

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on February 21, 2002 in Room 123-S of the Capitol.

All members were present except:

Committee staff present:

April Holman, Legislative Research
Debra Hollon, Legislative Research
Norman Furse, Revisor of Statutes
Sherman Parks, Revisor of Statutes
Lea Gerard, Committee Secretary

Conferees appearing before the committee:

April Holman, Legislative Research
Steve Rarrick, Deputy Attorney General
Consumer Protection
Kim Wilcox, President & CEO
Kansas Board of Regents
Dick Veach, Kansas Rural Independent
Telephone Company

Others attending:

See attached list

Continued Hearings on **SB 467** Commercial electronic mail act; protection from deceptive and unwanted "spam":

April Holman, Legislative Research, briefed the committee on background information regarding Spam Laws in the United States (Attachment 1). Twenty states have enacted statues regulating unsolicited e-mail messages or "spam". Most of these states require the sender of the e-mail to provide opt out information and although other provisions of the legislation vary from state to state they can loosely be grouped into two approaches. The first approach makes it illegal to send unsolicited commercial e-mail using a third party's domain name without permission or containing falsified routing information. The second approach requires that certain unsolicited commercial e-mails contain a label either ADV: or ADV:ADULT at the beginning of the subject line.

Tony Hadley, Experian Information Services, testified on **SB 467** (Attachment 2). Experian supports Section (c) (1) (A) relating to use of the domain name without permission, Section (B) relating to false or misleading information in the subject line, and Section (D) relating to "do not send" notification. Experian does not support the idea that e-mails sent to consumers who have provided authorization to receive them should have to be labeled with "ADV:". The bill imposes penalties on the party that assists in the transmission of the message instead of placing the penalty on the party responsible for content of the message. Experian did provide amendments to **SB 467** with their testimony.

Senator Emler asked Tony Hadley to comment on what "assisting in the transmission" means when you provide assistance with knowledge or conscientiously avoid knowing that the initiator of the message is engaged in a practice that violates the consumer protection act. Tony Hadley stated the major point he was making is that Experian can't understand all of the marketing laws, fraud and deception laws that exist within a regulatory regime; that is the responsibility of the marketer.

Chairperson Brownlee asked Tony Hadley whether or not Experian has a contractual relationship with the companies whose e-mails they send to indicate they are responsible to comply with the laws as to content of their message? Mr. Hadley explained that all of Experian's standard contracts state the sponsoring company will be liable. Experian also has contracts which set forth standards that a company must attest to in terms of gaining permission to send e-mails.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE at on February 21, 2002 in Room 123-S of the Capitol.

Mike Murray, Director of Governmental Affairs for Sprint, testified in support of **SB 467** with amendments on Pages 1 and 3 of the Attorney General's balloon (Attachment 3). Sprint is concerned about the two proposed amendments on Page 2 of the balloon presented by the Attorney General. The definition of express authorization (new paragraph (7) on page 2) prevents this form of authorization and the new language on line 18 would require the use of ADV on the subject line of the e-mail even though the consumer has consented to receiving such promotions through the e-mail service provider. Sprint would support additional language which allows for the use of such e-mail service providers and includes that type of permission as express authorization.

Steve Rarrick, Deputy Attorney General, Consumer Protection Division, testified in support of **SB 467** with some proposed balloon amendments (Attachment 4). Three internet providers (ISP's) have expressed support of **SB 467** as drafted. The provisions allow customers to deny or unsubscribe to unwanted e-mail that would reduce the costs incurred by ISP's.

Hearings on **SB 614**—KUSF funding for KAN-ED.

In accordance with KSA 75-3715a, the fiscal note concerning **SB 614** was submitted to committee members.

Kim Wilcox, President and CEO for the Kansas Board of Regents, testified in support of **SB 614** (Attachment 5). The bill supports a dedicated funding stream that sustains KAN-ED into the future. If the Board of Regents is to continue to be responsible for managing KAN-ED, the Regents do not want to simply run a phone company. If we want an educational network, then the network changes and future should be driven by educational types of directives.

Richard Veach, General Manager of Pioneer Communications, testified in support of **SB 614** (Attachment 6). The Kansas Universal Service Fund exists to support high quality telecommunications services in the areas of the state that are the most expensive to serve. Funding KAN-ED would require a small increase in the size of the KUSF fund. The small increase is far outweighed by the benefits that would be provided.

Committee discussion followed regarding KUSF and the money invested in this fund over the last six years. Chairperson Brownlee requested that Janet Buchanan, KCC, provide information regarding KUSF and how that money is dispersed. Chairperson Brownlee stated the increase for KUSF to fund the KAN-ED project would be .75%.

Meeting adjourned at 9:30 a.m.

The next meeting is scheduled for February 22, 2002 at 8:15 a.m.

**SENATE COMMERCE COMMITTEE
GUEST LIST**

DATE: February 21, 2002

NAME	REPRESENTING
Sue Blechl	Emporia Public Library
Carrie Croatt-Moore	Library School Student - Emporia
Jim Bold	LIBRARY SCHOOL STUDENT - EMPORIA
Robert Grover	Emporia State University
Doug Quinn	DOEA/DISC
Susan Fowler	Information Professionals
Hal Gardner	Ks Dept of Education
Kim Wilson	KBOR
Jolene Wilkin	KBOR - KAN-ED
Jerry Niebaum	KBOR - KAN-ED
Andy Shaw	Kearney Law Office
JANET BUCHANAN	KCC
KICHASKI VERCH	PIONEER COMMUNICATIONS
Doug Smith	Dehart David Associates
Bob Jayroe	Connect Kansas
Roger Carswell	Southeast KS Library System
Harry Williams	Southeast KS Lib Sys
RON GACHES	Experian
Tony Hadley	Experian
IVANE JOHNSON	STATE LIBRARY
Mike Reecht	AT&T
Brad Smoot	Ks Library Assoc

Spam Laws: United States: State Laws: Summary

Arkansas

A law enacted in April of 2001 makes it illegal to send **unsolicited** e-mail messages that use a third party's domain name without permission, misrepresent the sender or point of origin, or contain falsified **routing information**. It is also illegal to distribute software designed to falsify routing information.

California

Under legislation approved in September 1998, **unsolicited commercial** e-mail messages must include **opt-out** instructions and contact information, and opt-out requests must be honored. Certain messages must contain a **label** ("ADV:" or "ADV:ADLT") at the beginning of the **subject** line. A **provider** may sue a sender of unsolicited commercial e-mail for violating the provider's **policies** if the sender has actual notice of such policies. The law applies to e-mail that is delivered to a California resident via a provider's facilities located in California.

Colorado

The Colorado Junk Email Law, enacted in June 2000, prohibits the sending of **unsolicited commercial** e-mail that uses a third party's Internet address or domain name without permission, or contains false or missing **routing information**. Unsolicited commercial e-mail messages must contain a **label** ("ADV:") at the beginning of the **subject** line, and must include the sender's e-mail address and **opt-out** instructions; opt-out requests must be honored. The law applies to e-mail that is sent to Colorado residents via a provider's service or equipment located in Colorado.

