

**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 Copia International, Ltd. 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 fax 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. Copia is the patent holder (5,196,943) of the "one call", "fax-on-demand" mode for receiving fax documents.

When a caller requests a "one-call" fax-on-demand document, there is no requirement to give a fax number. Since the caller calls to the system from their fax machine, can we make the case that permission was granted? When requesting fax base information this way, the caller must dial the number and press the start button on the fax machine. We think that this should be interpreted as explicit permission to send the fax requested. Are we and our customers subject to being sued by a person that receives a fax in this manor?

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 placed a call and requested the documents, that when inspected, look to be an “unsolicited advertisement”.

There are thousands of entities that utilize one-call and two-call “fax-on-demand” systems to market and sales information. A fax-on-demand system utilizes computer technology with a VRU (Voice Response Unit) interface to facilitate the requests and delivery of information via fax. Clearly information sent via fax 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 fax 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 one-call and two-call “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.

Copia International, Ltd..

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August 25, 2003