

Similar Letters were sent to: The Honorable Gordon Smith, Sponsor of S. 2603; The Honorable Ernest Hollings, Ranking Member, Committee on Commerce, Science, and Transportation; The Honorable Olympia Snowe, Chair, Committee on Small Business and Entrepreneurship.



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

July 19, 2004

Via Electronic Mail and Hand Delivery

The Honorable John McCain
Chairman, Committee on Commerce, Science and Transportation
241 Russell Senate Office Building
United States Senate
Washington, DC 20510

Re: S. 2603, the Junk Fax Prevention Act of 2004

Dear Chairman McCain:

I am writing to advise you and the Committee on Commerce, Science and Transportation of the Office of Advocacy's support for S. 2603, the Junk Fax Prevention Act of 2004.

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. The RFA requires Federal agencies, such as the Federal Communications Commission (FCC), to analyze the impact of their rules on small entities and consider alternatives to avoid overly burdensome regulation of small entities.

My involvement in the fax advertising 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, S. 2603 would fix problems that often times occur when one-size-fits-all regulations are applied to small business. We think S. 2603 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.

We commend your attention to this important issue and applaud the Committee's commitment to report the bill for passage by the U.S. Senate. To provide the relief intended for small businesses, it is crucial that this bill is passed and signed into law before January 1, 2005, when the FCC's stay of its fax advertising rules expires.

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 in this endeavor.

Sincerely,

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

Enclosures (2)