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Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

CGB

02-278

SEP 15 2003

Control No. 0302583/aw

Mr. Dennis Inman
P.O. Box 740485
Tuscumbia, AL 35674

RECEIVED

SEP 29 2003

Federal Communications Commission
Consumer & Governmental Affairs Bureau

Dear Mr. Inman:

Thank you for your letter to Senator Richard Shelby regarding the Federal Communications Commission's (Commission) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). Specifically, you express concern that, the Commission reversed its prior conclusion that an "established business relationship" constitutes the necessary express permission to send an unsolicited facsimile advertisement. You indicate that requiring such express permission to be in writing will place onerous burdens on associations that wish to fax their members. Senator Shelby forwarded your correspondence to the Commission for our review and requested that we respond directly to you.

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night.

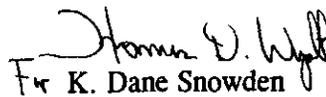
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LISTARDE

As we explained in the Report and Order, the legislative history of the TCPA indicates that one of Congress' primary concerns was to protect the public from bearing the costs of unwanted advertising. Therefore, Congress determined that companies that wish to fax unsolicited advertisements to customers must obtain their express permission to do so before transmitting any faxes to them. The amended rules require all entities that wish to transmit advertisements to a facsimile machine to obtain permission from the recipient in writing.

The Commission's amended facsimile advertising rules were initially scheduled to go into effect on August 25, 2003. However, based on additional comments received since the adoption of the July Report and Order, the Commission, on its own motion, determined to delay the effective date of some of the amended facsimile rules, including the elimination of the established business relationship exemption, until January 1, 2005. The comments filed after the release of the Report and Order indicate that many organizations may need additional time to secure this written permission from individuals and businesses to which they fax advertisements. Enclosed is a copy of the Commission's Order on Reconsideration, released on August 18, 2003.

We appreciate your comments. We have placed a copy of your correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Dane Snowden".

Chief

Consumer & Governmental Affairs Bureau

Enclosures

cc: The Honorable Richard Shelby

RICHARD SHELBY
ALABAMA

CHAIRMAN - COMMITTEE ON BANKING, HOUSING
AND URBAN AFFAIRS
COMMITTEE ON APPROPRIATIONS
CHAIRMAN - SUBCOMMITTEE ON TRANSPORTATION
COMMITTEE ON GOVERNMENTAL AFFAIRS
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United States Senate

WASHINGTON, DC 20510-0103

August 21, 2003

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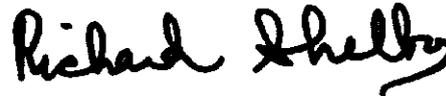
Mr. Dennis Inman
Post Office Box 740485
Tuscumbia, Alabama 35674

Dear Mr. Inman:

Thank you for taking the time to contact me regarding your concerns.

I have contacted the FCC on your behalf and have asked them to respond to your concerns. You should expect a reply to your concerns directly from the agency in a timely manner. Please do not hesitate to contact me about this or other matters in the future.

Sincerely,



Richard Shelby

RCS/sfm

Shelby, Senator (Shelby)

429386

RECEIVED AUG 18 2003

S 307/2

From: Inmhap@aol.com
Sent: Monday, August 18, 2003 5:15 PM
To: Shelby, Senator (Shelby)
Subject: From Alabama Company (Fax Regulation & Telemarketing Regs)

Dear Senator Shelby:

We are a wholesale company. We sell to Pharmacies, Chiropractors, and Health Food Stores across the nation.

We just received word through our local newspaper that our company will no longer be able to market via the phone plus fax as we do.

Let me explain how we market our products. Another Alabama company calls (example) a Chiropractors office and explains our product. If the company is interested in having a price sheet faxed to them-they request it-and we send it to the attention of the person requesting the price sheet

Under the new fax FTC regulations-They would have to request the price sheet via the mail. They cannot request the price sheet faxed to them via phone. This really puts small companies at a disadvantage.

This is not a time to take any sales from the small business! Some are hanging on by a thread. I know of several medium size businesses that will be forced to have massive layoffs.

Do whatever you can to stop these business killers.

To beat it all, I financially supported the election of the President, I am a card carrying RNC member-but now I have questions since our company has been hit harder by this administration with regulations (Telemarketing Regulations, FAX, DSEA) than any of the others.

Sincerely;

Dennis Inman
Inmhap@aol.com
PO Box 740485
Tuscumbia, AL 35674