

The FAX BAN Coalition

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May 25, 2005

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C.

Re: Ex Parte Communication, CG Docket No. 02-278

Dear Chairman Martin:

I write on behalf of the more than 400 associations and businesses, representing virtually all segments and sizes of the business community, which make up the Fax Ban Coalition. Members of the Coalition are very diverse, and include the U.S. Chamber of Commerce, the Mortgage Bankers Association, the National Association of Realtors®, the National Association of Manufacturers, the National Association of Wholesaler-Distributors, the National Federation of Independent Business, the Associated General Contractors, the Associated Builders and Contractors, the National Newspaper Association, the Newspaper Association of American, and the American Society of Association Executives. Coalition members often have divergent interests, but they, and the large and small businesses they represent, all rely heavily on sending and receiving faxed information and have relied for more than a decade on the established business relationship exemption (EBR) to permit them to send and receive such faxes. The business community will begin incurring significant expenses to seek and obtain “consent-to-fax” permission records in the very near term if the Commission does not act promptly on the petition for extension of stay filed last month.

As you know, the new fax rules are set to take effect in roughly six weeks — July 1, 2005. Members of the Fax Ban Coalition, individually and collectively, have documented in this proceeding the substantial burden that would be imposed by the new rules, which require fax senders to obtain signed, written consent with the recipient’s fax number from every business with which the sender conducts business before a fax can be sent. A significant portion of this burden will be borne in the initial compliance phase, which for some must begin immediately in anticipation of the July 1 effective date if the Commission does not act.

(continued)

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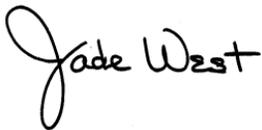
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Despite the costs, members of the Coalition take seriously their obligation to comply with the final version of the fax rules. Initial compliance with the rules as currently written, however, will take at minimum four to six weeks and be extremely expensive. Even with a massive push to collect fax consent forms, according to information from Fax Ban Coalition members, many organizations may not have time to collect and record all consents and, as a result, there will be serious disruptions to business operations across the country.

In an ex parte submission filed earlier this week, the Fax Ban Coalition presented to the Consumer and Governmental Affairs Bureau evidence of preparations made by a sampling of Coalition members to comply with the new fax rules and many members indicated that costly, compliance processes would need to begin within the next week if neither the Commission nor Congress acts. These costs, of course, will ultimately prove unnecessary to bear if Congress passes the corrective legislation it currently has under consideration, or if the Commission amends the fax rules based on the pending petitions for reconsideration and clarification.

The record in this proceeding is devoid of any serious evidence of harm created by faxes being sent pursuant to an established business relationship. The Fax Ban Coalition thus urges the Commission to take swift action on the petition for extension of stay, which will give Congress and the Commission time to complete their work while avoiding imposing unnecessary costs on the business community.

Sincerely,

A handwritten signature in black ink that reads "Jade West". The signature is written in a cursive, flowing style.

Jade West
Director, Fax Ban Coalition

cc: Michelle Carey
Marlene Dortch
Matt Brill
Jessica Rosenworcel
Scott Bergmann
Monica Desai
Jay Keithley
Erica McMahon
Gene Fullano