

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004-2401
TEL 202.662.6000
FAX 202.662.6291
WWW.COV.COM

WASHINGTON
NEW YORK
SAN FRANCISCO
LONDON
BRUSSELS

GERARD J. WALDRON
TEL 202.662.5360
FAX 202.778.5360
GWALDRON@COV.COM

May 11, 2005

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Oral Ex Parte Communications, CC Docket No. 02-278

Dear Ms. Dortch:

On May 10, 2005, I met via telephone with Monica Desai, Chief of the Consumer & Governmental Affairs Bureau. I urged prompt action on the Fax Ban Coalition's Extension Request of six months for the effective dates of the Commission's new fax rules, based on the pendency of numerous petitions for reconsideration and legislation in the U.S. Senate. I emphasized the need for Commission action in a timely manner given the immediacy of the compliance date for thousands of businesses across America.

Also attached is a report from the Small Business Administration's Office of Advocacy which comments on the pending legislation. This report from SBA reiterates the view that, "[s]mall business groups and the Office of Advocacy objected to the cost and record-keeping burdens of this new rule" and supported an extension of the compliance date.

If you have any questions, please contact the undersigned.

Sincerely,



Gerard J. Waldron

Attachment

cc: Ms. Monica Desai
Mr. Jay Keithley

Entrepreneurship, Innovation Vital For Growth of Regional Economies

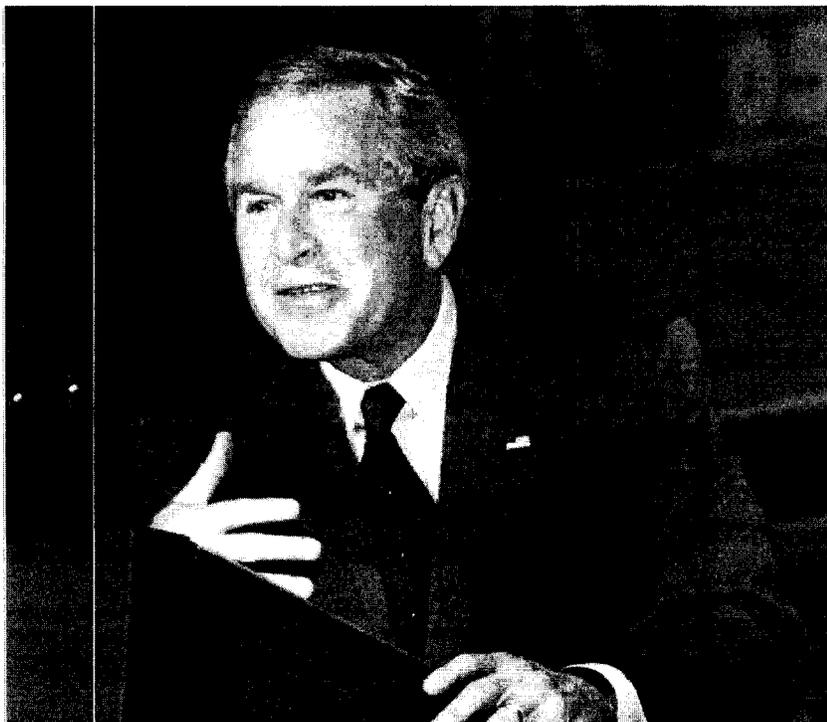
Entrepreneurship is a vital component of regional economic growth, according to a study released in April by the Office of Advocacy and the Edward Lowe Foundation. The study was issued at a forum in Longmont, Colorado, sponsored by the Magellan Center, a nonprofit entrepreneurial think tank. The study ranks Glenwood Springs, Colorado, first on its Regional Entrepreneurship Index.

"Entrepreneurship is the link between inventors, innovation, and economic growth," said Brian Headd, economist for the Office of Advocacy. "It's not enough to just focus economic development on inventors and innovation. Entrepreneurs need to be cultivated

as well, so that innovations can be turned into jobs and economic growth." In fact, entrepreneurship and innovation were shown to have a synergistic effect on each other in local areas.

