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Date Submitted: Mar 24, 2004

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Comment

March 24, 2004 Federal Trade Commission Office of the Secretary Room 159-H (Annex D) 600 Pennsylvania Ave, N.W. Washington, D.C. 20580 Re: "CAN-SPAM Act Rulemaking, Project No. R411008," 69 Federal Register 48, 11775-11782 (March 11, 2004) Dear Sir or Madam: On behalf of my industry, I appreciate this opportunity to comment on the Federal Trade Commission's proposal on the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN SPAM Act). As a member of Minneapolis and Minnesota Association of Realtors, we routinely use e-mail to communicate with members and therefore have a significant interest in the outcome of this rulemaking process. While our association supports the Commission's efforts to control fraudulent, misleading and abusive unsolicited e-mails and e-mailing practices, we are concerned that the establishment of a Do-Not-E-mail Registry ("Registry") will penalize trade associations, membership organizations, and non-profits engaging in legitimate e-mail communications with members and members ability to communicate with our clients. Our association commonly uses e-mail to inform members about industry and legislative developments as well as professional development courses, new products or services. Such e-mails are an important part of our service as an association and transmit information that is expected as a benefit of membership. In addition to our concerns with communication restrictions that would be imposed by a Do-Not-E-mail Registry, we are also concerned with the significant threat to our members' privacy that could occur should the security of a Do-Not-E-mail Registry be breached by spammers. As many computer security experts have indicated, the creation of an effective, secure and enforceable Do-Not-E-mail Registry is not as simple a task as creating a Do-Not-Call Registry and enforcement system. Unless carefully crafted and controlled, a Do-Not-E-mail Registry system could be used or "gamed" to identify and confirm the existence of legitimate e-mail addresses which then would be subjected to abusive spam e-mail. It would be ironic if the very system that is proposed to protect e-mail users were used to expose individuals and firms to the very abuses that supporters of a Registry believe will be eliminated by its creation. If the FTC endeavors to establish a Do-Not-E-mail Registry, we believe much careful research and beta-testing is required before any Registry is implemented so that it not be a prime target for attacks by illegitimate spammers and unscrupulous computer hackers. The imposition of additional and significant Registry compliance obligations would be truly problematic for our organization. Chris Allen Counselor Realty 952-475-9504