



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

News Media Information 202 / 418-0500
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DA 19-159

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON AKIN GUMP STRAUSS HAUER & FELD LLP PETITION FOR EXPEDITED CLARIFICATION OR DECLARATORY RULING

CG Docket No. 02-278
CG Docket No. 05-338

Comment Date: April 8, 2019
Reply Comment Date: April 23, 2019

With this Public Notice, we seek comment on a petition for expedited clarification or declaratory ruling filed by Akin Gump Strauss & Feld LLP (Akin Gump).¹ Akin Gump asks the Federal Communications Commission to clarify the definition of “sender” under the facsimile advertising provisions of the Telephone Consumer Protection Act of 1991 (TCPA).² Specifically, Akin Gump requests that the Commission clarify that “a fax broadcaster is the sole liable ‘sender,’ when it both commits TCPA violations and engages in deception or fraud against the advertiser (or blatantly violates its contract with the advertiser) such that the advertiser cannot control the fax campaign or prevent TCPA violations.”³

We seek comment on this and any other issues raised by the *Petition*.

Filing Requirements. Interested parties may file comments on or before the date indicated on the first page of this document.⁴ All filings must reference CG Docket Nos. 02-278 and 05-338. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).⁵

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

¹ Akin Gump Strauss Hauer & Feld LLP, Petition for Expedited Clarification or Declaratory Ruling, CG Docket Nos. 02-278, 05-338 (filed Feb. 26, 2019) (*Petition*).

² *Petition* at 1. The TCPA is codified in 47 U.S.C. § 227. The Commission’s implementing rules on facsimile advertising are found in 47 CFR § 64.1200(a)(4), (f). See also *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Junk Fax Prevention Act of 2005*, CG Docket Nos. 02-278, 05-338, Report and Order and Third Order on Reconsideration, 21 FCC Rcd 3787, 3808, para. 39 (2006).

³ *Petition* at 3.

⁴ 47 CFR § 1.2.

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁶ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

Additional Information. For further information, contact Erica H. McMahon, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at (202) 418-0346 or Erica.McMahon@fcc.gov.

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⁶ 47 CFR §§ 1.1200 *et seq.*