Support Utah's anti-spam law

Less than three years ago, unsolicited commercial e-mail made up two-thirds, roughly 83 percent, of all e-mail sent in the United States, according to e-mail monitoring firm MessageLabs, Inc. In answer to this over-whelming trend of Internet spam, the CAN-SPAM Act of 2003 (Controlling the Assault of Non-Solicited Pornography and Marketing Act) established requirements for those who send commercial e-mail, issued 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 law went into effect Jan. 1, 2004, and enforcement of it is the duty of the Federal Trade Commission (FTC), and gives the Department of Justice the authority to enforce its criminal sanctions. Other federal and state agencies can enforce the law against organizations under their jurisdiction, and companies that provide Internet access may sue violators.

Utah and Michigan took that law one step further. Regardless of FTC's negative recommendations, both states pushed legislation that created a do-not-spam registry designed to protect children from inappropriate e-mail and text messages. The state laws took effect in July, 2005, and other states are following suite.

The lists, similar to the popular national do-not-call registry designed to fend off telemarketers and child predators, allow the states and individuals to pursue legal action against anyone who digitally sends certain materials to children whose contact information is on the list. In Utah, the law is called the Utah Child Protection Registry Act. It requires e-mail marketers to compare their lists against the registry for a fee and implements enforcement methods for senders who don't comply. Successful plaintiffs are entitled
to statutory damages of $1,000 per message, plus costs and attorneys' fees.

However, Utah's law is under attack. The Free Speech Coalition filed a lawsuit in federal court challenging the state registry because it believes it raises serious First Amendment and instate commerce concerns. It's also purported that the federal CAN-SPAM Act pre-empts the state law. Utah Attorney General Mark Shurtleff rightfully filed to dismiss the lawsuit.

We support Shurtleff and contend that while freedom of expression is essential, so is freedom from unreasonable, disruptive and potentially injurious offenses on innocent, unsuspecting children with material unfit and illegal for their viewing. Minors also can't legally purchase merchandise solicited so the commerce concerns seem far-fetched. Furthermore, Utah's Act is not conflictual with federal law, it simply heightened the standard to safeguard its youngest residents and technology users.

Aside from laws, the best defense from unwanted online intruders is parental supervision. Parents must take an active role in their children's computer and technological access. The government isn't the sole solution and shouldn't be. The answer to stave off undesired solicitation begins at home under the auspice of the heads of the households. That way, whether a law is in effect or not, children are always protected.