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VIA Web: <https://secure.commentworks.com/ftc-canspam/>

August 27, 2004

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. 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 rules defining the relevant criteria to facilitate the determination of the primary purpose of an electronic mail message. In general, Empire supports the proposed rules. Empire's specific comments are set forth below.

Regarding "dual-purpose" messages, the proposal states the primary purpose of the message would be deemed to be commercial if, amongst other things, a recipient "reasonably interpreting" the subject line or body of the message would likely conclude that the message advertises or promotes a product or service. Empire believes "reasonably interpreting" should be defined to alleviate different interpretations of this term. Leaving the definition up to interpretation could lead to one recipient interpreting the message as commercial and another one interpreting it as not commercial.

The proposal also states the primary purpose of a message containing both commercial and transactional or relationship content would be deemed to be commercial if, amongst other things, the transactional or relationship content does not appear at or near the beginning of the message. Empire would like clarification on this point. Does this mean that so long as a message contains any transactional or relationship content, and that content appears at or near the beginning of the message, the message is not considered commercial, regardless of the amount of commercial content versus the transactional or relationship content?

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,

A handwritten signature in black ink that reads "Christiane G. Hyland." The signature is written in a cursive style and is underlined with a single horizontal stroke.

Christiane G. Hyland
Enclosure

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