



PUBLIC NOTICE

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THE CONSUMER & GOVERNMENTAL AFFAIRS BUREAU REMINDS COMMERCIAL MOBILE RADIO SERVICE PROVIDERS OF THEIR OBLIGATION TO REGISTER AND UPDATE DOMAIN NAMES USED TO TRANSMIT ELECTRONIC MESSAGES TO WIRELESS DEVICES

CG Docket No. 04-53

The Consumer & Governmental Affairs Bureau (CGB) reminds Commercial Mobile Radio Service (CMRS) providers that, in order to protect wireless subscribers from unwanted commercial electronic mail messages, providers have an ongoing obligation to register and update with the Federal Communications Commission (FCC or Commission) the wireless Internet electronic domain names used by their subscribers for wireless messaging. In 2003, Congress enacted the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act which, among other things, prohibits the sending of Mobile Service Commercial Messages (MSCMs) to wireless devices without express prior authorization.¹ The Commission adopted rules implementing this prohibition in August 2004.² These rules, among other things, require CMRS providers to “identify all electronic mail domain names used to offer subscribers messaging specifically for wireless devices in connection with commercial mobile service”³ On December 17, 2004, the Commission announced that CMRS providers could begin

¹ Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, Pub. L. No. 108-187, 117 Stat. 2699 (2003) (*CAN-SPAM Act or Act*), codified at 15 U.S.C. §§ 7701-7713, 18 U.S.C. § 1037, and 28 U.S.C. § 994. See also 47 C.F.R. § 64.3100(c)(7).

² *Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003*, CG Docket No. 04-53, *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Order, 19 FCC Rcd 15927 (2004) (*CAN-SPAM Order*). See also 47 C.F.R. § 64.3100. Specifically, the rules prohibit the transmission of unwanted 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. See 47 C.F.R. § 64.3100(a)(1). To assist the senders of such messages in identifying wireless subscribers, FCC rules require that CMRS providers file with the FCC 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. See 47 C.F.R. § 64.3100(e) and *CAN-SPAM Order*, 19 FCC Rcd at 15938.

³ 47 C.F.R. § 64.3100(e).

submitting electronic mail domain names for inclusion in a wireless domain name data base.⁴ This notice also reminded CMRS providers of their obligation to:

- 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,⁵ and
- 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.⁶

On February 7, 2005, the Commission announced the availability of the wireless domain name list on its web site to senders of commercial messages.⁷ The Commission also notified senders of MSCMs that they had “thirty days 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 MSCM falls under an exception to the general ban.⁸

CGB now reminds CMRS providers that they are responsible for the continuing accuracy and completeness of information furnished for the wireless domain names list. The wireless domain names list is updated *only* when CMRS providers submit new domain names or delete unused domain names. The Commission also reminds senders of MSCMs of their obligation to routinely check the list and update their address lists including wireless domain names accordingly. CMRS providers may submit their domain names at <http://www.fcc.gov/cgb/policy/DomainNameInput.html>. Senders of MSCMs may access the domain names list at <http://www.fcc.gov/cgb/policy/DomainNameDownload.html>. Any party unable to access the list electronically, or who believes a domain name has been omitted or added in error, should contact CGB at the contact name and number listed below.

FOR FURTHER INFORMATION CONTACT: Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 202-418-2512 (voice).

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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⁴ *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, Public Notice (*Domain Name Submission PN*), 19 FCC Rcd 24335 (2004).

⁵ *Id.* See also 47 C.F.R. § 64.3100(f)(1).

⁶ *Domain Name Submission PN*, 19 FCC Rcd at 24335. See also 47 C.F.R. § 64.3100(f)(2).

⁷ *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, Public Notice, 20 FCC Rcd 2334 (2005). The wireless domain names list can be viewed on the FCC web site at www.fcc.gov/cgb/policy/DomainNameDownload.html.

⁸ *Id.*