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

April 14, 2004

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

To the Commissioners,

Thank you for your continued work on addressing the spam situation.

I have concerns about No. R411008, particularly with the definition of commercial email and the implied requirement to use suppression lists to filter subscription based mailing lists.

I urge you to take steps to ensure that real spam is targeted, not legitimate email requested by consumers. Real spam being unsolicited bulk email.

As the wording of the act stands, it is not clear if opt-in (affirmative) subscription lists such as email based publications, newsletters, alert services and special offer publications are considered to be commercial bulk email.

I think that is extremely important that these be classed as relational or transactional or even by a new designation such as subscription based, rather than commercial. I say this because consumers can only obtain these email publications by deliberately requesting them by sending an email requesting them or filling out an online form.

The consumer took the time and effort to opt-in to receive the service. The opt-out information is included in the emailed publications and they should use that opt-out service. I personally subscribe to several such newsletters and I find their product reviews extremely valuable and informative.

The publisher should not be required to check a suppression list each and every time they send out their publication. They are only sending to consumers who requested their material. If they misrepresented their publication, we have plenty of law on the books for fraud and misrepresentation.

The publisher should not be punished or held responsible for including information or advertising material that the subscriber has placed on a suppression list. Nor should the publisher of a subscription based service be required to monitor this. The consumer already has simple opt out services available to them. The opt-out option should be mandatory and should be included in each email publication. All of the services I subscribe to already include this.

This is not unsolicited material. It is not bulk commercial email. It is subscriber based and should not be included in the general classification of commercial bulk email.

Another issue is that of tell-a-friend scripts and emails sent by people to their friends recommending a website or product. I cannot see how a merchant could be made responsible for such activity in any way. For one thing, this functionality is built into the user's browser – how on earth will the merchant even know that the email has been sent and second, since tell-a-friend scripts promise the user that the recipient's email address will not be recorded, this is a breach of privacy. This should not be included in the definition of commercial to which suppression lists must be applied.

I am quite certain that these subscription based publications and consumers sending emails to their friends are not what CAN-SPAM was designed for, but this suppression list requirement as it stands will likely affect them if it is not made clear that they are not be included in this requirement.

I urge you to take steps to ensure that real spam is punished, not legitimate email subscriptions requested by consumers and email sent from one friend to another.

Real spam is unsolicited *bulk* email. Real spam does not come from your friends, family or associates.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sharlee Plett', with a long horizontal line extending to the right.

Sharlee Plett
818-723-7910