Connecticut

A Connecticut law enacted in June 1999 makes it illegal to send **unsolicited bulk** e-mail containing falsified **routing information** in violation of a **provider's policies**, or to distribute software designed to falsify routing information. A court may exercise personal jurisdiction over a nonresident who uses a computer or computer network located in Connecticut.

Delaware

Under legislation approved in July 1999, it is illegal to send **unsolicited bulk commercial** e-mail, to send unsolicited bulk e-mail containing falsified **routing information**, or to distribute software designed to falsify routing information. The law applies to messages originating outside the state if the recipient is located in Delaware and the sender is aware of

Senate Commerce Committee

Feb. 21, 2002
Attachment 1-1

facts making the recipient's presence in Delaware a reasonable possibility.

Florida

Florida has not enacted spam legislation, although a Florida bar rule (Fla. R.P.C. 4-7.6(c)(3)) requires attorneys who advertise via unsolicited e-mail to put "legal advertisement" in the subject line.

Idaho

A law approved in April 2000 requires that **unsolicited bulk commercial** e-mail messages must include an e-mail address for **opt-out** requests and requires senders to honor opt-out requests. Such messages may not use a third party's name for the return address without permission, and must contain accurate **routing information**.

Illinois

Legislation approved in July 1999 makes it illegal to send an **unsolicited commercial** e-mail message using a third party's domain name without permission; containing falsified **routing information**; or with a false or misleading **subject** line. The law applies to e-mail that is delivered to an Illinois resident via a **provider's** facilities located in Illinois. A separate provision makes it illegal to send unsolicited **bulk** e-mail with falsified routing information or to distribute software designed to falsify routing information.

Iowa

An Iowa law approved in May 1999 prohibits the sending of **unsolicited bulk** e-mail that uses a third party's name for the **return address** without permission, or contains false or missing **routing information**. Unsolicited bulk **commercial** e-mail messages must include **opt-out** instructions and contact information, and opt-out requests must be honored. The law applies to e-mail that is sent to or through a computer network located in Iowa.

Louisiana

A Louisiana law approved in July 1999 makes it illegal to send **unsolicited bulk commercial** e-mail to more than 1,000 recipients if the e-mail messages contain falsified **routing information** or the sender uses a **provider's** facilities to transmit the messages in violation of the provider's **policies**. The law also prohibits the distribution of software designed to falsify routing information.

A Louisiana bar rule (Rules of Professional Conduct, Rule 7.2(b)(iii)(B)) was amended in November 2001 to require attorneys who advertise via unsolicited e-mail targeted at potential clients to use a subject line that states "This is an advertisement for legal services."

Maryland

Maryland has not enacted spam legislation, but does have statutes that address e-mail harassment (Md. Code art. 27, § 555C) and unsolicited fax advertising (Md. Comm. L. Code § 14-1313), and has authorized a state agency to investigate Internet privacy matters, including unsolicited bulk e-mail (Md. St. Fin. & Proc. Code § 3-409(a)(4)(ii)).

Missouri

A Missouri law enacted in June 2000 requires **unsolicited commercial** e-mail messages to contain **opt-out** instructions and contact information.

Nevada

In July 1997 Nevada became the first state to enact spam legislation. A second spam statute was enacted by the state in 1999 and amended in 2001. Under current Nevada law, it is illegal to send **unsolicited commercial** e-mail unless it is **labeled** or otherwise readily identifiable as an advertisement and includes the sender's name, street address, and e-mail address, along with **opt-out** instructions. The law prohibits all unsolicited e-mail that contains falsified **routing information**; that is sent with the intent to disrupt the normal operation or use of a computer, Internet site, or e-mail address; or that is reasonably likely to cause such disruption. The state also prohibits the distribution of software that is designed to falsify routing information.

North Carolina

Legislation approved in June 1999 makes it illegal to send **unsolicited bulk commercial** e-mail containing falsified **routing information**, if the sender thereby violates a **provider's policies**. The law applies to e-mail sent into or within the state.

Oklahoma

An Oklahoma law approved in June 1999 makes it illegal to send an e-mail message that contains false or missing **routing information**, or to distribute software designed to falsify routing information. A court may exercise personal jurisdiction over a nonresident who sends a message to or through the network of a provider located in Oklahoma.

Pennsylvania

A Pennsylvania law approved in June 2000 requires **unsolicited commercial** e-mail messages containing "explicit sexual materials" to contain a **label** ("ADV-ADULT") at the beginning of the **subject** line.

Rhode Island

Under legislation approved in July 1999, it is illegal to send **unsolicited bulk** e-mail with falsified **routing information** using a Rhode Island **provider** in violation of the provider's **policies**, or to distribute software designed to falsify routing information. A separate law requires unsolicited **commercial** e-mail messages to include **opt-out** instructions and contact information, and opt-out requests must be honored; it is illegal to send unsolicited commercial e-mail using a third party's domain name without permission or containing false routing information. This law applies to messages sent from a computer located in Rhode Island and to messages sent into the state, if the sender had reason to know that the recipient was a Rhode Island resident or the recipient had previously submitted an opt-out request to the sender.

Tennessee

Under legislation approved in June 1999, **unsolicited bulk commercial** e-mail messages must include **opt-out** instructions and contact information, and opt-out requests must be honored. Certain messages must contain a **label** ("ADV:" or "ADV:ADLT") at the beginning of the **subject** line. The law applies to e-mail that is delivered to a Tennessee resident via a **provider's** facilities located in Tennessee. The distribution of software designed to falsify **routing information** is also prohibited. (Use "without **authority**" is defined to include sending unsolicited bulk e-mail in violation of a provider's **policies**, although the statute does not provide any consequences for such use.)

Virginia

Legislation approved in March 1999 makes it illegal to send **unsolicited bulk** e-mail containing falsified **routing information**, if the sender thereby violates a **provider's policies**, or to distribute software designed to falsify routing information. A court may exercise personal jurisdiction over a nonresident who uses a computer or computer network located in Virginia.

Washington

Under a Washington state law enacted in March 1998 and amended in May 1999, it is illegal to send a **commercial** e-mail message that uses a third party's domain name without permission; that contains false or missing **routing information**; or with a false or misleading **subject** line. The law applies if a message is sent from within Washington; if the sender knows that the recipient is a Washington resident; or if the registrant of the domain name contained in the recipient's address will confirm upon request that the recipient is a Washington resident.

West Virginia

A law enacted in March of 1999 makes it illegal to send **unsolicited bulk** e-mail messages in

violation of a **provider's policies** that use a third party's domain name without permission, misrepresent the point of origin or other **routing information**, have a false or misleading **subject** line, or contain sexually explicit materials. Each message must include the sender's name and return e-mail address, along with the date and time it was sent. It is also illegal to distribute software designed to falsify routing information. The law applies if a message is sent from a computer located in West Virginia, or if the sender knows or has reason to know that the recipient is a resident of West Virginia.

