

BEFORE THE
Federal Communications Commission

WASHINGTON, D. C. 20554

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NOV 23 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)
)
)
Rules and Regulations Implementing)
the Telephone Consumer Protection)
Act of 1991)

CC Docket No. 92-90

To: The Commission

PETITION FOR RECONSIDERATION
OF THE
FAIR FAX COALITION

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November 23, 1992

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SUMMARY

Members of the Fair Fax Coalition ("the Coalition"), have been involved in the provision of products and services to, or have directly engaged in, facsimile advertising services. The Coalition seeks reconsideration and clarification of the Federal Communications Commission's Rules implementing the Telephone Consumer Protection Act of 1991 in three respects.

First, the Coalition urges that the constraints on unsolicited facsimile advertising be clarified to provide a mechanism for a fax advertiser to establish the "prior express invitation or permission" necessary to constitute a solicited advertisement. Specifically, such a mechanism would allow the advance notification, by facsimile, of an intended transmission of one or a series of faxed advertisement(s). The notification would include a no-cost-to-the-recipient negative option, i.e., a toll-free opportunity for the recipient to indicate a desire not to receive the faxed advertising message. Absent exercise of the negative option, permission would be deemed to have been given.

Second, the Coalition requests an expansion of the class of entities exempted from liability for violation of the unsolicited fax advertising ban. The Commission expressly exempted common carriers which simply provide transmission facilities used to transmit unsolicited faxed advertisements, absent a high degree of involvement in an illegal use and failure to take steps to prevent such transmission. The Coalition asks that the exempt class be expanded to encompass facsimile service providers which are not common carriers, but which provide facsimile services similar to

those provided by common carriers, subject to the same safeguards imposed on common carriers.

Finally, the Coalition urges that the Commission reconsider, and delete from its newly adopted Rules, the actual ban on the transmission of unsolicited advertising by facsimile. By including the ban in its Rules, the Commission asserts exclusive jurisdiction over the industry and the industry's dispute resolution, a consequence never intended by Congress. By so doing, the Commission significantly increases the penalty for violation of the Act (and now the Commission's Rules) far beyond the careful crafting of remedies and penalties in the Act.

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PETITION FOR RECONSIDERATION

INTRODUCTION

The Fair Fax Coalition ("the Coalition"), an organization formed by the entities listed in Appendix A, by and through its attorneys, and pursuant to Section 1.429 of the Federal Communications Commission's Rules and Regulations ("Rules"), hereby petitions the Commission for reconsideration, as set forth herein, of its Report and Order in CC Docket 92-90, released October 16, 1992. The Coalition requests that the Commission clarify its definitions and policies to provide a mechanism for those companies engaged in facsimile advertising to establish the prior express invitation or permission that is necessary to constitute a solicited advertisement. Specifically, the Coalition proposes a procedure to allow the advance notification, by facsimile, of an intended transmission of faxed advertising in conjunction with a procedure guaranteeing that the intended recipient has a no-cost method of indicating a desire not to receive the transmission. Also, the Coalition requests that the Commission broaden its identification of those classes of entities not liable under the law to include all service providers, not just common carriers, if they meet the other tests set forth in the Report and Order.

TIMELINESS

This Petition for Reconsideration is timely. Pursuant to the requirements of Public Law 102-243, the Commission issued its Report and Order in the above-referenced proceeding on October 16,

1992. That Report and Order was published in the Federal Register on October 23, 1992 (57 Fed. Reg. 48,333).

Section 1.429(d) of the Commission's Rules requires petitions for reconsideration to be filed within thirty days after the applicable public notice date, and Section 1.4(b)(1) defines the date of public notice of a document in a rulemaking proceeding as the date of its publication in the Federal Register. Because the due date for petitions in this instance falls on a Sunday, pursuant to Section 1.4(j) of the Rules, petitions for reconsideration should be filed on the next business day, in this case, Monday, November 23, 1992.

