

Advocacy Encourages FCC to Extend Compliance Deadlines for “Do Not Fax” Rules

On May 17, 2005 the Office of Advocacy (Advocacy) filed a letter with the Federal Communications Commission (FCC) in support of the Fax Ban Coalition's Petition for Further Extension of Stay. The petitioners are requesting that the FCC extend the stay of its “Do Not Fax” rules for six months beyond the June 30, 2005, deadline. A complete copy of Advocacy’s letter may be accessed at <http://www.sba.gov/advo/laws/comments/>.

- The FCC adopted its Do Not Fax rules on June 26, 2003. These rules removed the "established business relationship" exemption to the Telephone Consumer Protection Act of 1991 that the FCC had adopted a decade ago. This exemption allowed businesses to fax those with whom they had an established business relationship, such as customers or suppliers, without needing prior permission. The modified rule will require all businesses to have express written permission from the recipient before sending a commercial advertisement via fax regardless of any prior relationship.
- On August 18, 2003, the FCC stayed enforcement of this rule until January 1, 2005. The agency stayed it again on September 15, 2004 until June 30, 2005 in response to petitions from groups that represent many small businesses.
- The FCC rule has an unintended consequence of being overly burdensome on small businesses, and Congress initiated action to correct this mistake through junk fax prevention legislation. The Senate Commerce, Science, and Transportation Committee approved S. 714, the Junk Fax Prevention Act, by voice vote on April 14, 2005. It is expected to be reported to the full Senate shortly. A six-month extension would provide additional time for Congress to act and present legislation to the President to resolve this important issue.
- Without an extension of the stay, small businesses would need to take steps to obtain written consent from fax recipients with whom they have an existing business relationship in anticipation of the June 30, 2005, deadline. The economic impact of this requirement on small businesses will be significant based upon feedback from small businesses and a survey by the U.S. Chamber of Commerce.

For more information, visit Advocacy’s website at <http://www.sba.gov/advo/> or contact Eric Menge at (202) 205-6533.