

West Virginia Executive Branch

Privacy Tip

Question:

What does the CAN-SPAM Act cover and what are implications for WV Executive Branch agencies?

Answer:

The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act) establishes requirements for those who send commercial e-mail, spells out penalties for spammers and companies whose products are advertised in spam if they violate the law, and gives consumers the right to ask e-mailers to stop spamming them.

The main provisions include: ban on false or misleading header information (e-mail's "From," "To," and routing information – including the originating domain name and email address – must be accurate and identify the person who initiated the e-mail); prohibition on deceptive subject lines; the e-mail must give recipients an opt-out method (the sender has 10 business days to stop sending e-mail to the requestor's email address); and, commercial e-mail must be identified as an advertisement and include the sender's valid physical postal address.

The FTC is authorized to enforce the CAN-SPAM Act against the private sector. CAN-SPAM also gives the DOJ the authority to enforce its criminal sanctions. Other federal and state agencies, such as the Attorney General, can enforce the law against organizations under their jurisdiction. Companies that provide Internet access may sue violators, as well.

Implications:

- Agencies must assess whether they are sending commercial e-mail to advertise a product or service.
- Agencies transmitting commercial e-mail to advertise or promote a product or service shall adopt policies and procedures to ensure compliance with this law.

Source: http://www.law.cornell.edu/uscode/html/uscode15/usc_sec_15_00007701----000-.html