STANDING

The Fair Fax Coalition has the requisite standing to petition the Commission for reconsideration. Section 1.429(a) provides that any interested person may petition for reconsideration. Although the Coalition and its constituent members did not participate at the comment stage of the rulemaking, the Commission has held that in rulemaking proceedings it is neither necessary for a petitioner to have participated in the comment stage nor to demonstrate why the petitioner did not participate. [See FM Channel Assignments, FCC2d, 49 RR2d 703 (1981).]

As noted in Appendix A, the members of the Fair Fax Coalition are all companies engaged in the facsimile transmission industry. The Coalition includes hardware manufacturers, programmers, service industries, corporations which use facsimile advertising in their businesses, facsimile newsletter publishers, and an association.

Without further clarification by the Commission, the ban on unsolicited advertisements transmitted by facsimile machines will have a significant and adverse impact on the business of these companies; will adversely affect their investment in people, equipment, and software; and will adversely affect businesses which depend on facsimile advertising to notify potential customers of the availability of their products and services.

REQUEST 1

THE COMMISSION SHOULD CLARIFY AND DEFINE THE TERM "PRIOR PERMISSION" AS USED IN THE STATUTE TO ALLOW THE USE OF A NOTIFICATION AND RIGHT OF REJECTION PROCEDURE.

The Fair Fax Coalition requests that the Commission further clarify the "prior express invitation or permission" criterion imposed by Section 64.1200(f)(5) of the Rules by establishing a procedure by means of which facsimile telemarketers can ensure that a facsimile advertising message is not "unsolicited" as that term is defined both in the Commission's Rules and in Public Law 202-243, Section 277(b)(1)(c). Specifically, the Coalition requests that the Commission approve, as a clarification, a procedure whereby a fax telemarketer may first send, via facsimile, a letter that does not contain advertising to a proposed advertising recipient, advising the recipient that it will be receiving fax advertising messages unless the recipient objects now or in the future. The letter should explain the proposed service and explain that the recipient need only advise the sender by a toll-free

telephone line, or a collect telephone call, if the recipient does not want to receive the proposed fax advertising messages. It will allow legitimate and timely fax advertising to continue to those who wish to receive the messages, while allowing for a quick, easy, and no-cost method for the rejection of the messages for any reason. It provides a recipient with unprecedented control over the receipt of advertising.

The Commission notes, in Paragraph 5 of its Report and Order, supra, that the Rules adopted attempted to balance the privacy concerns which the Telephone Consumer Protection Act of 1991 sought to protect, and the continuing viability of beneficial and useful business services. The use of the facsimile machine to transmit commercial advertising messages is an integral part of the telemarketing industry and, as the Commission has previously observed, that industry generates more than 400 billion dollars in commercial activity each year through 30,000 businesses employing more than 300,000 people. (See Report and Order, supra, Para. 3.) Rules adopted for the telemarketing industry should be industry-wide, and should not single out one phase of the industry for special regulation, absent a specific finding that some disparate treatment is required. The Coalition asks only that a procedure be established that allows recipients to indicate that they do not wish to receive advertising facsimiles.

The industry is well aware that Congress passes the laws and that the Commission, in this instance, has not been given wide latitude by Congress. However, as the Commission observed, the President of the United States, in signing this bill, implicitly

acknowledged that the Commission has ample authority to preserve legitimate business practices. The facsimile business is a legitimate, timely, and important business, and the Fair Fax Coalition respectfully urges the Commission to use its authority to clarify its Rules as outlined above, as it did in determining that a prior business relationship constituted express consent.

In Paragraph 34 of the Report and Order, supra, the Commission found that

a solicitation to someone with whom a prior business relationship exists does not adversely affect subscriber privacy interests....
[S]uch a solicitation can be deemed to be invited or permitted by a subscriber in light of this business relationship.

Citing this paragraph, the Commission found, at footnote 87, that facsimile transmissions from persons or entities having an established business relationship with the recipient can be deemed to be invited or permitted by the recipient. The Coalition agrees, but the facsimile industry needs a further mechanism to further implement the principle as applied to it.