Wisconsin

In June 2001 Wisconsin enacted a statute that requires **unsolicited commercial** e-mail messages that contain obscene material or depict sexually explicit conduct to include the **words "ADULT ADVERTISEMENT"** in the **subject** line. A separate Wisconsin statute prohibits e-mail harassment (Wis. Stat. § 947.0125), but does not appear to apply to most unsolicited bulk or commercial e-mail.

*spamlaws.com | [Important notice](#)
[What about states not listed above?](#)*

Copyright © 1999-2002 [David E. Sorkin](#)

(Please read [this note](#) if you received an unsolicited advertisement that mentioned this web site.)

Senate Commerce Committee
Hearing on Senate Bill 467: Providing Protection from
Deceptive and Unwanted Electronic Mail Messages
Testimony of Experian
Submitted by Tony Hadley
Wednesday, February 13, 2002

Thank you Senator Brownlee for the opportunity to appear before your committee on behalf of Experian and share my comments regarding Senate Bill 467.

Experian is a global leader in the information services industry, steward of some of the world's largest repositories of consumer information. You may know us as one of the three national consumer-reporting agencies. However, we also provide direct marketing services to a "Who's Who" of America's premier corporations and growing small business.

One service we provide, from our Internet facility in Denver, is email marketing services. In fact, Experian sends approximately 500 million "permission-based" e-mails out each month on behalf of companies such as the LA Times, the Chicago Tribune, MSNBC, American Express and others.

Experian understands and supports the primary purpose of SB 467, which is to protect Internet users from the ever-growing onslaught of unsolicited email. Like most of you, I regard fraudulent and misleading email spam as a nuisance. I delete this spam without looking at it or giving it a second thought.

That's why Experian supports Section (c) (1) (A) relating to use of domain name without permission, Section (B) relating to false or misleading information in the subject line, and Section (D) relating to "do not send" notification. We already comply with these restrictions.

However, Experian believes the bill reaches too far in imposing burdens on authorized or "permission-based" commercial email. Simply put, Experian does not believe e-mails sent to consumers who have provided authorization to receive them should have to be labeled with "ADV:"

Please allow me to explain Experian's two e-mail business models. First, we provide email transmission services used by a growing number of commercial enterprises to service their clients and subscribers. These services are provided for organizations that have received authorization from their consumers or subscribers to send them email updates, confirmations, reports, newsletters, special offers and other information. Experian relies on the assurances of these companies that they have received appropriate permission. As the bill was introduced, these communications would have to be labeled "ADV." Under the latest amendments offered by the Attorney General's office, it is unclear which of these would have to be labeled.

Senate Commerce Committee
Feb 21, 2002
Attachment 2.1

Second, Experian collects and aggregates e-mail addresses from consumers who have provided affirmative consent to have their e-mail addresses shared with reputable companies who want to offer goods and services to willing prospects. For example, when an individual purchases a new consumer electronic device, like a digital camera or printer, he or she might complete an online registration or hardcopy product registration card. At that time, he or she might indicate a desire to receive updates about product upgrades or associated products and services from that company and from other reputable companies.

The latest amendments offered by the Governor's office would definitely not solve the ADV: labeling problem because it states that "express authorization" extends only to messages where consent has been granted to a specific and identifiable sender. An e-mail aggregator like Experian would fall outside this definition.

There is another aspect of the bill that troubles Experian. In our capacity as a transmitter of permission-based e-mails, we are not in a position to be responsible for the email content. For example, we should not be liable for the contents of the LA Times or the Chicago Tribune or any newsletter sent to consumers by MSNBC. We are providing clients a message delivery service similar to that provided by the U.S. Post Office or my local newspaper. Placing the burden of compliance on Experian under the standard of "assisting in the transmission" would be similar to placing the blame for delivering a terrorist letter on the U.S. Post Office. Unfortunately, the services we provide appear to be part of the definition of "assist the transmission."

Compounding this problem, Section (e) provides that "any violation of this section is an unconscionable act and practice under the Kansas consumer protection act." Declaring a violation of this proposed law to be an unconscionable act under the Kansas consumer protection act dramatically stiffens the penalties on any violator. While many of us object to unwarranted email offers, they hardly seem to constitute the kind of ongoing fraud, theft or harassment originally envisioned by the consumer protection act. Declaring a single or incidental violation of this act an unconscionable act seems a bit overreaching.

More importantly, the bill wrongly imposes penalties on the party that assists in the transmission of the message. The penalties should be on the party responsible for content of the message.

In conclusion, I respectfully request the Committee to ensure that SB 467 clearly distinguishes between unauthorized email and those messages that have been explicitly authorized. Drawing that distinction will encourage firms to participate in proper opt-in methodologies for authorizing email. Further, the Committee should not hold companies who merely transmit e-mail messages on behalf of marketers liable for message content.

page 1, line 21 and 22 strike "or consciously avoids knowing"

page 1, line 35 and 36 strike "or consciously avoids knowing"

page 1, line 27 after "lease" insert , but shall not include electronic mail messages sent by a natural person volunteering to send such messages on behalf of a charitable organization as defined by K.S.A. 17-1760; and shall not include an electronic mail message sent by a person with whom the recipient has an established business relationship and the recipient has received instructions, in text at least as large as the majority of the text in the transmission, for the recipient to follow to notify the sender not to send any subsequent communications, with either:

(i) An electronic mail address to which the recipient may reply to notify the sender not to send any subsequent communications; or

(ii) the legal name of the person or entity initiating the transmission, including such person or entity's physical address for the receipt of the United States mail and a toll-free telephone number that the recipient may call to notify the sender not to send any subsequent communications;

page 2, after line 5 insert "(7) "Express authorization" means an affirmative act by a recipient clearly agreeing to receive commercial electronic mail messages from a specified and identifiable sender, or from a commercial electronic mail message program in which the recipient affirmatively agrees to receive electronic mail messages from multiple persons.

page 2, line 10 delete ", or has reason to know,"

page 2, line 18 after ";" insert "PROVIDED, HOWEVER, the characters "ADV:" shall not be required in the subject line if the recipient has given express authorization to receive commercial electronic mail messages. The sender claiming exemption under this subsection shall have the burden of proving the express authorization by a preponderance of the evidence.

page 2, line 37 delete ", or has reason to know,"

page 3, lines 2 and 3 delete ", or consciously avoids knowing,"

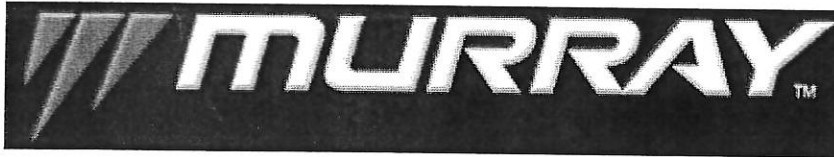
page 3, after line 33 insert "(k) No person shall be liable for

violation of this act if the person has established and implemented procedures to comply with the act and any subsequent commercial electronic mail message is the result of error.

