

ing the amendments made by sections 4 and 12). Any such regulations shall be issued in accordance with section 553 of title 5.

(b) Limitation

Subsection (a) may not be construed to authorize the Commission to establish a requirement pursuant to section 7704(a)(5)(A) of this title to include any specific words, characters, marks, or labels in a commercial electronic mail message, or to include the identification required by section 7704(a)(5)(A) of this title in any particular part of such a mail message (such as the subject line or body).

(Pub. L. 108–187, §13, Dec. 16, 2003, 117 Stat. 2717.)

REFERENCES IN TEXT

This Act (not including the amendments made by sections 4 and 12), referred to in subsec. (a), is Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. Section 4 enacted section 7703 of this title, section 1037 of Title 18, Crimes and Criminal Procedure, and provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure. Section 12 amended section 227 of Title 47, Telecommunications. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§ 7712. Application to wireless

(a) Effect on other law

Nothing in this chapter shall be interpreted to preclude or override the applicability of section 227 of title 47 or the rules prescribed under section 6102 of this title.

(b) FCC rulemaking

The Federal Communications Commission, in consultation with the Federal Trade Commission, shall promulgate rules within 270 days to protect consumers from unwanted mobile service commercial messages. The Federal Communications Commission, in promulgating the rules, shall, to the extent consistent with subsection (c)—

(1) provide subscribers to commercial mobile services the ability to avoid receiving mobile service commercial messages unless the subscriber has provided express prior authorization to the sender, except as provided in paragraph (3);

(2) allow recipients of mobile service commercial messages to indicate electronically a desire not to receive future mobile service commercial messages from the sender;

(3) take into consideration, in determining whether to subject providers of commercial mobile services to paragraph (1), the relationship that exists between providers of such services and their subscribers, but if the Commission determines that such providers should not be subject to paragraph (1), the rules shall require such providers, in addition to complying with the other provisions of this chapter, to allow subscribers to indicate a desire not to receive future mobile service commercial messages from the provider—

(A) at the time of subscribing to such service; and

(B) in any billing mechanism; and

(4) determine how a sender of mobile service commercial messages may comply with the provisions of this chapter, considering the unique technical aspects, including the functional and character limitations, of devices that receive such messages.

(c) Other factors considered

The Federal Communications Commission shall consider the ability of a sender of a commercial electronic mail message to reasonably determine that the message is a mobile service commercial message.

(d) Mobile service commercial message defined

In this section, the term “mobile service commercial message” means a commercial electronic mail message that is transmitted directly to a wireless device that is utilized by a subscriber of commercial mobile service (as such term is defined in section 332(d) of title 47) in connection with such service.

(Pub. L. 108–187, §14, Dec. 16, 2003, 117 Stat. 2718.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(3), (4), was in the original “this Act”, meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§ 7713. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected.

(Pub. L. 108–187, §15, Dec. 16, 2003, 117 Stat. 2718.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

CHAPTER 104—SPORTS AGENT RESPONSIBILITY AND TRUST

Sec.	
7801.	Definitions.
7802.	Regulation of unfair and deceptive acts and practices in connection with the contact between an athlete agent and a student athlete.
7803.	Enforcement.
7804.	Actions by States.
7805.	Protection of educational institution.
7806.	Limitation.
7807.	Sense of Congress.

§ 7801. Definitions

As used in this chapter, the following definitions apply:

(1) Agency contract

The term “agency contract” means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) Athlete agent

The term “athlete agent” means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) Athletic director

The term “athletic director” means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) Commission

The term “Commission” means the Federal Trade Commission.

(5) Endorsement contract

The term “endorsement contract” means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual’s person, name, image, or likeness in the promotion of any product, service, or event.

(6) Intercollegiate sport

The term “intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.

(7) Professional sports contract

The term “professional sports contract” means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(8) State

The term “State” includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) Student athlete

The term “student athlete” means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is

permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

(Pub. L. 108-304, §2, Sept. 24, 2004, 118 Stat. 1125.)

SHORT TITLE

Pub. L. 108-304, §1, Sept. 24, 2004, 118 Stat. 1125, provided that: “This Act [enacting this chapter] may be cited as the ‘Sports Agent Responsibility and Trust Act.’”

§ 7802. Regulation of unfair and deceptive acts and practices in connection with the contact between an athlete agent and a student athlete**(a) Conduct prohibited**

It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract, including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) Required disclosure by athlete agents to student athletes**(1) In general**

In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18, to such student athlete’s parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) Signature of student athlete

The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18, by such student athlete’s parent or legal guardian, prior to entering into the agency contract.

(3) Required language

The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete’s parent or legal guardian, a conspicuous notice in boldface type stating: “Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by