

[Similar letters were sent to The Honorable John Dingell, Ranking Member, Committee on Energy and Commerce, The Honorable Fred Upton, Chairman, Subcommittee on Telecommunications and the Internet, and The Honorable Edward Markey, Ranking Member, Subcommittee on Telecommunications and the Internet]



**OFFICE OF ADVOCACY
U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416**

June 23, 2004

Via Facsimile and Hand Delivery

The Honorable Joe Barton
Chairman, Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 4600, the Junk Fax Prevention Act of 2004

Dear Chairman Barton:

I am writing to commend your leadership in introducing H.R. 4600, the Junk Fax Prevention Act of 2004, and to advise you and the Members of your Committee of the Office of Advocacy's support for the legislation.

My office was established pursuant to Pub. L. 94-305 to independently represent the views of small business before Federal agencies and Congress. Because of the statutory independence granted to the Office of Advocacy, the views expressed here do not necessarily reflect the views of the U.S. Small Business Administration (SBA) or the Administration. The Office of Advocacy is also responsible for monitoring agency compliance with the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1981) (codified as amended at 5 U.S.C. §§ 601-612). The RFA requires Federal agencies, such as the Federal Communications Commission (FCC), to analyze their impact on small entities and consider alternatives to avoid overly burdensome regulation of small entities.

My involvement in the fax ban issue started when the FCC adopted rules in 2003 revisiting the implementation of the Telephone Consumer Protection Act of 1991 (TCPA). The rules removed the “established business relationship” exemption to the prohibition on commercial faxes. When the small business community realized that an unintended consequence of FCC’s rule would be to shut down a critical communications link, they recruited me to inform the FCC and executive-branch officials how this would affect small business. My office filed a Petition for Reconsideration with the FCC and followed up with a letter detailing the rule’s impact on small business. I have enclosed the August 25, 2003 petition and the November 21, 2003 letter for your review.

In short, H.R. 4600 would fix problems that often times occur when one-size-fits-all regulations are applied to small business. We commend your attention to this issue, applaud the Committee’s commitment to report the bill for passage by the U.S. House of Representatives, and look forward to continuing to work with you and other Members of Congress to ensure its enactment. We think H.R. 4600 provides a balanced resolution for small entities that rely upon fax communications in their day-to-day operations while providing a significant new measure of relief to consumers and small businesses alike who do not wish to receive unsolicited faxes.

Thank you for your efforts on behalf of small businesses. Please feel free to call on me if I can be of assistance to you or the Committee.

Sincerely,

/s/ _____
Thomas M. Sullivan
Chief Counsel for Advocacy

Enclosures (2)