Note: We support your two paragraphs in the margin on page three

(a) An interactive computer service may, upon its own initiative, block the receipt or transmission through its service of any commercial electronic mail that it reasonably believes is, or will be, sent in violation of this chapter.

(f) No interactive computer service may be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any commercial electronic mail which it reasonably believes is, or will be, sent in violation of this act.



SEARCH [input field]



FACTORY STORE

HOME

PRODUCTS

SERVICE & SUPPORT

FIND A MURRAY

CORPORATE

CONTACT US



Product Registration for Murray Walk-B

1 First Name: [input] Initial: [input] Last Name: [input]

Address: (Number and Street) [input] Apt #: [input]

City: [input] State/Province: [select answer]

Country: [select best answer] Zip: [input]

2 Phone Number: ([input]) - [input] - [input]

3 Email Addr [input]

If you wish email, ple

If you wish companie

4 Date of Purchase: Month [select] / Day [select] / [input]

(Example: January / 20 / 2001)

5 Model Num (Locate on

6 Serial Number: [input]

7 What is the purchased [select]

8 When shopping for this walk-behind mower how many stores did you visit?

One

Two

Three

9 What other

Ariens

Craftsma

Honda

Huskee

Four or more

- John De
- Lawnboy
- Mack
- MTD
- Murray o
- Poulan
- Ryobi
- Snapper
- Stanley
- Toro
- Troy-Bilt
- Yard Kin
- Yard Ma
- Yard Ma
- Other
- Did not c

10 Which best describes this purchase?
[select]

**11 If this repla
mower, whi**
[select]

12 If you currently own a mower, how old is it?
[select]

**13 What is the
this walk-b**
[select]

**14 What is your primary purpose for purchasing this
walk-behind mower?**
[select]

**15 Who was th
purchasing**
[select]

16 Who will use this walk-behind mower most often?
[select]

**17 How did yo
behind mo**
[select]

- 18 What factors most influenced your decision to
purchase this walk-behind mower?**
(Check up to three)
- Brand reputation
 - In-store display
 - Combination of features
 - Advertisement
 - Recommendation
 - Service and/or parts availability
 - Price
 - Engine brand

**19 Please rank
features in
important a**

[select]

[select]

[select]

[select]

[select]

[select]

[select]

[select]

[select]

[select]

20 What other Outdoor Power Equipment do you currently own or plan to purchase within the next year? (Check all that apply)

21 Your gender
 Male

	Currently Own	Plan to Buy
Riding mower	<input type="checkbox"/>	<input type="checkbox"/>
Chipper/shredder	<input type="checkbox"/>	<input type="checkbox"/>
Snowthrower	<input type="checkbox"/>	<input type="checkbox"/>
Lawn edger	<input type="checkbox"/>	<input type="checkbox"/>
Handheld trimmer	<input type="checkbox"/>	<input type="checkbox"/>
Wheeled trimmer	<input type="checkbox"/>	<input type="checkbox"/>
Hedge trimmer	<input type="checkbox"/>	<input type="checkbox"/>
Tiller/cultivator	<input type="checkbox"/>	<input type="checkbox"/>
Blower/vac	<input type="checkbox"/>	<input type="checkbox"/>
Chain saw	<input type="checkbox"/>	<input type="checkbox"/>

22 Your marital status:
 Married Single

23 Date of your
 [Month]
 (Example: J

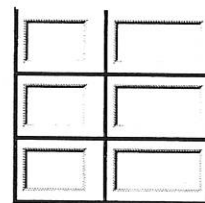
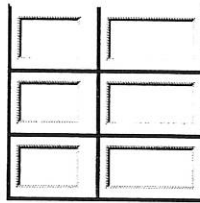
24 For your primary residence, do you:
 Own Rent

**25 Including y
 people livin**
 [select] ▼

26 Date of birth (month/year) of the other adults and children in your household:

27 Which best
 [select bes

Males	Month	Year	Females	Month	Year
	[]	[]		[]	[]



28 Education:

[select best answer] ▼

29 In the last household through the

- Books/Mag
- Children's p
- Clothes
- Insurance/F
- Music/video
- Travel
- Other

30 I use these credit cards:

- American Express
- Gas/Retail
- Master Card
- Visa
- Other
- Do not have credit cards

31 Someone in my home participates in the following activities: (Check all

- | | |
|--|--|
| <input type="checkbox"/> Automotive work | <input type="checkbox"/> Fitness/exercise/jogging |
| <input type="checkbox"/> Bible/devotional | <input type="checkbox"/> Gardening |
| <input type="checkbox"/> Boating/sailing | <input type="checkbox"/> Golf |
| <input type="checkbox"/> Camping/hiking | <input type="checkbox"/> Gourmet cooking/food/wines |
| <input type="checkbox"/> Casino gambling | <input type="checkbox"/> Grandchildren |
| <input type="checkbox"/> Contribute to charitable causes | <input type="checkbox"/> Home decorating |
| <input type="checkbox"/> Crafts | <input type="checkbox"/> Hunting/Shooting |
| <input type="checkbox"/> Cultural art/events | <input type="checkbox"/> Investments (mutual funds, IR |
| <input type="checkbox"/> Cycling | <input type="checkbox"/> Investments (stocks & bonds) |
| <input type="checkbox"/> Do-it-yourself | <input type="checkbox"/> Movie watching |
| <input type="checkbox"/> Enter sweepstakes/contests | <input type="checkbox"/> Own a cat |

Fishing

Own a dog

32 I / we make a living as:

Me

[select answer]

Adult 2

[select answer]

33 I / we subsc

Americ

Compu

Earthlin

Micros

Submit

Thanks for filling out this questionnaire. Your answers are important to us. Ple
you do not wish to learn more about Murray or obtain information on new and



Product Registration for Day Runner

1 Mr. Mrs. Ms. Miss

First Name: Initial: Last Name:

Address: (Number and Street) Apt #:

Address 2

City: State/Province:

Country: Zip:

2 Date of Your birth:

/ /
month / day / year
(example: January/18/1969)

3 Phone Number:

() - -

4 Email Address:

- If you wish to receive Day Runner offers or product updates via email, please check here.
- If you wish to obtain information or opportunities from other companies via email, please check here.

