

Christopher S. Huther  
chuther@prestongates.com  
202-661-3850

March 31, 2006

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Communication; CG Docket No. 05-338**

Dear Ms. Dortch:

Yesterday, John Giordano, Executive Vice-President, and Theresa Giordano, Director of Operations of Everett Laboratories, Inc. (“Everett”), along with Christopher S. Huther and Kristin Cleary of Preston Gates Ellis & Rouvelas Meeds LLP, met with the following officials of the Federal Communications Commission (“Commission”): Jay Keithley, Erica MacMahon, and Richard Smith (via teleconference), of the Consumer and Governmental Affairs Bureau; Jessica Rosenworcel, of Commissioner Copps’ office; and Scott Bergmann, of Commissioner Adelstein’s office.

During these meetings, Everett discussed issues raised in its Direct and Reply Comments filed with the Commission in the above-referenced proceeding. In particular, Everett emphasized:

- That the Commission has not yet satisfied the procedural requirements necessary to grant it authority to impose time limitations on established business relationships, as set forth in section 2(f) of the Junk Fax Prevention Act of 2005 (“JFPA”).
- That the Commission consider the legitimate ways that faxes are used in business-to-business communications in the medical and pharmaceutical industry and adopt flexible rules that do not unnecessarily restrict or burden these relationships and communications. The Commission should formulate opt-out mechanisms that will be easy for businesses to implement, and should limit required record-keeping requirements, in addition to enabling businesses acting in good faith to rely upon legitimate companies that provide fax number lists.

Marlene H. Dortch  
Federal Communications Commission  
March 31, 2006  
Page 2

- That the Commission be mindful the unintended consequences of the JFPA and the Telephone Consumer Protection Act and make all efforts possible to minimize the harm caused to small businesses.

Sincerely,



Christopher S. Huther  
*Counsel for Everett Laboratories, Inc.*

cc: Jay Keithley  
Erica McMahon  
Jessica Rosenworcel  
Scott Bergmann