



Highlights of [GAO-06-425](#), a report to congressional committees

TELECOMMUNICATIONS

Weaknesses in Procedures and Performance Management Hinder Junk Fax Enforcement

Why GAO Did This Study

The Telephone Consumer Protection Act of 1991 prohibited invasive telemarketing practices, including the faxing of unsolicited advertisements, known as “junk faxes,” to individual consumers and businesses. Junk faxes create costs for consumers (paper and toner) and disrupt their fax operations. The Junk Fax Prevention Act of 2005 clarified an established business relationship exemption, specified opt-out procedures for consumers, and requires the Federal Communications Commission (FCC)—the federal agency responsible for junk fax enforcement—to report annually to Congress on junk fax complaints and enforcement. The law also required GAO to report to Congress on FCC’s enforcement of the junk fax laws. This report addresses (1) FCC’s junk fax procedures and outcomes, (2) the strengths and weaknesses of FCC’s procedures, and (3) FCC’s junk fax management challenges.

What GAO Recommends

GAO recommends that FCC revise its junk fax guidance for consumers, develop data management strategies, and implement recognized performance management practices in carrying out its junk fax responsibilities. FCC officials said they generally concur with the recommendations. FCC also provided technical comments that were incorporated throughout this report as appropriate.

www.gao.gov/cgi-bin/getrpt?GAO-06-425.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Mark L. Goldstein, (202) 512-2834, goldsteinm@gao.gov.

What GAO Found

FCC has procedures for receiving and acknowledging the rapidly increasing number of junk fax complaints, but the numbers of investigations and enforcement actions have generally remained the same. In 2000, FCC recorded about 2,200 junk fax complaints; in 2005, it recorded over 46,000. Using its procedures to review the complaints, FCC’s Enforcement Bureau (EB) issued 261 citations (i.e., warnings) from 2000 through 2005. EB has ordered six companies to pay forfeitures for continuing to violate the junk fax rules after receiving a citation. The six forfeitures totaled over \$6.9 million, none of which has been collected by the Department of Justice for various reasons. EB officials cited competing demands, resource constraints, and the rising sophistication of junk faxers in hiding their identities as hindrances to enforcement.

An emphasis on customer service, an effort to document consumers’ complaints, and an attempt to target enforcement resources efficiently are the strengths of FCC’s procedures; however, inefficient data management, resulting in time-consuming manual data entry, data errors, and—most important—the exclusion of the majority of complaints from decisions about investigations and enforcement, are weaknesses. FCC’s guidance to consumers does not provide them with all of the information they need to support FCC’s enforcement efforts.

FCC faces management challenges in carrying out its junk fax responsibilities. The commission has no clearly articulated long-term or annual goals for junk fax monitoring and enforcement, and it is not analyzing the junk fax data. Without analysis, FCC cannot explore the need for, or implement, changes to its rules, procedures, or consumer guidance that might help deter junk fax violations or give consumers a better understanding of the junk fax rules. Most important, without performance goals and measures and without analysis of complaint and enforcement data, it is not possible to explore the effectiveness of current enforcement measures.

Citations Issued to Junk Fax Violators, Complaints Resulting in a Citation, and Approximate Percentage of Total Annual Complaints Resulting in a Citation, 2000-2005

Year	Citations issued	Complaints resulting in a citation	Approximate percentage of total annual number of complaints resulting in a citation
2000	29	128	5.7%
2001	18	72	2.9
2002	120	639	8.4
2003	32	68	0.4
2004	38	230	0.7
2005	24	319	0.7
Total	261	1,456	1.3%

Source: FCC.