5 A. What type of Day Runner product would you like to register? (required)

B. UPC #:
(last 6 digits of UPC bar code located on product cover sheet)

89138 - *



6 Product ID number:
(Found on inside cover of your product, if available)

7 Date of Purchase:

[select] /
month / year
(example: January/1998)

8 Store Name:

(example: Walgreens)

9 What best describes your occupation?

10 What product(s) are you replacing with your Day Runner Organizer?

- None (new user)
- Previous Day Runner®
- Franklin Day Planner®
- Day-Timer® Planner
- Filofax®
- Electronic Organizer
- Rolodex® Rotary Card File
- Desk Calendar
- Month/Week-at-a-Glance®
- Telephone/Address Book
- Organizing Software
- Other

11 Who purchased your Day Runner Organizer?

- Self
- Family/Friend
- Company

12 If self purchase, check the two (2) most important reasons influencing this purchase.

- Wide Selection of Books
- Wide Selection of Refills
- Quality
- Cover Design &/or Materials
- Contents (pages and tabs)

13 Did you buy a separate dated calendar with your organizer?

- Yes No

2.11

- Brand Name Reputation
- Price

14 How many refills (excluding calendars) did you purchase with your organizer?

- None
- 1-2
- 3-4
- 5 or more

15 Which best describes your family income?

[select best answer] ▼

16 Education:

[select best answer] ▼

17 NOT including yourself, what are the AGES of the other people living in your household?

Age (in years)

Male:

Female:

18 Your marital status:

- Married
- Single

19 Do you own a PC?

- Yes
- No

20 Which of the following do you use?

- Cellular Phone
- Pager
- Electronic Organizer
- PDA (such as Palm Pilot, Windows CE Product)
- Wireless Internet Access

21 A. Do you use a software program to manage your schedule & contacts?

- Yes
- No

B. If yes, which one?

22 In the last 6 months have you or your spouse:

- Purchased clothes through the mail?
- Purchased gifts through the mail?

-
- Worked in your garden?
- Traveled on vacation?
- Purchased a PC or PC software?
- Purchased two or more books?
- Purchased cassettes/CDs?
- Purchased product through the internet?
- Donated to wildlife/environmental causes?
- Donated to charities?

23 I/we subscribe to the following online services:

- | | |
|---|--|
| <input type="checkbox"/> America Online | <input type="checkbox"/> Microsoft Network |
| <input type="checkbox"/> AT&T WorldNet | <input type="checkbox"/> Mindspring |
| <input type="checkbox"/> Compuserve | <input type="checkbox"/> Net Zero |
| <input type="checkbox"/> Earthlink | <input type="checkbox"/> Prodigy |
| <input type="checkbox"/> OTE | <input type="checkbox"/> Other |
| <input type="checkbox"/> IBM | <input type="checkbox"/> None |

- Thanks for filling out this questionnaire. Your answers are important to us. Please check the box on the left if you do not wish to learn more about Day Runner or obtain information on new and interesting opportunities through the U.S. mail.



Before the Senate Commerce Committee
Thursday, February 21, 2002
Michael R. Murray, Director of Governmental Affairs
SB 467

Thank you for the opportunity to comment on SB 467 which places restrictions on the practice of spamming which is the sending unsolicited e-mail to consumers.

Sprint could support the bill with the amendments on pages 1 and 3 of the Attorney General's balloon. The amendment on page 1, the Haley Jenkins amendment, would allow for individuals to sell cookies for the Girl Scouts and popcorn for the Boy Scouts. That would be fine with Sprint.

The amendments on page 3 offer liability protection to an ISP which blocks the receipt or transmission of an e-mail which it knows or believes to be in violation of consumer protection laws. We agree with those amendments.

We are concerned however about two of the proposed amendments on page 2 of the balloon presented to us this week by the Attorney General.

Sprint, and many other major users of e-mail solicitations, purchase the services of what are known as e-mail address aggregators. One such enterprise which Sprint uses is found on the internet at www.Traffix.com. Traffix has arrangements with a number of other enterprises with web sites to purchase the e-mail addresses of consumers who register with those web sites. Sprint in turn purchases the data base of e-mail addresses aggregated by Traffix. Those e-mail addresses include consumers who have visited the web sites of such groups as NSYNC, Christina Aguilera, and other music-related enterprises such as MusicVision.

At the bottom of the web site registry there is a line which the consumer can check if they want to receive additional "information on cool offers from MusicVision and its trusted partners", or in the case of Christina Aguilera, "information on cool products and promotions." This constitutes permission or authorization for companies such as Sprint to send promotional or advertising e-mail to these consumers. I've included a copy of the MusicVision web page.

It is our concern that the definition of express authorization (new paragraph (7) on page 2) precludes this form of authorization, and the new language on line 18 would require the use of ADV on the subject line of the e-mail in spite of the fact that the consumer has consented to receiving such promotions through the e-mail aggregator.

Senate Commerce Committee
Feb. 21, 2002
Attachment 3-1

Therefore we would support additional language which allows for the use of such e-mail aggregators and includes that type of permission as express authorization. I believe the Direct Marketing Association has proposed language to address these concerns and others, and Sprint supports the DMA balloon. But just in case, I've attached a balloon which addresses our specific concern about e-mail address aggregators.

As I indicated at the first hearing on this bill, Sprint would like to support the Attorney General on this issue. At the first hearing, we needed to ascertain whether or not Earthlink, which is an ISP affiliated with Sprint, provided "substantial assistance" to its clients. As it turns out, Earthlink does not assist clients in the preparation of advertising e-mail. But, at that time the matter of express authorization was not a concern of the Attorney General, and now it is.

So, the goal posts have been moved with the amendments proposed on page 2, and we cannot support the bill without further amendment and clarification.

Thank you and I'd be happy to respond to questions.

NSYNC
Celebrity



**RENT DVDs
ONLINE**

**CLICK
HERE
FOR A
FREE
TRIAL**

for winning the 2001

HOME
ON STUFF
THE GROUP
THE SCOOP
INVOLVED
FAN CLUB
REGISTER
SITE INFO
THE STORE

REGISTER

first name: address:

last name: city:

gender: state:

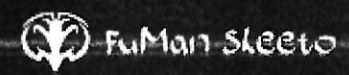
birthday: zip:

email: country:

I want to get all the information on cool offers from MusicVision and trusted partners.

SUBMIT

[UPDATE INFO](#) [PRIVACY POLICY](#) [REGISTER](#) [FORGOT](#)



3.3



CARLA J. STOVALL
ATTORNEY GENERAL

State of Kansas

Office of the Attorney General

CONSUMER PROTECTION / ANTITRUST DIVISION

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

PHONE: (785) 296-3751 FAX: (785) 291-3699

CONSUMER HOTLINE
1-800-432-2310

Testimony of
Steve Rarrick, Deputy Attorney General
Consumer Protection Division
Office of Attorney General Carla J. Stovall
Before the Senate Commerce Committee
RE: Senate Bill 467
February 21, 2002

Chairperson Brownlee and Members of the Committee:

Thank you for the opportunity to appear on behalf of Attorney General Carla J. Stovall today to testify again in support of Senate Bill 467. My name is Steve Rarrick and I am the Deputy Attorney General for Consumer Protection.

