



**OFFICE OF ADVOCACY
U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416**

October 10, 2003

By Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, DC 20554

RE: Notice of an *Ex Parte* Presentation in a Non-Restricted Proceeding In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Dkt. No. 02-278)

Dear Ms. Dortch:

The Office of Advocacy, U.S. Small Business Administration ("Advocacy"), by its undersigned representative and in accordance with Section 1.1206 of the rules of the Federal Communication Commission ("FCC" or "Commission"), hereby respectfully submits this *ex parte* notification for the aforementioned proceeding.

Advocacy representatives Suey Howe, Director for Interagency Affairs; Radwan Saade, Regulatory Economist; and Eric E. Menge, Assistant Chief Counsel for Telecommunications; met with staff members of the FCC's Consumer and Government Affairs Bureau and the Office of Communications Business Opportunities on Thursday, October 9, 2003. Present at this meeting were Erica McMahon, Staff Attorney; Richard Smith, Acting Chief of the Policy Division; Gene Fullano, Legal Advisor to the Bureau Chief; Helen Hillegass, Staff Attorney; Margaret Egler, Deputy Bureau Chief; Eric Malinen, Senior Attorney Advisor; and Allan Manuel, Attorney Advisor.

Advocacy opened the meeting by providing background on its statutory mandate under the Regulatory Flexibility Act ("RFA") to monitor agency compliance with the RFA. Advocacy highlighted its new responsibilities under E.O. 13272, which include reviewing agency plans for compliance with the RFA and providing RFA training government wide. Advocacy is currently scheduling RFA training for the FCC.

With respect to the above referenced proceeding, Advocacy emphasized the impact the Fax provisions of the FCC's Do-Not-Call rules have on small businesses, small non-profit organizations, and membership associations. Thousands of small businesses sent in comments to the FCC regarding the Fax provisions, and many trade associations representing small businesses

have raised similar concerns with the Office of Advocacy. Advocacy commended the FCC for its stays of the rules, as the stays provide important regulatory relief.

Consistent with its earlier filings on the subject, Advocacy recommended reinstating the Established Business Relationship exemption and granting an exemption to non-profit groups and membership organizations. Advocacy also recommended that the bureau produce a compliance guide prior to the effective date of any subsequent restrictions on commercial faxes to help clarify compliance requirements. This would aid small businesses in their compliance and remove any confusion as to the steps they must take to comply with the rule.

Advocacy recommended that further outreach to small businesses should be performed and information gathered on the impact on small businesses before the FCC adopts a rule further regulating commercial fax communications. Advocacy offered to assist the FCC in gathering information and data on small business impacts with a focus on small business compliance costs as required under the RFA. Advocacy recommended that the FCC consider issuing a further notice of proposed rulemaking, if possible, to solicit small business input before issuing a final order in response to the petitions for consideration. This would provide small businesses regulated by the rule with the opportunity to comment and propose alternatives. Finally, Advocacy recommended that the Commission adopt any revision to the rule with sufficient time for small businesses to come into compliance before the end of the stay.

If you have any questions regarding this filing, please contact me at 202-205-6533 or by e-mail at eric.menge@sba.gov. Thank you.

Sincerely,

/s/ _____
Eric E. Menge
Assistant Chief Counsel for
Telecommunications

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cc: Erica McMahon
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