

July 8, 2004

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

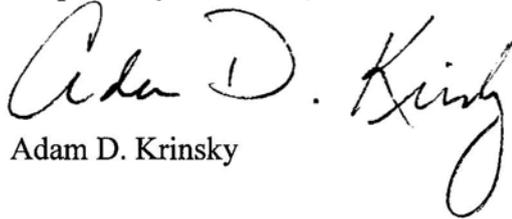
Re: Notification of Ex Parte Presentation
CG Docket Nos. 04-53 and 02-278

Dear Ms. Dortch:

On July 8, 2004, Brian Ashby, John Provinsal, and Charon Phillips of Verizon Wireless, and the undersigned, met with Jay Keithley, Gene Fullano, Leon Jackler and Ruth Yodaiken of the Consumer and Government Affairs Bureau, Jennifer Salhus of the Wireless Telecommunications Bureau, and James Miller of the Office of Engineering and Technology to discuss the CAN-SPAM Act proceeding. In particular, Verizon Wireless discussed the attached presentation.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed electronically with your office. If you have any questions, please contact the undersigned.

Respectfully submitted,


Adam D. Krinsky

Attachment

cc: Jay Keithley
Gene Fullano
Leon Jackler
Ruth Yodaiken
Jennifer Salhus
James Miller

CAN-SPAM ACT



July 8, 2004

SPAM

- Is an increasing problem on wireless networks
- Can be costly for customers that pay per message
- Can bring down carrier network elements
- Protecting against spam is only partially effective given current technology, resource intensive, and sometimes leads to costly law suits

Strategies Against Spam

- Verizon Wireless uses:
 - An SMTP access firewall and restricted SMPP access;
 - Spam filters (volume, content, heuristics, etc.);
 - Subscriber managed safeguards;
 - Legal and security measures
- Future efforts include:
 - Subscriber managed permissions and blocking.

CAN-SPAM Act

- The FCC should implement the CAN-SPAM Act to promote a strong national policy against spam.
- CAN-SPAM Act can be an additional enforcement tool to help carriers and their customers to deal with spammers.

Scope

- At a minimum, the CAN-SPAM Act applies to SMS messages delivered via the Internet
 - The CAN-SPAM Act defines MSCMs as “commercial electronic mail messages,” which include any “electronic mail message,” defined as a “message sent to a unique electronic mail address” that has a destination with reference to local part and Internet domain.
 - For SMS delivered by the Internet, messages are “sent or delivered” using the local part and Internet domain.

Opt-in Consent

- Each sender of MSCMs must obtain “express prior authorization” before initiating a message to a mobile device.
 - Senders must seek consent before sending any messages.
 - Consent must be clear, easily understandable.
 - Senders must not be able to send an SMS message to seek consent through the transactional or relationship exception.

Opt-in Consent

- Opt-in consent does not apply to:
 - Transactional or relationship messages, provided an established business relationship exists
 - Forwarded messages because CAN-SPAM Act only covers those messages sent “directly” to a mobile device.

Wireless Carrier Exemption

- CAN-SPAM Act permits the Commission to exempt wireless carriers
- Only wireless carriers can suppress charges for MSCMs.
 - Exemption should only apply if carrier does not charge.
 - Wireless carriers have the incentive to ensure that these messages will not overwhelm customers.

Wireless Carrier Exemption

- Wireless carrier exemption would be consistent with judicial precedent and FCC policy concerning CPNI, as well as FCC implementation of the Telephone Consumer Protection Act.
- Even with an exemption, the CAN-SPAM Act requires carriers to permit customers to opt-out of receiving future messages.

Technology Solutions

- There is no need to mandate technology solutions for spam prevention.
 - Carriers have incentives to use most efficient and cost-effective technology.
 - Both the problem and solution technologies may change.
- Mobile domain registry may be one effective, non-technological anti-spam tool.