

## **Advocacy Petitions the Federal Communications Commission to Reconsider the “Do-Not-Fax” Rule**

Citing the concerns of small business trade associations, membership organizations, and non-profits, the Office of Advocacy (Advocacy) petitioned the Federal Communications Commission (FCC) on August 25, 2003, to reconsider its implementation of the new “do-not-fax” provision of the “do-not-call” rule.

- The “do-not-fax” provision would require senders to obtain written permission from recipients before sending them unsolicited commercial 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.
- Advocacy wrote to the FCC on Aug. 14, 2003, asking the FCC to stay enforcement of the rule until the agency has had an opportunity to consider its impact on small entities. On August 19, 2003, the FCC stayed the “do-not-fax” provisions of the rule until January 1, 2005. With this petition, Advocacy is now asking the FCC to change permanently the do-not-fax provisions in light of the impact on small entities.
- Advocacy’s petition was based on how the “do-not-fax” rule would impact small entities. Advocacy suggested ways that the FCC could lighten the burden on small entities, such as reinstating the “Established Business Relationship” and exempting non-profits, creating a presumption that membership in a trade association acts as consent, and clarifying the definition of an unsolicited commercial advertisement.
- The Regulatory Flexibility Act (RFA) and Executive Order (EO) 13272 require government agencies to thoroughly analyze their impact on small entities and consider less burdensome alternatives. Advocacy’s petition was triggered by the FCC’s failure to meet the requirements of the RFA and EO 13272.
- The restriction on unsolicited commercial faxes 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.

For more information, visit Advocacy’s web page at [www.sba.gov/advo](http://www.sba.gov/advo).