BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

CG Docket No. 02-278

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

REQUEST FOR CLARIFICATION

Petitioner Faxts, Inc. requests clarification of the facsimile rules adopted in the *Report and Order* in the above-referenced docket. Specifically, Petitioner asks the Commission to clarify that facsimile advertisements sent at the request of a recipient, including requests made to and serviced by a "fax-on-demand" system constitute the required "prior express invitation or permission" under the Telephone Consumer Protection Act of 1991 ("TCPA") and the Commission's rules.

Background

While the FCC has gone to great lengths to define and prohibit "unsolicited advertisements" sent via facsimile, there has been no clear definition or consideration of a "solicited" facsimile advertisement. For example, if an individual telephones a restaurant and requests a menu be faxed, or an individual telephones a real estate broker and requests information faxed related to homes for sale, in both these situations the resulting facsimile transmissions are clearly solicited by the individual making the phone call. However, under the current definition of "unsolicited advertisement", these transmissions may in fact fall within that definition, and the sender may be subject to the penalties provided under TCPA, despite the fact that the recipient specifically solicited the documents.

There are thousands of entities that utilize "fax-on-demand" systems to provide information on products and/or services to interested parties. A fax-on-demand system utilizes computer technology with an IVR (Interactive Voice Response) interface to facilitate the requests and delivery of information via facsimile. Clearly information sent via facsimile by a fax-on-demand system is not "unsolicited, " however these transmissions may in fact fall within the Commission's new definition in Section 64.1200(a)(3)(i) of its Rules because the sender would not have a "signed, written statement" in advance of sending the facsimile despite the fact that the recipient solicited the fax by requesting it through a fax-on-demand system.

Relief Requested

Petitioner respectfully requests the FCC to issue an order of clarification to state that facsimile transmissions sent in response to an individual's request by telephone, including those transmissions sent in response to a "fax on demand" request should be exempt from the definition of "unsolicited facsimile advertisement, " and/or constitute the necessary "prior express invitation or permission" under the FCC's rules.

Respectfully submitted,

Faxts Inc.

By: /s/_____

Edwin Solot
President

Faxts, Inc.
1640 S. Sepulveda Blvd #102
Los Angeles, CA 90025

Telephone 310-445-1000
Facsimile 310-575-5005

August 22, 2003