

Federal Communications Commission (FCC) “Do-Not-Fax” Provision Of The “Do-Not-Call” Rule

- Citing the concerns of small business trade associations, membership organizations, and non-profits, the Office of Advocacy (Advocacy) wrote to the FCC urging it to stay its implementation of the new “do-not-call” rule.
- Part of the rule, called the “do-not-fax” provision, requires gaining written permission from recipients before sending them faxes. The result is that trade associations and membership organizations sending faxed newsletters and announcements containing advertisements from co-sponsors could be fined up to \$1,500 per recipient.
- Moreover, the FCC did not grant exemptions to the fax restrictions for established business relationships. According to small business trade associations and membership organizations, implementation of the rule could harm them and their members.
- The “do-not-fax” provision has the potential of muzzling the voice of small business. Small businesses, non-profits, trade associations, and membership organizations have told Advocacy that this FCC order will prevent the quick communications they need to make sure that all of their small business members are aware of new laws, regulations, and other developments both in Washington and state capitols across the country.
- Trade associations, membership organizations, non-profits, and small businesses would have to obtain written consent before communicating with their members and customers, or offering new products and services by fax. After the regulations go into effect, these organizations could not obtain written consent via fax.
- Advocacy was critical of the FCC because the Commission’s regulatory flexibility analysis did not adequately discuss the impact of the “do-not-fax” requirements on small businesses or small organizations. Also, the FCC did not consider alternatives to minimize the significant economic impact on small businesses and small organizations. These are key components of the Regulatory Flexibility Act and Executive Order 13272.
- Unless the FCC stays its order, the new regulations will take effect on August 25, 2003.
- The fax restriction is part of the FCC’s update of rules implementing the Telephone Consumer Protection Act (TCPA) of 1991. The FCC issued a Report and Order amending existing regulations to make the FCC’s rules consistent with the Federal Trade Commission’s (FTC) National Do Not Call Registry.