The Fair Fax Coalition asks the Commission to expand its views to approve the reasonable method set forth herein for a fax advertiser to establish the prior permission required by the statute. The procedure suggested is fully consistent with the statute. The law only prohibits an unsolicited advertisement; it does not prohibit an unsolicited letter that does not contain advertising. Accordingly, as proposed by the Coalition, the letter explanation to potential recipients of fax advertising clearly setting forth the fax telemarketer's proposal to send advertising,

along with an easy, no-cost-to-the-recipient method of rejecting that advertising, strikes a reasonable balance between the competing privacy and commercial interests, given the present state of the law.¹

The growth of the fax advertising industry is proof of the industry's effectiveness as a marketing medium and it clearly demonstrates that advertising via facsimile transmission is in the mainstream of the advertising industry. Facsimile transmission is, by far, the fastest method of advertising. Companies are able to very rapidly disseminate information about overstock sales, perishable goods, limited-quantity items, and the whole range of potential advertising in which speed, cost, or impact is a factor.²

Fax advertising is also efficient because it has the capability of targeting precisely the types of business advertisers seek to reach. The ability to rapidly provide a hard copy of advertising to a select group materially assists businesses in reducing their advertising costs and increasing the effectiveness of the advertising message. These costs reductions contribute to the overall efficiency of a business and, by extension, reduce the cost to consumers of the products being advertised.

¹ The Fair Fax Coalition agrees with previous commenters that the law itself violates commercial rights of free speech guaranteed by the Constitution. However, the question of the constitutionality of the law is not before the Commission. See Comments of Mr. Fax, filed May 26, 1992.

² See, for example, Appendix A. Specialty Steel and Forge uses fax advertising to advise potential customers of commodity pricing. At Appendix B is described the functions of one major fax service provider, GammaLink, and the benefits of fax advertising.

The use of fax advertising is also beneficial to the recipient. The ability to review a hard copy fax quickly, and to discard it if the recipient so desires, is a decided advantage over talking either to salespeople or to telephone telemarketers, which tie up far more time for the recipient.

In this instance, the market can and should control fax advertising. Fax advertisers have learned, for instance, that it is, under certain circumstances, more effective to send the fax advertising messages at night, when the machines are otherwise not being used.³ Under the methodology proposed by the Fair Fax Coalition, if a fax advertiser abuses its potential market, it will simply be subject to a loss of that market by the simple expedient of recipients requesting that they receive no further faxed advertising. Conversely, fax advertisers who provide a non-intrusive service will prosper.

As previously reported to the Commission, the State of California has also considered the question of facsimile advertising and has completed its own balancing of interests. A bill passed by the California General Assembly and signed into law by the Governor of California on August 30, 1992, provides:

(a) No person or entity conducting business in this state shall fax or cause to be faxed documents consisting of unsolicited advertising material for the lease, sale, rental, gift offer, or other disposition of realty, goods, services, or extension of credit unless that person or entity establishes a toll-free telephone number which a recipient of the unsolicited faxed documents may call to notify the sender not to fax the recipient any further unsolicited documents.

³ See Appendix A concerning the business and practices of Distribution Plus.

(b) All unsolicited faxed documents subject to this section shall include a statement, in at least 9-point type, informing the recipient of the toll-free telephone number the recipient may call, and an address the recipient may write to, notifying the sender not to fax the recipient any further unsolicited faxed documents to the fax number, or numbers, specified by the recipient.

(c) Upon notification by a recipient of his or her request not to receive any further unsolicited faxed documents, no person or entity conducting business in this state shall fax or cause to be faxed any unsolicited documents to that recipient.

Essentially, California recognized that there is a significant industry involved with facsimile advertising and that facsimile advertising is efficient, effective, and should not be prohibited.

The California law also balances the respective rights of the recipient and the sender. On the one hand, the law allows unsolicited fax advertising, yet provides the recipient with a simple method of shutting off any future advertising if, for any reason whatsoever, the recipient does not wish to receive further advertising. Clearly, the fax advertiser who abuses this right will have a rapidly dwindling client list.

