



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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Internet: <http://www.fcc.gov>
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DA 01-462
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FCC REMINDS CONSUMERS ABOUT “JUNK FAX” PROHIBITION

The Telephone Consumer Protection Act of 1991 (TCPA) and Federal Communications Commission (Commission) rules prohibit the use of a telephone facsimile machine, computer, or other device to send unsolicited advertisements to telephone facsimile machines.¹ The Commission is authorized to take enforcement action against companies that send so-called “junk faxes” and encourages consumers to inform the Commission if they have received such faxes.

An unsolicited advertisement is defined as “any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission.”² The prohibition applies to unsolicited advertisements transmitted to both businesses and residences. The mere distribution or publication of a fax number does not confer an invitation or permission to transmit advertisements to a particular fax machine.³ An established business relationship, however, demonstrates consent to receive fax advertisement transmissions.⁴ The Commission’s rules further require that any message sent to a fax machine must clearly mark on the first page or on each page of the message the date and time the transmission is sent, the identity of the sender, and the telephone number of the sender or of the sending fax machine.

The Commission has taken numerous enforcement actions against companies for violations and suspected violations of the TCPA’s prohibition against unsolicited fax advertisements. To date, the Commission or the Enforcement Bureau have issued 39 citations, and proposed or issued five fines in response to consumer complaints, totaling more than \$1.5 million. Detailed information on the Commission’s enforcement of the TCPA is available at www.fcc.gov/eb/tcd/ufax.html.

Consumers who have received unsolicited fax advertisements are encouraged to contact the Commission regarding the incident(s). Consumers can file a complaint by completing our on-line

¹ 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200 (a)(3).

² 47 C.F.R. § 64.1200(f)(5).

³ *Id.*

⁴ *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Memorandum Opinion and Order*, 10 FCC Rcd 12391, 12408, ¶ 37 (1995).

Consumer Complaint Form at www.fcc.gov/cib/ccformpage.html or by sending a letter summarizing the complaint to Federal Communications Commission, Consumer Information Bureau, Complaints, 445 12th St., SW, Washington, D.C. 20554. Consumers can file complaints via telephone by calling the Consumer Information Center at 1-888-CALL-FCC. Consumers may be required to provide documentation in support of their complaints.

Consumers may also file TCPA complaints with their state authorities or bring a private suit in an appropriate court of their state. Consumers can bring private suits to enjoin the unlawful conduct and either recover the actual monetary loss stemming from the TCPA violation or receive up to \$500 in damages for each violation, whichever is greater. The court may increase damages to \$1,500 per violation if it finds that the defendant willingly or knowingly committed the violation.

Enforcement Bureau contacts: John Winston at (202) 418-7450, and Yanic Hardie at (202) 418-7440.
Consumer Information Bureau contact: Arthur Scrutchins at (202) 418-2184.