

Marketing organizations argue over trade in email addresses

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A group of organizations that are engaged in drafting a new model code for email marketing seems unable to agree on the legitimacy of the trade in lists of email addresses.

The draft code takes into consideration upcoming legislation implementing the EU E-communications Directive and follows the Dutch tradition of self-regulation. The organizations involved in the drafting process include:

- the Dutch Consumers' Association;
- NLIP, the Internet service provider organization;
- EMMA-nl, the email marketing organization;
- Thuiswinkel.org, the home shopping organization; and
- DDMA, the direct marketing organization.

Nearly all the organizations favor imposing some sort of limitation on the trade in email address lists, a practice that has been accused of contributing to the rise of spam. However, the DDMA claims that any limitation would curtail the freedom of commercial speech.

The conflict has been fuelled by the unclear wording of the E-communications Directive, which states that an opt-in regime for email marketing should apply. However, the directive fails to specify whether such a regime covers the trade in email addresses that have been collected with prior consumer permission, especially when the consumer tacitly consents to such a trade through general terms and conditions.

However, according to the Dutch minister of economic affairs, the trade of addresses should not be permitted under the new regime. Instead, consumer permission should be given directly to the sender of the marketing emails, making the legal trade in email addresses for direct marketing purposes impossible.

Notwithstanding the present difference of opinion, a final decision on both this issue and the new model code are expected soon, especially as the deadline for implementing the directive into Dutch legislation is approaching fast.

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