Despite California's recent adoption of this law, it would appear that the California law is pre-empted by the Telephone Consumer Protection Act of 1991, supra. Section 227(e)(1) of the TCPA pre-empts those state laws that impose less restrictive requirements. The California law is less restrictive because it allows for the distribution by facsimile of unsolicited advertising. The procedure suggested by the Fair Fax Coalition would preserve the principle embodied in that law by allowing an advertiser to establish the necessary relationship with a recipient to qualify under the Act, while affording to the recipient the

protections contemplated under the law.

The Fair Fax Coalition submits that the Commission will be well within its authority in clarifying the types of relationships that would remove initial facsimile contacts from the "unsolicited advertisements" prohibition of the TCPA.

REQUEST 2

THE COMMISSION SHOULD EXPAND THE EXEMPTION FROM LIABILITY OF COMMON CARRIERS TO INCLUDE SERVICE PROVIDERS, SUBJECT TO THE SAME SAFEGUARDS TO PROTECT THE PUBLIC.

The Fair Fax Coalition also requests that the Commission clarify and revise its holding in Paragraph 54 to encompass facsimile service providers which are not common carriers, but which provide a service similar to those provided by common carriers. In the SNET and Sprint comments, and the reply comments of AT&T, it was argued that carriers which simply provide transmission facilities used to transmit others' unsolicited facsimile advertisements may not be held liable for any violations of Section 64.1200(a)(3). At the request of those carriers, the Commission found that, in the absence of a "high degree of involvement or actual notice of an illegal use and failure to take steps to prevent such transmissions," common carriers (emphasis added) would not be held liable for the transmission of a prohibited facsimile message.

The Commission, in exempting common carriers, did not rely on those entities' common carrier status; rather, it exempted only common carriers which did not have a high degree of involvement or actual notice of an illegal use and failure to take steps to

prevent such transmissions. A common carrier with a high degree of involvement or actual notice would still be held liable. The Fair Fax Coalition asks that the Commission recognize that there are service providers,⁴ which, like common carriers, merely provide facsimile transmission facilities for others' messages. As the Report and Order now stands, at Paragraph 54, only common carriers are exempt from liability for the transmission of prohibited facsimile advertising messages. It is noted that both AT&T and Sprint, in their comments in this proceeding, were careful to refer to their services as enhanced service providers, not carriers. In the case of Sprint, it is highly unlikely that either SprintFAX or Sprint Telemedia, is a common carrier under the Commission's definition. In fact, the language proposed by Sprint, on page 6 of its comments, draws that distinction:

This section does not apply to a carrier or enhanced services provider that forwards, at a customer's direction, an unsolicited advertisement.

It is submitted that, as proposed by AT&T and Sprint in their original comments, and by the Coalition in this petition, service providers should be afforded protection from liability under the Act, provided that the service provider meets the test of having neither a high degree of involvement nor actual notice of an illegal use in the transmission of fax advertising.

⁴ See, for example, the letter of Xpedite Systems, Inc., dated February 13, 1992, and submitted in this proceeding. (A copy of that letter is attached hereto as Appendix C.)

REQUEST 3

THE COMMISSION SHOULD DELETE PROPOSED SECTION 64.1200(a)(3) AS CONTRARY TO THE INTENT OF CONGRESS IN PROVIDING FOR ENFORCEMENT OF THE LAW BY THE STATES OR BY PRIVATE RIGHT OF ACTION.

The Commission, in independently adopting the prohibition against unsolicited facsimile advertising contained in Section 64.1200(a)(3) as part of its own Rules, goes far beyond the intent of Congress in the adoption of the law, confers jurisdiction on the Commission that Congress did not intend, and significantly increases the penalties for any violation of the Act, no matter how inadvertent, far beyond the intent of Congress.

In amending the Communications Act of 1934, the Congress specifically provided for enforcement of amended sections of the law either by the states, as they may choose, or by private right of action. By the separate express adoption of the prohibition against unsolicited facsimile advertising in the Commission's Rules, the FCC confers upon itself the authority to regulate fax advertising and injects itself through its complaint procedure, squarely in the middle of any disputes between fax advertisers and their recipients.