Since the first hearing on Senate Bill 467, I have discussed the provisions of the bill with representatives of three Internet service providers (ISPs), Carol's Web of Junction City, Pixius Communications of Wichita, and Doglegs.com, of Topeka. These Internet service providers have expressed support of SB 467 as drafted. I have attached to my testimony a letter from Mr. Jacques Fluker of Pixius, expressing his support of the bill as drafted. The letter from Mr. Fluker demonstrates the cost incurred by ISPs as a result of unwanted and unsolicited spam to their customers, which is discussed at length in the Washington and California court decisions I provided to the Committee on February 13th. Allowing their customers to deny or unsubscribe to unwanted spam under this bill would reduce the costs incurred by ISPs as a result of spam.

At the first hearing on this bill, Mr. Smith, on behalf of the DMA, urged this Committee to consider the provisions of the Nevada Spam law. We reviewed the Nevada law after the hearing and believe the Nevada law is a poor model for protecting Kansans from unwanted commercial e-mail. We contacted the Nevada Attorney General's office, who strongly recommended against using their law as a model in Kansas. We conferred with the DMA and Sprint about the shortcomings of this law, and understand that they are no longer recommending the Nevada law as a model. As a result, I will not itemize in my testimony the deficiencies of the Nevada law, but I am prepared to advise the Committee of the reasons it should not be used as a model in the event a Committee member has questions.

I have also conferred with representatives of Sprint, the DMA, and credit bureaus regarding their concerns with SB 467, to see if reasonable compromise could be made to address the concerns they have raised. I have attached a balloon amendment for your consideration which address these concerns and contain significant compromises by our office. However, I believe the DMA and

Senate Commerce Committee

Feb. 21, 2002

Attachment 4-1

Sprint will offer amendments which go further, which we do not support. As I go through our proposed balloon amendments, I will address the further or different language I believe those conferees may be suggesting, why these further changes go too far, and why we believe one change proposed by the DMA would make the law completely unenforceable. If any other amendments are suggested by the other conferees, not brought to my attention before this morning, I would appreciate the opportunity to address them before the Committee.

Our proposed amendments are as follows:

- We have agreed to delete the phrase “or consciously avoids knowing” at page 1, lines 21-22 and 35-36, and page 3, lines 2-3, at the request of the DMA and Sprint. While we believe this language taken from the Washington Spam law is helpful, we believe the remaining knowledge requirement is sufficient to allow us to put ISP’s providing substantial assistance and support to businesses sending spam in violation of the act on notice and obtain their assistance in stopping illegal spam.
- The proposed language at page 1, line 27, is intended to address Senator Jenkins’ concerns about solicitations by volunteers promoting property on behalf of charitable organizations.
- The proposed definition for “express authorization” at page 2, line 5, is modeled after language in our slamming law which will apply to the exemption from the “ADV:” disclosure requirement proposed at page 2, line 18.
- The proposed exemption from the “ADV:” disclosure requirement at page 2, line 18, is intended to address the concerns raised by the DMA, Sprint, and the credit bureaus regarding the effect of this disclosure requirement on commercial e-mail specifically consented to by the recipient. These conferees believe that consumers will request their ISPs to filter spam that contains the “ADV:” as a result of the “ADV:” disclosure requirement in (c)(1)(C) of Section 1 of the bill. The unintended result of this may be that commercial e-mail from companies the consumer has agreed or even asked to receive may be unintentionally blocked along with all of the unwanted spam. We have agreed that the “ADV:” disclosure requirement should not apply to specifically authorized commercial e-mail. We believe the proposed language on page 2 prevents this unintended result. Specifically, our proposed language requires that the recipient give express authorization to receive electronic e-mail from a specifically identified sender, but does not allow other entities to “buy” or share the authorization obtained by that specifically identified sender to thwart the “ADV:” disclosure requirement of the law. The language proposed by the DMA and Sprint, however, goes further than we believe is necessary, because it will allow deceptive or overly broad and vague authorizations and negative option authorizations to continue to be used by companies who sell e-mail addresses and the questionable authorizations they have obtained to third parties who will in turn send spam to the recipient without the “ADV:” disclosure required by this law. Online marketers use a variety of methods to obtain consent to send e-mail to a consumer, some of which are vague and overly broad, and fail to disclose they will sell the consumer’s e-mail address to other marketers. Examples of these methods include:
 - obtain the consent of the consumer for Company A to send promotional materials about other products Company A sells by having the consumer affirmatively click

on a box or having the box already checked and requiring the consumer to delete the checked box if they do not wish to consent to receive the materials (a negative option method).

- obtain the consent of the consumer for Company A and its “partners” to send promotional materials about other products by having the consumer affirmatively click on a box or having the box already checked and requiring the consumer to delete the checked box if they do not wish to consent to receive the materials from Company A and its “partners” (a negative option method).
- force the consumer into providing the above consents by not allowing the online purchase to be finalized unless the consumer clicks on the consent box.

Consumers often do not realize consenting to these authorizations containing broad and undefined terms, such as “partners”, will result in the sale of their e-mail address to other companies, often dealing with products and services totally unrelated to the product or service they just purchased. If there was a legal requirement that this fact be clearly and conspicuously disclosed, such as “by agreeing to this authorization, we will sell or share your e-mail address to other companies who will send you commercial e-mail about their products and services,” our concern would be eliminated. However, these companies do not do this, much like companies purporting to give away cars and other prizes at malls and other events do not disclose the real purpose of the giveaway is to compile and sell your name and address for telemarketers and direct mail advertisers. As a result, we believe the exemption from the “ADV:” disclosure requirement should be limited to express authorizations given to specifically identified senders. Those without that specific consent, who buy the e-mail address from others, are only required to make the “ADV:” disclosure, and consumers wishing to receive commercial e-mail from companies they have never dealt with can still receive these solicitations simply by not screening out spam through their ISP.

- The proposed new paragraphs (e) and (f) at page 3, starting at line 11, provides statutory authority to ISPs to block receipt or transmission through its service of spam it reasonably believes is or will be sent in violation of the act, and provides immunity for ISP’s for doing so in good faith. These provisions were taken from the Washington spam law.

One proposed change by the DMA provided to me yesterday was to delete paragraph (d) at page 3 of the bill, as well as the deletion of the “or has reason to know” language contained at page 2, lines 10 and 37 of the bill. As I explained in my testimony on February 13th, this language provides that a spammer knows or has reason to know that the intended recipient of a commercial electronic mail message is a Kansas resident if that information is available, upon request, from the registrant of the internet domain name contained in the recipient’s electronic mail address. This provision is absolutely necessary to make this law enforceable, and was contained in both the Washington and California laws upheld on appeal. If this language is deleted, we would not recommend passage of the law, as it would not be enforceable by our office.

