



FEDERAL TRADE COMMISSION
FOR THE CONSUMER

Enforcement under the
CAN-SPAM Act:
FTC v. Opt-In Global

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Disclaimers

- Views expressed in this presentation are not necessarily those of the Commission or any Commissioners.
- Any answers to questions are my own opinion and not the Commission's or any Commissioner's.



CAN-SPAM Act of 2003

("Controlling the *Assault* of *Non-Solicited Pornography and Marketing Act*")

- Effective date: January 1, 2004
- Creates civil and criminal violations
- May be enforced by federal and state law enforcement and ISPs
- Directs FTC to write rules and reports

FTC v. Opt-In Global

- Mortgage spam case
- Filed in April 2005 in conjunction with the Attorney General for California
- Obtained a restraining order and froze defendant's assets
- Brought under theory of "Vendor Liability"

FTC v. Opt-In Global: Facts

- Opt-In used affiliate system to obtain mortgage leads
- Consumers had forwarded nearly 2 million spam messages to FTC
- Email sent by affiliates violated nearly every provision of CAN-SPAM Act

FTC v. Opt-In Global: Vendor Liability

- Liability under CAN-SPAM for “button-pushers” and those who pay the “button-pushers”
- Force companies to learn more about who they are doing business with
- Used in several FTC cases brought under CAN-SPAM

FTC v. Opt-In Global: Enforcement Issues

- Very resource intensive case
- Vendor Liability
- Challenging investigation



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QUESTIONS???