

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Petition of Joseph T. Ryerson & Son, Inc.)	CG Docket No. 02-278
for Retroactive Waiver of 47 C.F.R.)	
§ 64.1200(a)(4)(iv))	CG Docket No. 05-338
)	

REPLY IN SUPPORT OF PETITION FOR WAIVER
BY JOSEPH T. RYERSON & SON, INC.

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Dated: July 17, 2015

Petitioner Joseph T. Ryerson & Son, Inc. (“Ryerson”), respectfully submits this Reply (“Reply”) in Support of Petition (“Petition”) for Waiver pursuant to 47 C.F.R. § 1.3 and the October 30, 2014 FCC Order (“FCC Order”) and June 26, 2015 Public Notice in the above-captioned dockets. For the reasons set forth in the Petition and this Reply, the FCC should grant the Petition for good cause shown.

In opposition to the Petition, sole commenter Connector Castings, Inc. (“Connector”), argues primarily that because Ryerson is what Connector characterizes as a big corporation, Ryerson should not benefit from a waiver of the opt-out notice requirement as to solicited facsimiles. *See* Response at p. 2. Connector claims that because Ryerson makes money and has employees, it had the resources to file a petition for waiver by April 30, 2015. *Id.* But no matter what its size or how many employees it has, Ryerson had no reason to file a petition for waiver by April 30, 2015, because it was not aware that anyone objected to the single facsimile placed at issue in Connector’s putative class action lawsuit until Ryerson was served with the Missouri state court petition two weeks after April 30, 2015, on **May 14, 2015**.

Notably, the date of the single fax attached to Connector’s putative class action petition was **April 22, 2014**. *See Connector Castings, Inc. v. Joseph T. Ryerson & Sons, Inc.*, Case No. 4:15-cv-00851-SNLJ (E.D. Mo.) (DE 3, Ex. 1). But Connector — disingenuously claiming to have been annoyed by having received a single facsimile from a vendor from which *it had previously purchased goods* — chose to remain silent about its supposed annoyance until more than one year later when it filed a putative class action **on April 30, 2015** in Missouri state court.

Why did Connector wait so long? The filing date is no coincidence. Connector chose to wait until April 30, 2015, to file suit (rather than make any effort to cease future faxing by contacting and complaining to its vendor, Ryerson) so Connector could argue after April 30,

2015, that Ryerson allegedly failed to petition for a retroactive opt-out-notice waiver as to solicited faxes within six months of the FCC Order. For more than a year, Connector chose not to inform Ryerson of any alleged objections Connector had so Connector could try to artificially amplify its alleged damages. For that reason alone, good cause exists to grant the Petition.

Connector is not a babe in the woods victimized repeatedly and blamelessly by scurrilous fax spammers. Connector is a recidivist TCPA plaintiff that intentionally collects faxes and avoids opting out of future transmissions so that it can sue and collect cost-of-defense settlements to pad its own pockets and the pockets of its lawyers. In 2015 alone, Connector has filed at least 14 TCPA putative class actions against victims of its and its counsel's questionable entrepreneurial litigation strategy.¹ Unfortunately, when it sold goods to Connector, Ryerson did not realize that Connector had aspirations to become a serial TCPA plaintiff.

The true victim here is Ryerson, not Connector. Ryerson, a legitimate business that has never been sued in a TCPA lawsuit, has been forced by Connector to remove a state-court putative class action to federal court, defend in federal court, and petition for a waiver before the

¹ See *Connector Castings, Inc. v. Joseph T. Ryerson & Sons, Inc.*, Case No. 4:15-cv-00851-SNLJ (E.D. Mo.); *Connector Castings, Inc. v. ICG of North America, et al.*, Case No. 1522-CC00209 (St. Louis, Mo.); *Connector Castings, Inc. v. International Quality, et al.*, Case No. 1522-CC00210 (St. Louis, Mo.); *Connector Castings, Inc. v. Accurate Metal, et al.*, Case No. 1522-CC00211 (St. Louis, Mo.); *Connector Castings, Inc. v. Flint O. Chandler, et al.*, Case No. 1522-CC00216 (St. Louis, Mo.); *Connector Castings, Inc. v. CSC Publishing, et al.*, Case No. 1522-CC00237 (St. Louis, Mo.); *Connector Castings, Inc. v. Federal Custom Cable, et al.*, Case No. 1522-CC00239 (St. Louis, Mo.); *Connector Castings, Inc. v. G.N.R. USA Instrument, et al.*, Case No. 1522-CC00244 (St. Louis, Mo.); *Connector Castings, Inc. v. Screw Products, Inc., et al.*, Case No. 1522-CC00252 (St. Louis, Mo.); *Connector Castings, Inc. v. Arshon Silicon Tech, et al.*, Case No. 1522-CC00891 (St. Louis, Mo.); *Connector Castings, Inc. v. Progressive Business, et al.*, Case No. 1522-CC00933 (St. Louis, Mo.); *Connector Castings, Inc. v. Publishing Concepts, et al.*, Case No. 15SL-CC00305 (St. Louis County, Mo.); *Connector Castings, Inc. v. Superior Edges, LLC, et al.*, Case No. 1511-CC00541 (St. Charles, Mo.); *Connector Castings, Inc. v. JRL Electric Supply, et al.*, Case No. 1511-CC00571 (St. Charles, Mo.).

FCC based on a single facsimile sent to a single customer. In no way does that equate to justice. Public policy favors granting the Petition.

Connector also claims that Ryerson was not “confused” by the opt-out notice requirements. *See* Response at p. 3. That is false. Ryerson finds the opt-out notice requirements very confusing. Ryerson does not understand why an opt-out notice should be required for a facsimile sent to a customer that has purchased goods from Ryerson previously and clearly knows how to reach Ryerson if it has any objections. The fact is that Connector did not want to contact Ryerson because it hoped to receive more faxes from Ryerson (luckily, Ryerson did send any more faxes to Connector) to artificially amplify Connector’s damages, and Connector hoped that April 30, 2015, would pass without a petition for waiver being filed by Ryerson. As with the prior petitioners that have been granted retroactive waivers as to the opt-out notice requirements for solicited faxes, Ryerson did not view the TCPA as requiring an opt-out notice on solicited faxes when the fax at issue was sent on April 22, 2014.

As to Connector’s arguments regarding the FCC’s authority to grant retroactive waivers, the Commission thoroughly vetted and rejected those arguments before it issued the FCC Order. There is no need to rehash those arguments here. Based on the arguments previously made by other successful petitioners (incorporated herein by reference) and the rationale ultimately adopted by the FCC, the FCC clearly had and continues to have the authority to grant retroactive waivers of the opt-out notice requirements as to solicited faxes and should do so here.

For the foregoing reasons and those set forth in the Petition, Ryerson asks the Commission to waive compliance with 47 C.F.R. § 64.1200(a)(4)(iv) for all faxes previously sent by or on behalf of Ryerson with a recipient’s consent.

Dated: July 17, 2015

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CERTIFICATE OF SERVICE

I, Blaine C. Kimrey, hereby certify that on this 17th day of July 2015, a true and correct copy of the foregoing was served by email and U.S. mail to the following parties:

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