



PUBLIC NOTICE

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THE CONSUMER & GOVERNMENTAL AFFAIRS BUREAU ANNOUNCES THE AVAILABILITY OF A WIRELESS DOMAIN NAMES LIST

SENDERS OF COMMERCIAL MESSAGES HAVE 30 DAYS TO CEASE SENDING UNAUTHORIZED TEXT AND E-MAIL MESSAGES TO WIRELESS SUBSCRIBERS

CG Docket No. 04-53

Today the Federal Communications Commission (Commission) makes available to the public a list of wireless domain names that are used to transmit electronic messages to subscribers of commercial mobile service, such as cellular service, Personal Communications Service (PCS) and enhanced Specialized Mobile Radio Services (SMRS). This list is published in accordance with the Commission's Order implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, or the CAN-SPAM Act (*Order*).¹

The *Order* adopted rules to protect wireless subscribers from unwanted commercial electronic mail messages. Specifically, the rules prohibit initiating or sending most electronic commercial messages to any address associated with subscription to wireless service, unless the individual addressee has given the sender express prior authorization. To assist senders of commercial messages in identifying the addresses that belong to wireless subscribers, the *Order* required first that wireless service providers supply the FCC with the names of the relevant mail domain names.

The list of wireless mail domain names, which we post today, can be seen and downloaded in several formats from <http://www.fcc.gov/cgb/policy> by clicking on "Download Registered Domain Names." The list includes the portions of electronic mail addresses that can be found after the "@" symbol in wireless subscriber addresses, used for sending both text messages and e-mail. Some CMRS providers have supplied full mail domain names, which take up all the characters to the right of the "@"

¹ *Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Order, CG Docket Nos. 04-53 and 02-278, 19 FCC Rcd 15927 (2004) (*Order*). The list includes the domain names used by wireless providers for commercial mobile service as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)). See 47 C.F.R. § 64.3100(c) and *Order*, 19 FCC Rcd at 15938, para. 29. See also *Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Final rule, Announcement of Effective Date, 69 Fed. Reg. 77141 (2004) (*Effective Date Announcement*).

symbol in such addresses, while others have listed subdomain names used for wireless service.² The prohibition discussed below applies to all electronic addresses that include the mail domain names in this list, whether they be the full mail domain name used in the address or just the portion of the name furthest to the right.

As explained in the *Order*, senders of mobile service commercial messages (MSCMs) have thirty (30) days from today's date to comply with the prohibition on initiating MSCMs to any electronic mail address that references any domain names on the list, unless they have received express prior authorization or the message falls under any other exceptions to the rule (listed below).³ A commercial message is presumed to be an MSCM if it is sent or directed to any address containing a reference, whether or not displayed, to an Internet domain listed on the FCC's wireless domain names list.⁴ We remind senders that any person or entity that initiates or sends a message to an address that they *otherwise know* to be associated with a wireless subscription will be in violation of our rules, regardless of how long the domain name has been on the published list.⁵ We note also that the prohibition applies only to "commercial electronic mail messages" as they are defined in our rules, not to "transactional or relationship" messages, such as those sent regarding product safety or security information, notification to facilitate a commercial transaction, and notification about changes in terms, features, or the customer's account status.⁶

The official list, which includes the date that each mail domain name was added to the list, will be updated regularly. Those members of the public who rely upon the list to identify wireless domain names are urged to check the list monthly. A paper version will be available at the Commission's headquarters in Washington, D.C. Any party who cannot access the list electronically and needs to view a paper version should contact the Commission's Consumer & Governmental Affairs Bureau. Anyone that believes a domain name has been omitted or added in error, should contact the Bureau as well.

On December 17, 2004, the Commission issued a Public Notice announcing that Commercial Mobile Radio Service (CMRS) carriers were required to submit their wireless domain names used for the applicable wireless messaging services to the Commission for inclusion in a wireless domain names

² For example, if a wireless subscriber's e-mail address was JohnDoe@mobile.fccegov, the carrier could have registered "mobile.fccegov." Alternatively, the carrier could have registered "fccegov," as long as all such subscriber addresses including that domain name would be for commercial mobile service. Hence, the prohibition applies for all subscriber addresses that include any listed subdomain or domain name. For example, a listing of "fccegov" would cover all subscribers with "fccegov" in their electronic addresses, including JohnDoe@fccegov, JohnDoe@mobile.fccegov and JohnDoe@sms.fccegov.

³ See 47 C.F.R. § 3100(a).

⁴ See 47 C.F.R. § 3100(c)(7).

⁵ The fact that a domain name was not on the list, or had not been on the official list for a full 30 days, at the time an electronic message was sent shall not be considered an excuse for any *willful* violation of the ban on sending unwanted messages to such wireless subscribers. See 47 C.F.R. § 64.3100(a)(4) and *Order*, 19 FCC Rcd at 15938-39, para. 32.

⁶ See 47 C.F.R. § 64.3100(e)(2) and (8) and 15 U.S.C. § 7702(17)(A). For more details on the meaning of "commercial," 16 C.F.R. § 316.3, see *Definitions and Implementation Under the CAN-SPAM Act*, Federal Trade Commission, Final Rule, 70 Fed. Reg. 3110 (January 19, 2005) (available at <www.ftc.gov/opa/2005/01/primarypurp.htm>).

database.⁷ The deadline for initial submissions was January 21, 2005.⁸ Further, CMRS carriers are responsible for the continuing accuracy and completeness of information furnished for the wireless domain names list.⁹

As provided in 47 C.F.R. § 64.3100, no person or entity may initiate any mobile service commercial message unless:

- (1) that person or entity has the express prior authorization of the addressee as described in 47 C.F.R. §64.3100(d); or
- (2) that person or entity is forwarding that message to its own address; or
- (3) that person or entity is forwarding to an address provided that (i) the original sender has not provided any payment, consideration or other inducement to that person or entity and (ii) that message does not advertise or promote a product, service, or Internet website of the person or entity forwarding the message; or
- (4) the address to which that message is sent or directed does not include a reference to a domain name that has been posted on the FCC's wireless domain names list for a period of at least 30 days before that message was initiated, provided that the person or entity does not knowingly initiate a mobile service commercial message.

FOR FURTHER INFORMATION CONTACT: Call Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 202-418-2512 (voice), or send e-mail to Kelli.Farmer@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/policy>.

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⁷ On December 15, 2004, the Office of Management and Budget (OMB) approved the information collections associated with several of the Commission's CAN-SPAM rules which were not yet in effect. *See* Effective Date Notice, 69 Fed. Reg. 77141. Those remaining rules went into effect December 27, 2004. *See id.*

⁸ We note that it was recently brought to our attention that this earlier Public Notice contained a typographical error in that it listed the January 21, 2005 deadline as January 21, 2004. While we do not believe that it caused any confusion for carriers, we ask that any carrier that experienced difficulty complying with the rules because of the error contact the Policy Division immediately.

⁹ *See* 47 C.F.R. § 64.3100(f).