



PUBLIC NOTICE

Federal Communications Commission
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**THE CONSUMER & GOVERNMENTAL AFFAIRS BUREAU ANNOUNCES THE
AVAILABILITY OF AN ELECTRONIC SUBMISSION PROCESS ON DECEMBER 20,
2004 FOR CMRS CARRIERS TO COMPLY WITH THE WIRELESS DOMAIN NAMES
LIST ESTABLISHED UNDER THE CAN-SPAM ACT**

CG Docket No. 04-53

On August 12, 2004, the Federal Communications Commission (Commission) released an Order to implement the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, or the CAN-SPAM Act (*Order*).¹ The *Order* adopts rules to protect wireless subscribers from unwanted commercial electronic mail messages. Specifically, the rules prohibit the transmission of commercial messages to any address referencing an Internet domain name associated with a wireless subscriber messaging service, unless the individual addressee has given the sender express prior authorization.² To assist the senders of such messages in identifying wireless subscribers, the Commission's rules require that Commercial Mobile Radio Service (CMRS) providers,³ file with the Commission the names of all electronic domain names used to offer electronic mail messages that are transmitted directly to a wireless device utilized by a subscriber of a commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))) in connection with such service.⁴

On December 15, 2004, the Office of Management and Budget (OMB) approved the information collections associated with the Commission's CAN-SPAM rules.⁵ Therefore, we announce that on

¹ *Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003* (CAN-SPAM Act), Order, 19 FCC Rcd 15927 (2004) (*Order*). The Federal Trade Commission (FTC) and the Department of Justice are charged with general enforcement of the CAN-SPAM Act, which applies to commercial electronic mail messages generally, not just to those sent to wireless devices.

² A domain name means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet. An Internet domain reference, such as "fcc.gov," is used in standard addressing of electronic mail. See 47 C.F.R. § 64.3100(c)(3).

³ CMRS providers are those providers that offer the services defined in 47 C.F.R. Section 20.9. See 47 C.F.R. § 64.3100(c)(1).

⁴ See 47 C.F.R. § 64.3100(c) and *Order*, 19 FCC Rcd at 15938, para. 29.

⁵ 47 C.F.R. § 64.3100.

December 20, 2004, CMRS carriers may begin submitting their wireless domain names to the Commission for inclusion in a wireless domain names database. CMRS carriers will have until January 21, 2004 to submit to the Commission all of their electronic mail domain names used for wireless messaging.

CMRS carriers may begin the submission process by accessing the following website address: <http://www.fcc.gov/cgb/policy> and clicking on "Domain Name Data Entry For Wireless Providers Only."⁶ Any filing party who cannot file electronically should contact the Commission's Consumer & Governmental Affairs Bureau at (202) 418-2512 to make alternate arrangements to submit domain names.

As stated in the *Order*, the Commission will compile the domain name submissions into the Commission's wireless domain names list.⁷ This list will be updated regularly as the Commission receives additional submissions. Furthermore, CMRS carriers are responsible for the continuing accuracy and completeness of information furnished for the wireless domain names list.⁸ Therefore, CMRS carriers must:

- 1) file any future updates to listings with the Commission not less than thirty (30) days before issuing subscribers any new or modified domain name.
- 2) remove any domain name that has not been issued to subscribers or is no longer in use within six (6) months of placing it on the list or last date of use.

The Commission will issue a second public notice announcing the date on which the senders of commercial electronic mail, and the general public, will have access to the list from the Commission's website. Senders of mobile service commercial messages (MSCMs) will then have an additional thirty (30) days from the date the wireless domain names list becomes publicly available to comply with the rules to avoid sending MSCMs to wireless subscribers absent express prior authorization.⁹

⁶ Each CMRS carrier must enter their submissions directly into the fields provided on the Domain Name Data Entry page. The first section of fields asks the filing party to indicate the type of submission: 1) submission of a new mailing domain name; 2) updated contact information; or 3) deletion of a mailing domain name already on the wireless domain names list. The next section consists of contact information fields, including the name of the filing party and the organization's address, phone number, and an email address. The Commission will only make public the mailing domain name provided in the submission, not the contact information. The final section allows the CMRS carrier to enter the mailing domain name(s) pursuant to the rules in the *Order*. Prior to submitting the information, the CMRS carrier must read and agree to a legal notice, which certifies that the domain name(s) submitted is used for mobile service messaging as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)). The CMRS carrier completes the transaction by clicking "Submit."

⁷ See *Order*, 19 FCC Rcd at 15938, para. 30. A paper version will also be available at the Commission's headquarters in Washington, D.C.

⁸ See *Order*, 19 FCC Rcd at 15938, para. 29.

⁹ See *Order*, 19 FCC Rcd at 15938, para. 31. We emphasize that the fact that a domain name was not on the list or not on the list for a full 30 days shall not excuse any willful violation of the rules on sending unwanted messages to wireless subscribers. Any person or entity will be considered in violation of the rules if a message is initiated *knowingly* to a subscriber of the applicable wireless service without the subscriber's express prior authorization, even if it is sent within 30 days of the domain name appearing on the list. See *Order*, 19 FCC Rcd at 15938-39, para. 32; see also 47 C.F.R. § 64.3100(a)(4).

FOR FURTHER INFORMATION CONTACT: Kelli Farmer or Ruth Yodaiken, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 202-418-7057 (voice), Kelli.Farmer@fcc.gov.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received approval from OMB on December 15, 2004 for the collection(s) of information contained in the Commission's CAN-SPAM Act rules in 47 C.F.R. §§ 64.3100(a)(4), (d), (e), and (f). These rules become effective upon publication of this Public Notice in the Federal Register.

The OMB Control Number is 3060-1078. The annual reporting burden for the collection(s) of information, including the time for gathering and maintaining the collection of information, is estimated to be: 11,027,600 respondents, a total hour burden of 115,645,100 hours, and \$37,105,000 in total annual costs. If you have any comments on these burden estimates, or how we can improve the collection(s) and reduce the burden(s) they cause you, please write to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW, Washington, DC 20554. Please include the OMB Control Number, 3060-1078, in your correspondence. We will also accept your comments regarding the Paperwork Reduction Act aspects of the collections via the Internet, if you send them to Leslie.Smith@fcc.gov or call (202) 418-0217.

Under 5 C.F.R. § 1320, an agency may not conduct or sponsor a collection of information unless it displays a current valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number. The OMB Control Number is 3060-1078.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. § 3507.

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