

Government regulations - propose regulation change

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Government Regulations - Propose Regulation Change The industry that is currently the of a regulatory change is in the business to business e-marketing sector. The proposed change is posted on the Federal Register of Dec. 14, 2005, pages 74014-74016. It can be viewed at the following website URL: http://www.nam.org/s_nam/bin.aspCID=487&DID=236037&DOC=FILE.PDF

The Proposed Change From the Federal Register

The Fax Ban Coalition has asserted that California's recent change in its Business and Professions Code has lifted the exemption of the Existing Business Relationship (EBR) clause contained in the Do-Not-Fax law of 2005. The EBR clause allowed for the use of unsolicited faxes between businesses with a prior business relationship. The Coalition contends that per the 1991 Telephone Consumer Protection Act (TCPA) the Federal Communications Commission (FCC) has jurisdiction and exclusive authority to regulate interstate faxes.

In the 2003 TCPA Order the Commission determined it would consider state regulations and conflicting state and federal regulations on a case-by-case basis. The Coalition asserts that 50 different state laws would result in undue hardship and expense with respect to interstate business faxing. The Coalition has asked the FCC to exert its preemptive jurisdictional authority and enforce the Federal regulation and not consider the petitions on an individual basis. This would maintain consistency in the EBR exemption in all states as written into the Do-Not-Fax law of 2005.

Comments

As a party with a vested interest in interstate fax communication, I oppose

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the Coalition's blanket approach to advocating preemptive FCC jurisdiction. It is my opinion that business would be better served by postponing a ruling on the petition to give the FCC ample time to draft a proposal to fairly regulate business to business faxing at the federal level. The FCC needs to offer an enforceable solution with definable and verifiable terms, reasonable opt out methods, and an acceptable expiration time of the EBR. In the current climate, without an enforcement mechanism or strict EBR guidelines, the FCC is able to do little about abuse and complaints in regards to these issues.

Business faxing requires exemption with minimal regulation. Business also demands that the rules are clear, enforceable, and applied to all business fairly. It requires a ruling body capable of acting to curb violations with timely and meaningful action. Lacking that in the current climate, the states are our best opportunity to regulate interstate business faxes.

The hardship to manage 50 different state laws will have minimal impact on business. Many businesses already deal with a wide variety of state laws. These conflicts show up in debt collection, telemarketing, and interstate transportation. Regulation is necessary to prevent wasted resources by abuse and unfair advantage. While allowing the states to move forward, I would like to offer the FCC a fair opportunity to implement a workable national regulation plan as outlined in the Junk Fax Prevention Act of 2005.

Deadline

The deadline for submitting comments is Jan. 18, 2006. Submitting comments entitles you to have your comments posted for public review and be considered by the ruling body. Comments that are inappropriate or not

relevant may be discarded at the discretion of the Commission. You further have the right to a response from the ruling body if you raise a substantive issue. This is at the Commission's discretion.

Bibliography

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