

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Rules and Regulations Implementing the) CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)
)

**COMMENTS OF THE NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION IN SUPPORT OF THE
ASAE PETITION FOR STAY**

The National Telecommunications Cooperative Association (NTCA) hereby submits comments supporting the Petition for Stay filed by the American Society of Association Executives (ASAE) in the above referenced matter.¹

ASAE filed the Petition for Stay simultaneously with a Petition for Emergency Clarification. At the heart of ASAE's petitions are the Commission's unsolicited facsimile advertisement rules as they apply to tax exempt nonprofit organizations. The rules require that all unsolicited facsimile transmissions to any person be preceded by the person's prior written express invitation or permission to receive unsolicited facsimiles.² ASAE seeks an interpretation that unsolicited facsimile communications are not prohibited when issued by tax exempt nonprofit organizations in pursuit of their authorized tax exempt nonprofit purposes. NTCA agrees that the clarification is necessary and that a stay of the rules is warranted while the Commission considers the Petition for Clarification.

¹ The America Society of Association Executives, Petition for Stay, In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278 (filed July 25, 2003).

² Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, Report and Order, FCC 03-153, ¶ 189 (2003).

NTCA is a tax-exempt nonprofit trade association. It is comprised of more than 550 rural incumbent local exchange carriers who provide a variety of telecommunications services to rural America. NTCA's members are small companies and must rely on the association to perform various services on their behalf. NTCA advocates on behalf of the small telcos and serves as an educational resource, updating its members on the ever-changing rules and regulations and technological advancements. NTCA holds several conferences, seminars, updates and meetings every year and offers several educational and informative publications. Many of these items are put together on very short notice as the need arises and members are notified via facsimile of the opportunity to participate or receive materials. Membership in NTCA is purely voluntary and members pay dues to receive the benefits of being affiliated with the association.

Nonprofit tax exempt organizations have a relationship with their "customers" that is unique and distinguishable from a commercial enterprise. The nonprofit organization is providing a service and does not seek commercial profit on behalf of shareholders. In the case of NTCA, association with the organization is voluntary and not tied to the purchase of goods or services. Its members expect to receive promotional, educational and informational materials.³

There is no statutory or public policy reason to apply a blanket application of the "do not fax" rules to nonprofit, tax exempt organizations. The Commission should clarify that unsolicited facsimile communications are not prohibited when issued by tax exempt nonprofit organizations in pursuit of their authorized tax exempt nonprofit purposes.

³ NTCA, of course, honors any individual member's request to not receive materials through a particular distribution method.

The Commissions new rules on unsolicited facsimiles is scheduled to take effect in three weeks. Given the potential harm the rules will cause to nonprofit entities and the confusion it will cause to their constituencies, a stay of the rules as they apply to nonprofit tax-exempt organizations is appropriate while the Commission carefully considers this matter.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

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August 5, 2003

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CG Docket No. 02-278 was served on this 5th day of August 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy
Gail Malloy

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