It is unnecessary for the Commission to assert jurisdiction over those controversies. Without asserting jurisdiction, the Commission still has the authority to adopt policy and to clarify the meaning of terms in the Communications Act. Having adopted a policy, and having clarified the meaning of the terms in the Act, the Commission can step back and allow enforcement of this particular section by either the states or the private right of

action provided by the law. At Section 277(b)(3) of the Act, supra, the Congress provided for enforcement by a person or an entity, and provided for the remedy of an injunction and/or the recovery of money damages, (in certain circumstances treble damages). Congress additionally provided for state enforcement of the Act, specifying the limits of the states' authority, the courts in which enforcement may take place, and described the authority of those courts.

The Congress also recognized that the Commission would be adopting implementing regulations (Section 227(f)(7)), and that, to the extent that the Commission adopted implementing regulations, it would have the authority to enforce its regulations, to and including the exercise of complete jurisdiction over the regulated matter. Congress recognized that the exercise by the Commission of jurisdiction in the form of a consideration of a complaint would bar any state action. It is clear from the Act, however, that Congress intended that Commission jurisdiction extend only to implementing regulations (such as the use of a national database, had that been authorized by the Commission,) or technical regulations (such as those adopted by the Commission concerning automatic telephone dialing and the information required to be printed on each page of facsimile). By adopting all of the prohibitions contained in the Act as its own, the Commission confers upon itself exclusive jurisdiction over enforcement. The Fair Fax Coalition submits that that is a wholly different procedure from the adoption of implementing regulations.

Further, the independent assertion of jurisdiction in this

area by the Commission should be the subject of a separate rulemaking action. There was no indication in the Notice of Proposed Rulemaking that the Commission intended to reserve for itself exclusive jurisdiction over these disputes, nor is there any acknowledgement in the Report and Order that the penalties for violation of this Commission rule can far exceed anything intended by Congress as a reasonable penalty.⁵ Most fax advertisers are small businesses, which typically lack the staff, capability, and awareness of the nuances of the Commissions Rules and policies necessary in order to protect themselves against the massive liabilities the Commission imposes on those it regulates.

The change in venue alone can have serious adverse consequences on small businesses. Rather than defending themselves in courts where a violation was alleged to have occurred and where the witnesses are located, these businesses must now defend themselves in Washington where the Federal government becomes the complainant.⁶ The Coalition submits that this result goes far beyond the extent Congress intended either in the adoption of the Act, or in its instructions to the Commission to adopt implementing

⁵ See, for example, Standards for Assessing Forfeitures, 6 FCC Rcd 4695 (1991). The penalty for transmitting an unsolicited advertisement by fax was set by Congress at \$500. The Commission, however, assesses a forfeiture of \$7,000 for failing to answer a letter from the Commission (See Appendix 1). The Commission cannot take action on the finest violation, since, as non-licensee or non-applicant, a forfeiture cannot be assessed on the first violation, a result not intended by Congress either.

⁶ Commission consideration of a complaint bars state enforcement or private right to action. If the Commission retains jurisdiction, it should fully explain its procedures and policies, explain in detail how the dual jurisdiction would work, and explain how the consideration of a complaint would affect state enforcement proceedings already underway.

regulations.

CONCLUSION

The Fair Fax Coalition urges the Commission to adopt the clarification of its policies, as proposed herein, to allow the procedure set forth by the industry be used to establish a necessary relationship with a facsimile recipient so that it is clearly understood that a facsimile advertising message would not be an unsolicited advertisement. The Commission is also urged to exempt from liability under the Act service providers as well as common carriers, so long as the former meet the protections outlined in the Report and Order by the Commission for common carriers. Finally, it is requested that the Commission delete from its proposed Rules the prohibitions contained in the Act itself, thereby reserving to the states, or to individuals, the rights of action specified under the law.