I understand the other conferees may also propose an affirmative defense stating: “No person shall be liable for violation of this act if it has established and implemented procedures to comply with this act and any subsequent electronic mail messages is the result of error.” We oppose this


amendment because it will significantly curtail the effectiveness of the law and make investigation and enforcement much more difficult and costly. To overcome this defense, we may have to take statements and depositions of employees and former employees of spammers to prove violations brought to our attention, because this defense would enable every company to simply create a policy and procedures manual and then say subsequent violations were simply the result of an error or mistake. We do not prosecute companies for single isolated violations of laws like this, such as our telemarketing laws, and I would invite the DMA to point to a single prosecution in this State where we have done so, including telemarketing prosecutions that may have effected their membership. If the committee decides to enact such a defense over our objection, we would suggest the defense state:

“No person shall be liable for a single isolated violation of this act if it has established and implemented procedures to comply with this act and such single subsequent electronic mail message sent in violation is the result of error.”

Even with this language, however, consumers will likely be precluded from bringing private actions for spam sent to them in violation of the law, and we would urge the Committee to decline any proposed defense provision.

On behalf of Attorney General Stovall, I urge you to pass this bill out favorably with our proposed amendments. I would be happy to answer questions of the Chair or any member of the Committee.



Putting Data to Flight 

February 20, 2002

Mr. Steve Rarrick
State Of Kansas
Office of the Attorney General
Deputy Agitant General for Consumer Protection

Dear Mr. Rarrick,

I am writing in regard to Senate Bill No.467 providing "protection from deceptive and unwanted electronic mail messages".

Pixius Communications, LLC is a Kansas based company in Wichita, KS. Pixius provides Internet services and private line services via dial-up and wireless facilities to business and residential consumers in Kansas. Pixius Communications, LLC agrees with Senate Bill No. 467. Our position is not against advertising via email "per se" but is against deceptive or misleading email advertising. Senate Bill No. 467 provides consumers the choice to accept all email advertising or stop unwanted email advertising by: 1) filtering all email with "ADV:" in the header 2) filtering all email with "ADV:ADLT" in the header 3) unsubscribing from future emails from specific advertisers. The most important part of Senate Bill No. 467 is the word "choice". Our clients should be afforded the opportunity to choose what their employees or their family members should or should not receive via email advertising.

Additionally, bandwidth is one of Pixius' largest expenses. Millions of emails are handled by Pixius of which a large number are not requested or wanted by our consumers. Our firm must have adequate equipment and bandwidth to deliver all of these emails. If consumers were able to deny or unsubscribe from certain advertising, our bandwidth costs would be reduced.

Please feel free to contact Jacques L. Fluker with any questions at (316) 269-1437 or email me at jfluker@pixius.com.

Sincerely,

A handwritten signature in black ink, appearing to read "J. S. Maxwell", is written over a faint, larger version of the same signature.

Jay S. Maxwell
Managing Member

SENATE BILL No. 467

By Committee on Commerce

1-29

AN ACT concerning information technology; providing protection from deceptive and unwanted electronic mail messages; establishing certain acts a violation of the Kansas consumer protection act; allowing for either a cause of action or civil penalty for a violation.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) This act shall be known as the commercial electronic mail act.

(b) As used in this act:

(1) "Assist the transmission" means actions taken by a person to provide substantial assistance or support which enables any person to formulate, compose, send, originate, initiate or transmit a commercial electronic mail message when the person providing the assistance knows ~~(or consciously avoids knowing)~~ that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any practice that violates the Kansas consumer protection act.

Delete.

(2) "Commercial electronic mail message" means an electronic mail message sent for the purpose of promoting property or services for sale or lease.

, but shall not include electronic mail messages sent by a natural person volunteering to send such messages on behalf of a charitable organization as defined by K.S.A. 17-1760.

(3) "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

(4) "Initiate the transmission" refers to the action by the original sender of an electronic mail message, not to the action by any intervening interactive computer service that may handle or retransmit the message, unless such intervening interactive computer service assists in the transmission of an electronic mail message when it knows ~~(or consciously avoids knowing)~~ that the person initiating the transmission is engaged, or intends to engage, in any act or practice that violates the Kansas consumer protection act.

Delete.

(5) "Interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

1 (6) "Internet domain name" refers to a globally unique, hierarchical
 2 reference to an internet host or service, assigned through centralized
 3 internet naming authorities, comprising a series of character strings sep-
 4 arated by periods, with the right-most string specifying the top of the
 5 hierarchy.

6 (c) No person shall:

7 (1) Initiate the transmission, conspire with another to initiate the
 8 transmission, or assist the transmission, of a commercial electronic mail
 9 message from a computer located in Kansas or to an electronic mail ad-
 10 dress that the sender knows, or has reason to know, is held by a Kansas
 11 resident that:

12 (A) Uses a third party's internet domain name without permission of
 13 the third party, or otherwise misrepresents or obscures any information
 14 in identifying the point of origin or the transmission path of a commercial
 15 electronic mail message;

16 (B) contains false or misleading information in the subject line;

17 (C) does not contain as the first four characters of the subject line
 18 "ADV:";

19 (D) does not contain instructions, in text at least as large as the ma-
 20 jority of the text in the transmission, for the recipient to follow to notify
 21 the sender not to send any subsequent communications, with either:

22 (i) An electronic mail address to which the recipient may reply to
 23 notify the sender not to send any subsequent communications; or

24 (ii) the legal name of the person or entity initiating the transmission,
 25 including such person or entity's physical address for the receipt of the
 26 United States mail and a toll-free telephone number that the recipient
 27 may call to notify the sender not to send any subsequent communications;
 28 and

29 (E) contains advertising material for viewing, use, consumption, sale,
 30 lease or rental only by persons over 18 years of age, including but not
 31 limited to content of sexual, sexually explicit or otherwise adult-oriented
 32 nature, unless the first eight characters of the subject line are
 33 "ADV:ADLT."

34 (2) Initiate the transmission, conspire with another to initiate the
 35 transmission, or assist the transmission, of a commercial electronic mail
 36 message from a computer located in Kansas or to an electronic mail ad-
 37 dress that the sender knows, or has reason to know, is held by a Kansas
 38 resident that is made after the recipient thereof has notified the sender
 39 not to send any subsequent communications.

40 (3) Give, transfer, sell or otherwise share with another the electronic
 41 mail address of any recipient who has notified the sender not to send any
 42 subsequent communications for any use other than for the third party to
 43 place the address on a do not contact list.

(7) "Express Authorization" means
 an express affirmative act by a recipient
 clearly agreeing to receive commercial
 electronic mail messages from a specific and
 identifiable sender.

; PROVIDED, HOWEVER, the characters
 "ADV:" shall not be required in the subject line
 if the recipient has given express authorization
 to receive commercial electronic mail messages
 from a specifically identified sender. Any entity
 not specifically identified in the express
 authorization shall be required to comply with
 this subsection, including but not limited to
 subsidiaries, affiliates, partners, or other entities
 of the specified and identifiable sender. The
 sender claiming exemption under this subsection
 shall have the burden of proving the express
 authorization by a preponderance of the
 evidence.

1 (4) Assist in the transmission of a commercial electronic mail mes-
2 s-age, when the person providing the assistance knows, ~~for consciously~~
3 ~~avoids knowing~~, that the initiator of the commercial electronic mail mes-
4 s-age is engaged, or intends to engage, in any act or practice that violates
5 the Kansas consumer protection act.

