



NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

For Immediate Release:
August 4, 2004

News Media Contact:
Rosemary Kimball at (202) 418-0511
e-mail: rosemary.kimball@fcc.gov

FCC TAKES ACTION TO PROTECT WIRELESS SUBSCRIBERS FROM SPAM *Prohibits Sending Commercial Messages Referencing Specified Domain Names*

Washington, DC -- The Commission has taken action to protect consumers from receiving unsolicited commercial messages on their wireless phones and pagers. The action implements the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act or Act).

The Commission adopted a general prohibition on sending commercial messages to any address referencing an Internet domain associated with wireless subscriber messaging services. To assist the senders of such messages in identifying those subscribers, the Commission required that commercial mobile radio service (CMRS) providers submit those domain names to the Commission for inclusion in a list that will be made publicly available. No individual subscriber addresses will be collected or included on this list. It also clarified the delineation between these new rules implementing the CAN-SPAM Act, and the existing rules concerning messages sent to wireless telephone numbers under the Telephone Consumer Protection Act (TCPA).

Specifically, the Commission has taken the following actions:

- Interpreted the scope of material covered under the definition of mobile service commercial messages (MSCMs) in the CAN-SPAM Act to include any commercial message sent to an electronic mail address provided by a CMRS provider specifically for delivery to the subscriber's wireless device. The Commission found that Short Message Service messages transmitted solely to phone numbers (as opposed to those sent to addresses with references to Internet domains) are not covered by these protections, but all autodialed calls are already covered by the TCPA.
- Provided guidance on what falls within the definition of "commercial", while emphasizing that the Federal Trade Commission is ultimately responsible for determining the criteria for "commercial" and what are excluded as "transactional or relationship" messages.

- Prohibited the sending of MSCMs unless the individual addressee has given the sender express prior authorization. This authorization may be given orally, in paper or electronically.
- Stated it will create a publicly available FCC wireless domain names list containing the domain names used for mobile service messaging. This will enable senders of commercial mail to determine which addresses, containing those domain names, are directed at mobile services.
- Required all CMRS providers to supply the Commission with names of all the Internet domains on which they offer mobile service messaging service. The rule prohibits sending any commercial messages to addresses that contain domain names that have been listed on the official list for at least 30 days or at any time prior to 30 days if the sender otherwise knows that the message is addressed to a wireless device.

The Commission found that the establishment of a list of domain names appeared to be the most effective method to allow subscribers to avoid unwanted mobile service commercial messages. The new rules impose minimal burdens on CMRS providers, and provide a variety of ways to obtain authorizations from those mobile subscribers who want to receive messages from specific senders.

The Commission also encouraged industry to develop more mechanisms to protect wireless subscribers from unwanted commercial mail themselves.

Action by the Commission August 4, 2004, by Order (FCC 04-194). Chairman Powell, Commissioners Abernathy, Copps, Martin, and Adelstein. Separate statements issued by Chairman Powell and Commissioner Copps.

- FCC -

CGB contact: Ruth Yodaiken at (202) 418-7928

CG Dockets 04-53, 02-278