Respectfully submitted,

THE FAIR FAX COALITION

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November 23, 1992

Appendix A

The following corporations, which together comprise the Fair Fax Coalition, represent the spectrum of interests potentially adversely affected by the Commission's adoption of the unnecessarily broad Rules implementing the facsimile provisions of the TCPA: Aristo Marketing Corporation; Direct Fax Media; Distribution Plus; Faxtel Communications, Inc.; Florida Lawyers Mutual Insurance Company; Gammalink; International Computer Fax Association; Realty Fax; Specialty Steel and Forge; Sun Opsys; TechProse, Inc.; World Data Delivery Systems, Inc.

Each of these entities has been involved, to a greater or lesser degree, in the provision of products or services to, or directly engaged in, facsimile advertising. The character and scope of that involvement is described below.

Aristo Marketing Corporation is a fax service bureau whose entire business consists of providing fax-on-demand services for customers.

Direct Fax Media, a partnership with a major investment in fax broadcasting equipment and the ability to provide fax retrieval and fax-on-demand services, has provided advertising services to local businesses. The company estimates that it could go out of business unless the relief requested in this Petition is granted.

Distribution Plus, a multi-million-dollar computer wholesaling firm, has faxed a nightly newsletter to its customers and targeted prospects. The newsletter has typically included an advertised

special, and advertised specials have periodically been faxed independently from the newsletter. Requests to be removed from the recipient list have been honored immediately. The company itself relies heavily on faxes from existing and potential suppliers for current pricing on computer products and services, enabling it to enjoy the benefits of competitive prices. The contemplated regulatory restraints, if maintained without the modification proposed, would cost the company millions of dollars in lost revenues and thousands in overcharges, and would require the dismissal of thirty additional employees now being recruited to implement an expanded fax marketing effort.

Faxtel Communications, Inc. is a fax service bureau specializing in fax broadcasting and fax-on-demand services, as well as an authorized dealer for two major manufacturers of facsimile machines. All of the company's marketing has been done by fax, and advances in fax technology have enabled prompt and reliable removal from recipient lists of persons preferring not to receive facsimile advertising. Retention of the Rules without clarification would seriously damage the business.

Florida Lawyers Mutual Insurance Company, which markets insurance to the 45,000 attorneys who practice in Florida, regards fax advertising as a strong business tool, had planned to use fax to an even greater degree in the coming year, and believes its growth would be seriously hampered by the imposition of the Rule in its present form.

Gammalink is the originator of the computer-to-fax industry, by virtue of its provision of the technology platform for

applications developed by worldwide telecommunications carriers and major non-telecommunications industries, including Eastman Kodak, IBM, Morgan Stanley, Swiss Bank Corp., Beatrice Hunt Wesson, and Sprint International. Gammalink continues to lead in the development of computer-based fax products (e.g. local area network E-mail/fax offerings, developmental tools, and high end commercial fax products), and would be severely damaged if the Rules in their present form were maintained. Many small companies using Gammalink technology would be put out of business; innovation would be discouraged; and business consumers would be deprived of time-sensitive, crucial commercial information.

International Computer Fax Association is a forty-two-member group including computer fax hardware manufacturers, computer software developers, consultants, and one of the Bell operating companies. The cumulative dollar impact of the Rules in their present form on the association's members would be in the millions; certain members would be wiped out entirely.

Specialty Steel and Forge, a metals material distributor with 20 employees, regularly uses fax to provide price quotations for its goods and services to potential customers. In addition, the company has had great success in using direct fax promotion of specific products to potential customers. Implementation of the Rules in their present form would require a complete revision of the company's existing business plan, at a cost equivalent to 20-25% of its present annual revenues.

SunOpsys is a small company specializing in UNIX engineering service and support. The company would be deprived of an

immediate, effective, business tool if no mechanism existed for directing faxed advertising to potential clients.

