

## UNWANTED FAXES: WHAT YOU CAN DO

### Background

A telephone facsimile (or “fax”) machine is able to send and receive data (text or images) over a telephone line. The Telephone Consumer Protection Act of 1991 (TCPA) and Federal Communications Commission (FCC) rules prohibit sending unsolicited advertisements, also known as “junk faxes,” to a fax machine. This prohibition applies to fax machines at both businesses and residences.

### Definitions

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.” Beginning January 1 2005, a person may grant permission to send a fax advertisement only with a signed, written statement that includes the fax number to which any advertisements may be sent. Until January 1, 2005, a fax sender may continue to rely on an “established business relationship” for permission to fax an advertisement.

Just because your fax number is published or distributed does not mean others have permission to send you unsolicited advertisements.

### FCC Regulations

The FCC has amended rules to regulate the delivery of facsimile advertisements. The rules state:

- Beginning January 1, 2005, it is unlawful to send an unsolicited advertisement to a facsimile machine without the prior written permission of the recipient of the advertisement;
- The business or entity on whose behalf the fax is being sent must identify itself in the top or bottom margin of each page or on the first page of the fax message, and must include its telephone number and the date and time the fax is sent;
- If a facsimile broadcaster (the person or entity transmitting messages to a fax machine on another person’s behalf) demonstrates a “high degree of involvement” in the sender’s facsimile messages, such as supplying the facsimile numbers to which a message is sent, the facsimile broadcaster must provide its name on the fax;
- A facsimile broadcaster may be liable if it supplies facsimile numbers to a business or entity sending unlawful fax advertisements; and
- Faxes sent to fax servers and personal computers are covered by the faxing rules.



## How the FCC Can Help

The FCC has taken numerous enforcement actions, including the issuance of citations and fines, against companies for violations and suspected violations of the TCPA's prohibition against unsolicited faxes. Consumers who have received unsolicited faxes are encouraged to contact the FCC regarding the incident(s). You may need to provide documentation in support of your complaint, such as copies of the fax(es) you received.

If you have received an unsolicited fax or received a fax from someone who hasn't received your prior express permission in writing, you may file a complaint by completing the FCC's on-line Consumer Complaint Form at [www.fcc.gov/cgb/complaints.html](http://www.fcc.gov/cgb/complaints.html), or by calling the FCC's Consumer Center at 1-888-CALL-FCC (1-888-225-5322) voice or 1-888-TELL-FCC (1-888-835-5322) TTY. You can also send a letter summarizing the complaint to:

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Consumer Inquiries and Complaints Division  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

If you have questions regarding the FCC's do-not-call rules or the National Do-Not-Call Registry, go to [www.fcc.gov/cgb/consumerfacts/donotcalladvisory.pdf](http://www.fcc.gov/cgb/consumerfacts/donotcalladvisory.pdf).

## Additional Places to Go for Help

You can also file TCPA-related complaints with your state authorities, including your local or state consumer protection office or your state Attorney General's office.

It is also possible to bring a private suit against the violator in an appropriate court of your state. Through a private suit, you can either recover the actual monetary loss that resulted from the TCPA violation, or receive up to \$500 in damages for each violation, whichever is greater. The court may triple the damages for each violation if it finds that the defendant willingly or knowingly committed the violation.

###

*For this or any other consumer publication in an accessible format (electronic ASCII text, Braille, large print, or audio) please write or call us at the address or phone number below, or send an e-mail to [FCC504@fcc.gov](mailto:FCC504@fcc.gov).*

*To receive information on this and other FCC consumer topics through the Commission's electronic subscriber service, click on [www.fcc.gov/cgb/emailservice.html](http://www.fcc.gov/cgb/emailservice.html).*

*This document is for consumer education purposes only and is not intended to affect any proceeding or cases involving this subject matter or related issues.*

031016\*

