family Foundation reviewed more than 40 of the best studies published over the past 20 years.

For more on this topic, [click here](#).

This Month's Milestones

GETTING TO KNOW YOU At this age, your baby is probably smiling and vocalizing her pleasure at seeing you. She's begun to recognize differences among her mom, dad, and the other people she's familiar with, differences she registers in her facial responses and other behaviors. Babies tend to behave differently with the individuals in their lives, adjusting the ways they get and gain attention accordingly. A new person can become a problem. The baby looks strangers over carefully and may react negatively, crying and shutting them out. Don't worry, it's perfectly normal.

Questions about your child's development? [Ask our experts](#).

Until Next Month

Here's an activity you and your baby will both enjoy. Put on some classical music or baby tunes, lay your baby on his back on the living room carpet, and stretch out alongside him. Pick up his legs one at a time and lift them up and down in sets of 10, rest, and repeat. Do the same with his arms. He'll love the exercise, and you'll get a kick out of watching him.



“ We're using our feet
to give premature babies a hand.”

 March
of Dimes
www.marchofdimes.org

WalkAmerica



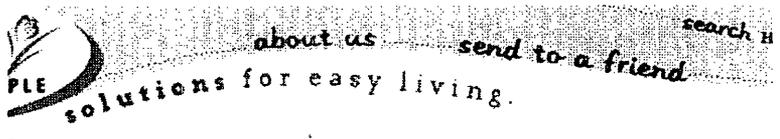
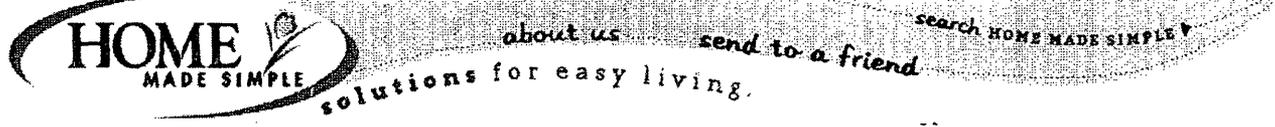
 Pampers.com [Pampers.com](#) Update Subscription [Update Subscription](#)

To stop your subscription to the Pampers Parent Pages e-Mail newsletter and Pampers e-Mail & postal mail promotions, please visit our Opt Out page by [clicking here](#).

P&G Privacy Inquiries
Two Procter & Gamble Plaza, TN-7
Cincinnati, OH 45202

APPENDIX 3 REFER A FRIEND

Sending a refer a friend message from Home Made Simple



send this page to a friend

You love being among the first to know about free offers, great new products, and fresh fun articles, so why not share with your friends?

First Name:

Last Name:

Email:

Your Friends' Email Addresses:

Don't worry—these addresses will never be sold or used for promotional purposes.

1

2

3

4

5

Note to your friend(s) (optional):

Send

We do not store, reuse or sell the email addresses or names of friends or family that you have shared with us.

send this page to a friend

You love being among the first to know about free offers, great new products, and fresh fun articles, so why not share with your friends?

First Name:

Last Name:

Email:

Your Friends' Email Addresses:

Don't worry—these addresses will never be sold or used for promotional purposes.

1

2

3

4

5

Note to your friend(s) (optional):

This is an example of the refer a friend messaging for the Home Made Simple Site

Send

000687

APPENDIX 4: REFER A FRIEND
Receiving a Refer a Friend Message

	From: teresa@gmail.com	To: Susan Welch-SK/PGI
	Date: 03/24/2008 10:42 AM	Cc:
	Subject: Home Made Simple	

Firstname Lastname thought you'd like to check out the Home Made Simple site that brings you tips, recipes, virtual tours, expert advice, and other solutions for easy living!

<http://www.homemadesimple.com/index.shtml>

Firstname's message to you:
This is an example of the refer a friend messaging for the Home Made Simple Site