

Public Comment On: PETITION FOR DECLARATORY RULING FILED BY JOSEPH
T. RYERSON & SON, INC. DA 15-1348 - *Docket 02-278 & 05-338*

The TCPA fax regulations have clearly stated FAX's cause damages (paper, toner, wear on the fax machine and also the fax is occupied during a fax and incoming "wanted" faxes are interrupted, causing damage). Clearly stated, faxes are sent through the telephone lines (PSTN - public switched telephone network, NOT TCP/IP which is the Internet) to a fax machine. Remove the "damages" and "Burdening" and there are no damages. TCPA fax regulation was created to protect consumers from damages due to machine wear, paper, toner/ink and telephone line usage.

Case in point #1: When a telemarketer advertising their services places a voice phone call that connects to a fax machine but does not transmit a fax, does it cause damage in the same way a traditional fax does? Yes, It prints an unsuccessful attempt page which uses paper, toner, wear and burdening. However, this type of call is not subject to TCPA. Why? Because it originated as a voice phone call and not a facsimile, even though it causes the exact same damages.

Case in point #2: When a fax is sent and the facsimile machine is busy and not received, is that subject to TCPA? No, because it causes no damages in any way.

Case in point #3: When a facsimile machine is used to fax-out but is sent to a standard telephone and an human operator picks it up and hears the beeping code, is that a fax? Is that subject to TCPA law? No, because it's not a fax that causes damages, albeit it did inconvenience the recipient.

Case in point #4: When an email is received with a video file attached, do we consider that "Television"? Would that be covered by TCPA. No, it is simply an email with an attachment.

Case in point #5 When an electronic document is sent by email and received by an email is that a fax? NO, it is an email.

Case in Point #6: When an advertisement is sent via any internet protocol and received in any way is that a fax? No, TCPA does not

cover internet advertisements. TCPA covers facsimile or facsimile server to facsimile machine via PSTN not IP(internet protocol). If the transmitting machine, PC or Server is not capable of sending the communication over PSTN (telephone lines), and can only communicate over TCP/IP (Internet), then it's not covered by TCPA. Congress can amend the TCPA to include internet protocol sent advertisements to "facsimile recipient machines" if they so choose, but until congress changes TCPA we must abide by it.

Case in point #7: If an email advertisement is sent to another email and the receiving email is setup to print automatically on a facsimile machine, is that a Fax? No, it has to be sent and received to a facsimile machine as a Fax defined by TCPA.

Case #8: If a person received an email and then elected to print the email contents or advertisement to their fax machine, is that a fax? No, it is an email.

Case examples can go on forever but ultimately you cannot define an email (which uses SMTP) a fax, they are different sending & receiving technologies. An email does not cause damage to a facsimile machine, wear, burdening, use toner or paper etc.

Since the damage components have been 100% removed in the examples brought up by Ryerson, nor do these types of communications qualify as "facsimile machines" as defined by the TCPA and the commission, nor sent via standard telephone lines (PSTN), there is no violation of the TCPA. It's a wonder why there even needs to be a discussion or clarification.

Thank you very much for letting comment.

Jason Stephens