6 (d) For purposes of this section, a person knows or has reason to know
7 that the intended recipient of a commercial electronic mail message is a
8 Kansas resident if that information is available, upon request, from the
9 registrant of the internet domain name contained in the recipient's elec-
10 tronic mail address.

11 ~~(e)~~ Any violation of this section is an unconscionable act and practice
12 under the Kansas consumer protection act.

13 ~~(f)~~ Any person alleging a violation of this section shall be deemed a
14 consumer who has been aggrieved by a violation of the Consumer pro-
15 tection act and to have suffered actual loss as referred to in K.S.A. 50-
16 634 and 50-636 and amendments thereto.

17 ~~(g)~~ Any person alleging a violation of this section may bring a private
18 action to seek relief pursuant to K.S.A. 50-634, 50-636 and this section,
19 and amendments thereto, and such person shall be considered a con-
20 sumer pursuant to K.S.A. 50-624, and amendments thereto, for the pur-
21 poses of such private action.

22 ~~(h)~~ Any person that violates this section shall be subject to a civil
23 penalty of not less that \$500 nor more that \$10,000 for each such violation
24 instead of the penalty provided for in subsection (a) of K.S.A. 50-636, and
25 amendments thereto.

26 ~~(i)~~ The legislature finds that the practices covered by this section are
27 matters vitally affecting the public interest for the purpose of applying
28 the Kansas consumer protection act. A violation of this section is not
29 reasonable or necessary for the development and preservation of com-
30 merce and is an unconscionable act in violation of the Kansas consumer
31 protection act.

32 ~~(j)~~ This section shall be a part of and supplemental to the Kansas
33 consumer protection act.

34 Sec. 2. This act shall take effect and be in force from and after its
35 publication in the statute book.

Delete.

(e) An interactive computer service may, upon its own initiative, block the receipt or transmission through its service of any commercial electronic mail that it reasonably believes is, or will be, sent in violation of this act.

(f) No interactive computer service may be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any commercial electronic mail which it reasonably believes is, or will be, sent in violation of this act.

(g)

(h)

(i)

(j)

(k)

(l)

4-8



KANSAS BOARD OF REGENTS

1000 SW JACKSON • SUITE 520 • TOPEKA, KS 66612-1368

TELEPHONE – 785-296-3421
FAX – 785-296-0983
www.kansasregents.org

**Statement to the
Senate Commerce Committee
by Kim Wilcox, President and CEO
Kansas Board of Regents**

February 21, 2002

S.B. 614

Good morning Madam Chairman and members of the committee. I am Kim Wilcox, President and CEO of the Kansas Board of Regents and I appear before you today to offer support for the general concept outlined in S.B. 614.

You have heard an update on KAN-ED activities recently from Jerry Niebaum of our office. Jerry, along with the KAN-ED User Advisory Council, have efficiently carried out the task, assigned to the Board of Regents in April of 2001, to plan for the coordination and operation of a broadband technology-based network for schools, libraries, and hospitals.

The Board of Regents think that programs such as KAN-ED show innovation and provide a vehicle to continue to deliver a superior educational product to the library, education, health, and university communities, as well as all Kansan's. As you may be aware, this technology comes with a price tag of approximately \$12 million annually. Jerry has been instrumental in generating private funds as well as coordinating the submission of an application for up to \$1.8 million in funding from the federal universal service fund – also called the e-rate fund.

Senate Commerce Committee
Feb. 21, 2002
Attachment 5-1

The Board of Regents has a contingent contract with the State Division of Information Systems and Communications to design, create, and support the KAN-ED statewide network for schools, libraries, and hospitals. We believe it is economically prudent to use network resources of DISC to leverage the existing investment in state networking.

We find ourselves continually thinking of new ways to accomplish the various tasks that the Kansas Legislature has assigned to us; and we think that the components in S.B. 614 provide a solution to fund a program that is important to all Kansans.

While I cannot speak to all aspects of S.B. 614, I offer support, in particular for section 2 (f). I believe that it is in the best interest of the KAN-ED program to identify a dedicated funding stream for long-term support.

State General Fund distribution of KAN-ED funds
Based on an annual budget of:

\$11,800,000

Assumed income sources: \$10,000,000 state + \$1,800,000 federal

Expenses (FY2003):

Backbone service (DISC)	\$6,837,327
User network service	\$2,500,000
Software	\$500,000
Databases	\$550,000
Staffing	\$825,000
Training	\$500,000
Mailing, office, misc.	\$87,673
	\$11,800,000

**Testimony of Richard Veach
General Manager, Pioneer Communications
In support of Senate Bill No. 614**

**Senate Commerce Committee
February 21, 2002**

Madame Chair and members of the committee:

I am Richard Veach, General Manager of Pioneer Communications, a local exchange rural telephone company that is headquartered in Ulysses, Kansas. I am appearing today, on behalf of my company as well the rural local exchange telephone companies of Kansas, in support of Senate Bill 614.

As a member of the rural companies' State Affairs Committee, I have both followed and participated in the KAN-ED process. In the year 2000 I served as a non-legislative member of the State Education Technology Based Network Task Force. In 2001 I was a member of the Technical and Infrastructure Work Group that reported to the KAN-ED Advisory Council.

In 1990, Pioneer Communications, in partnership with Southwestern Bell and the Elkhart Telephone Company, activated the High Southwest Plains Network, the first interactive video distance-learning network in Kansas. In 1995, Pioneer connected schools in its serving area to the Internet with what was at the time considered a fast connection, 56 Kb/s. Bear in mind that this was seven years ago, nearly an eternity in Internet time. At that time, 14.4 Kb/s was a state-of-the-art dial-up Internet connection. Our schools were soon upgraded to a 1.5 Mb/s connection and we are now installing equipment in the schools that will allow them an even faster connection.

Senate Commerce Committee
Feb 21, 2002
Attachment 6.1

While this was all taking place in Pioneer's service area, many other rural independent telephone companies in Kansas were doing the same thing with their schools. The rural independent telephone companies in Kansas have been in the forefront in providing advanced services to the schools and libraries in their service areas. KAN-ED can help provide these kinds of services to all schools in the state.

The Kansas Universal Service Fund exists to support high quality telecommunications services in the areas of the state that are the most expensive to serve. The rural companies are mindful of the desirability of not having this fund become too large but funding KAN-ED would require only a modest increase in the size of the fund. This small increase is far outweighed by the benefits that would be provided.

All through KAN-ED's difficult birthing process, the rural companies have been supportive. It would be helpful if it were made very clear in the bill that the money necessary to fund KAN-ED is in addition to what is necessary to assure that the Kansas Universal Service Fund is able to accomplish its original mission of preserving and advancing universal telephone service in Kansas.

I thank you for the opportunity to testify in support of this bill and would be happy to answer any questions.