The study, *The Innovation-Entrepreneurship Nexus*, written by Advanced Research Technologies, demonstrates that innovation without entrepreneurship generally yields minimal economic impact. The author, Michael Camp, notes that, "Whether they are building new firms or reinventing existing ones, entrepreneurs, through the application of new ideas to products and services, capture locally the economic benefits of innovation." Entrepreneurship tended to

Continued on page 8



President George W. Bush addressed the attendees at the U.S. Small Business Administration's national small business conference, SBA Expo '05, on April 27.

In This Issue

- Entrepreneurship, Innovation, and Regional Growth 1
- SBE Council Honors Advocacy 7

Message from the Chief Counsel

- Social Security Reform and Small Business 3

Regulatory Update

- PHMSA Considers Wetlines . . . 5
- FCC Issues IRFA in Response to Court Order 5
- OMB Memo on Brand Names 6

Legislative Update

- 109th Congress Off to a Fast Start 2
- Congress Considers Junk Fax Protection Act Again 2

Regional Roundup

- Spring Highlights from Advocacy's Regional Team . . . 4

Economic News

- June 15 Session on Global Entrepreneurship Policy 6
- Advocacy's Finance Expert Featured at Fed Conference . . . 7
- Two New Reports Published on Finance and Banking 7

Legislative Update

109th Congress Off to a Fast Start

The 109th Congress, which began this past January, has been very active and is showing positive results for small business. Already there have been two major business bills signed into law—the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and the Class Action Fairness Act of 2005.

Committees in both the House and Senate have been very aggressive in holding hearings and starting the process necessary to bring bills before Congress for enactment. The House Small Business Committee has been holding nearly two hearings a week. The Office of Advocacy has testified on legislation (H.R. 682) that would improve the Regulatory Flexibility Act. Advocacy has also recently testi-

fied on the federal tax gap (the difference between taxes owed and taxes actually paid), as well as on the Bush Administration's proposal to deal with regulatory burdens on small manufacturers.

In addition, many pro-business bills are being introduced. Senator Olympia Snowe, chair of the Senate Committee on Small Business and Entrepreneurship, recently introduced a proposal (S. 769) which would make it easier for small businesses to comply with complex and confusing federal regulations by ensuring that agencies issue helpful and understandable compliance guides. This is one of the legislative priorities of the Office of Advocacy in the 109th Congress.

Congress Takes Up Junk Fax Protection Act Again

Congress is once again considering legislation allowing businesses to fax other parties with whom they have an established business relationship without needing prior written consent. Senator Gordon Smith introduced legislation (S. 714) on April 6, 2005, that would reinstate the exception for established business relationships but would require business faxes to include a notice on their first page providing recipients a cost-free mechanism to opt out of receiving future faxes from the sender.

A similar bill was passed by both the House and the Senate last year, but the session ended before the two versions of the bill could be reconciled. The Senate Subcommittee on Trade, Tourism, and Economic Development held a hearing on April 13 and heard from witnesses both for and against the

bill. The full Senate Commerce, Science, and Transportation Committee approved S. 714 by voice vote on April 14.

Senator Smith introduced the bill in response to an agency interpretation of the Telephone Consumer Protection Act of 1991 that would place onerous burdens on small businesses. When implementing the Act, the Federal Communications Commission (FCC) created an exemption for businesses and organizations to send faxes if they had an "established business relationship" with the recipient. In 2003, the FCC eliminated this exemption and required businesses and organizations to obtain written consent for each fax machine prior to sending an unsolicited fax. Small business groups and the Office of Advocacy objected to the cost and record-keeping burdens of this new rule

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Editor Rebecca Krafft

Managing Editor Rob Kleinsteuber

Contributing Editors Carrol Barnes, Major Clark, Brian Headd, Chad Moutray, John McDowell, Eric Menge, Kathryn Tobias, David Voight, Sarah Wickham

Production Assistant Dawn Crockett

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and persuaded the FCC to stay the effective date of the rule until June 30, 2005.

During markup of the bill, the Senate Commerce Committee approved two amendments offered by Senator Barbara Boxer. The first amendment requires businesses to accept opt-outs from consumers at all times, not just during regular business hours. The second amendment shortens the time frame from 18 months to three months before the FCC can initiate a rulemaking should the agency determine that companies are abusing the established business relationship exemption. The committee is seeking input from the FCC about its capacity to initiate a rulemaking in this short time frame.