TechProse, Inc. is an electronic marketing and publishing company. It publishes "Marketing with Technology News," a newsletter that is available only by fax, and the report series "Using Fax as a Strategic Weapon." In addition, the company provides clients with electronic marketing expertise by designing and implementing customer-driven marketing, research and publication strategies, specializing in the creative use of computers, telecommunications, audiotext, and facsimile transmission. TechProse has marketed its newsletter exclusively by direct fax broadcasting to new prospect. Restricting fax advertising as contemplated would severely limit its marketing activities and halve its revenues.

World Data Delivery Systems, Inc. is a fax service bureau with 29 employees. Among the services it offers are fax-on-demand, data faxes, bulletin boards, and fax broadcasting. The company would be dealt a severe blow, requiring a substantial reduction in staff, if the fax advertising Rules as adopted were retained without the clarification sought in this Petition.

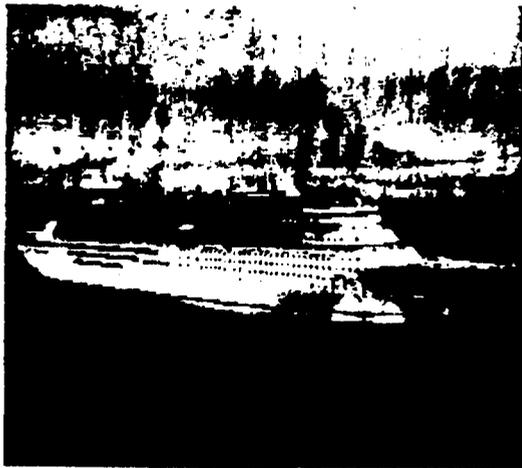
GammaLink Case History

Royal Caribbean Boosts Bookings with GammaLink



What started with "The Love Boat" has now become a boom industry—vacation cruises. Competing cruise lines are locked in hand-to-hand combat for available vacation dollars. This particular battle is waged in great part within the country's 36,000 travel agencies, where group and individual tours are booked.

So how did one cruise line win the hearts and minds of the nation's travel agents (and the travellers' dollars)? For Royal Caribbean Cruise Line—the industry's



Royal Caribbean Cruise Lines depends on GammaLink fax boards to communicate with 20,000 travel agents.

second-largest cruise line—the answer was GammaFax PC-to-fax technology provided by GammaLink.

The Miami, Florida-based firm had been using traditional technology to communicate with its network of travel agents across the country—direct mail, advertising, and brochures. The problem was that its "Cruise-A-Grams," once printed, still had to be sent via the regular mail service. This meant delays in getting crucial information out to travel agents regarding fares, promotions, and itinerary changes. "We would even have to pull our district sales managers out of the field and put them on the phones in some cases," says David

Hancock, Vice President of Field Sales for Royal Caribbean.

Quick Confirmation Needed.

Even more pressing a problem for Royal Caribbean was the need for swift confirmation of reservations. In the parlance of the travel industry, the initial traveller's reservation is "taking out an option." Many such reservations are made months in advance, and may eventually be cancelled, changed, or simply ignored by the traveller. Royal Caribbean began exploring ways to speed up the communications process with the assistance of Cambridge Technology Group, a systems integrator based in Cambridge, MA. Cambridge is a 10-year old firm specializing in systems integration, rapid prototyping, and executive education, with particular expertise in rapid systems development.

Howard Kolodny, vice president of software products at Cambridge, says that while the overall system configuration for Royal Caribbean was complex,

The GammaFax Solution

Problem
Delayed reservation confirmations gave inaccurate passenger count and could only be estimated.

Solution
GammaLink fax broadcast and on-line fax capabilities provide immediate confirmation and secure anticipated revenues.

the actual solution in terms of hard copy output was simple: a total of 16 GammaFax CP boards installed in two NCR 80286 PCs.

"We decided that PC-to-fax represented the quickest, most cost-effective way to link Royal Caribbean with its agents," explained Kolodny. "And GammaFax CP was the only PC-fax board on the market that met our needs for multi-board support on a single PC chassis."

