

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON A PETITION FOR DECLARATORY RULING
FILED ON AMERIFACTORS FINANCIAL GROUP, LLC.

CG Docket No. 02278

CG Docket No. 05338

Hello,

Receiving a fax by email is not a fax, its an email. I read that westfax decision, its wrong. My business sends and receives faxes from my ipad, it has no telephone line. I called my fax company and they say it's completely sent though the internet never a telephone line. I don't have a fax machine or a printer just an ipad.

Look at this WestFax Order:

*The TCPA applies to a fax that is sent as a fax **over a telephone line** to a device that meets the statutory definition of “**telephone facsimile machine**,” which, as discussed above, is the case here. There is an end-to-end communication that starts when the faxed document is sent **over a telephone line** and ends when the converted document is received on a computer.*

*By contrast, a fax sent as an email over the Internet – e.g., a fax attached to an email message or a fax whose content has been pasted into an email message – is not subject to the TCPA. While we understand that the harm to recipients may be the same whether the internet fax begins as a fax or email, the **Commission has previously interpreted the TCPA to apply only to those that begin as faxes. The Commission’s statements address separate factual situations – one involving a communication originating as a fax over a telephone line and another communication originating as an email over the Internet.***

This Westfax order is actually not right. Look what the FCC says, lets break that down:

The TCPA applies to a fax that is sent as a fax over a telephone line to a device that meets the statutory definition of “telephone facsimile machine,” (It says “The TCPA applies to a fax that is sent over a telephone line” If the fax was not sent by a telephone line there is not violation!) which, as discussed above, is the case here. **There is an end-to-end communication that starts when the faxed document is sent over a telephone line and ends when the converted document is received on a computer.** (So not sent by a telephone line or received via a telephone line there is no violation!)

By contrast, a fax sent as an email over the Internet – e.g., a fax attached to an email message or a fax whose content has been pasted into an email message – is not subject to the TCPA. (The FCC states clearly that a fax sent via email does not violate the TCPA, how about releasing a public statement that states very clearly that a fax sent via internet is not a violation of the TCPA) While we understand that the harm to recipients may be the same whether the internet fax begins as a fax or email, the Commission has previously interpreted the TCPA to apply only to those that begin as faxes **(FCC, please release a public notice that if a fax is sent digitally via the internet is not a violation of the TCPA).** The Commission’s statements address separate factual situations – one involving a communication originating as a fax over a telephone line and another communication originating as an email over the Internet. faxes **(FCC, please release a public notice that if a fax is sent digitally via the internet is not a violation of the TCPA).**

The Westfax order makes it clear that the FCC made a mistake in that order. The FCC has said the sending and receiving of a digital fax/e-fax has to be sent and received by a “telephone line”. The TCPA fax law says the same

thing “has to be sent and received by a telephone line” but the Westfax order cherry picks just the receiving end and states that it does not have to use a telephone line? That’s not what the TCPA states. Receiving and e-fax causes no damages. Would that mean if the petitioner sent it via the internet it did not violate the TCPA?

I do not receive faxes by a fax machine, I receive them in my email. It is not a fax received by a fax machine, I don’t have a telephone line.

Thank You,

Gary Evans