"CruiseFax" incorporates reservation information from an IBM AS400 to enhance Royal Caribbean's communications with the travel agent. An NCR Tower is connected to the AS400 via LU6.2; the Tower in turn is linked via Ethernet to the two NCR PCs which serve as the communication gateways to Royal Caribbean's agents.

A PC-to-Fax Commitment.

Cambridge Technology used its proprietary "Surround" architecture and tools to develop the software that links the IBM and NCR systems with the PCs. The software then takes the data received and formats it into the appropriate documents. Using GammaLink's communications software, the 16 GammaFax CP cards then broadcast a wide variety of documents to approximately 1,200 agents throughout the United States.

Royal Caribbean was so committed to PC-to-fax that they purchased nearly 1,000 facsimile machines which they in turn provided free to travel agents, all to ensure receipt of faxed communications.

The benefits of the new system were immediately apparent to Royal Caribbean. "We now have instant verification of reservations," says Royal Caribbean's Hancock. "We have created a two-part confirmation form; one part is kept by the travel agent, and the other is given to the client. It increases the client's commitment and improves the level of service they receive from us and the travel agent."

Just as important as reservation confirmations are such things as marketing information—new cruise packages,

pricing changes, and the like. "It's made a big impact," says Hancock. "We broadcast fax-based communications every week to our agents. They love it, and it means a constant flow of communications."

Rapid Development Cycle.

Kolodny of Cambridge Technology reports that the entire system cycle, from planning to final installation, was very rapid. "We had our initial consultations with Royal Caribbean in April, with a pilot system installed in May. By the end of July, the installation was up and running."

Royal Caribbean's Hancock is enthused about system performance. "We have increased our visibility with a key audience, and the agents are pleased with the benefits they receive with instantaneous communications. On a scale of 1 to 10, this is a 9.5 for us."

Royal Caribbean Cruise Line

Customer:

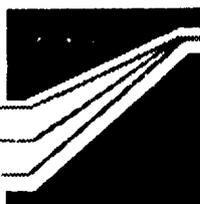
David Hancock
Director of Field Sales
Royal Caribbean Cruise Line
Voice: 1.305.379.2601

Reseller:

Howard Kolodny
Cambridge Technology Group
VF Software Products
Voice: 1.617.349.1180
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Mary Clare Cheney
Director of Marketing Programs
1314 Chesapeake Terrace
Sunnyvale, CA 94089
Voice: 1.408.744.1400
Fax: 1.408.744.1900



Xpedite Systems, Inc.

February 13, 1992

Mr. Alfred C. Sikes
Chairman
Federal Communication Commission
1919 M Street NW
Washington, DC 20554

Dear Mr. Sikes:

I'm writing regarding Senate Resolution 1462, amending the Communication Act of 1934, with hopes that you will seek our comments as an informed member of industry as you draw regulations regarding the fax portion of this bill.

I work for a small company in Eatontown, NJ. Our primary business is delivering fax messages for businesses to their trading partners. We've built this business from nothing in July, 1988 to a \$7 million dollar business today and currently employ more than 60 people - up from ten employees at our inception. To the best of our knowledge we are the largest fax broadcasting company in the Nation.

Some applications for our service include press releases (*in fact, one of the co-sponsors of SR 1462, Senator Paul Simon used our service in his bid for re-election*), financial rate information and commodity prices.

Most of our customers send to their trading partners on a regular basis. They store correspondents fax numbers in our computer and send the document to be delivered to our computer and we take care of the deliveries.

Since we introduced this service, more than 20 competitors have emerged, offering similar services. These competitors include AT&T, MCI, Sprint and Cable & Wireless. But, most of them are small businesses. In the midst of an economic slow down, this fax service business has been a growth industry. Unlike the manufacture and sales of fax machines, which is primarily Japanese, this business is almost entirely home-grown.

SR 1462, as written, could be interpreted to restrict virtually all faxing unless a prior approval is received. This could include manufacturers sending out pricing to dealers and distributors. The bill doesn't indicate that a previous business relationship amounts to tacit approval to send a solicitation by fax. As the bill is written, it