

Information You Can Use

Know the law on unsolicited fax advertising

Every business person with a fax machine (almost all of us) knows the annoyance of receiving unsolicited advertisements touting cheap vacations and penny stocks. Like “spam” email, it is certainly an inexpensive way to promote a business. Before you consider using your fax machine to pitch your business, you need to know the law.

In 1991, Congress enacted the Telephone Consumer’s Protection Act (TCPA). Under the TCPA, it is unlawful for any person or business in the United States to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine.

Unsolicited advertisements are defined as “material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission.”

Violations of the TCPA can

result in a lawsuit against you brought by the government, but this is highly unlikely—especially for small businesses. But under this act, any person who receives an unsolicited fax advertisement from you can sue you in any state court with jurisdiction, including Small Claims Court.

Without proof of any actual damages, every recipient is entitled to a judgment for at least \$500 per violation, which may be tripled if the judge believes that the violation was “willful or knowing.”

Adding to the risk, the California Court of Appeal, in a case decided last July, held that lawsuits in California under the TCPA may be certified as class actions.

What this means is that if you have sent hundreds or thousands of unsolicited fax advertisements, you can be sued for all of them in the same case. The cost of defending such a case, let

alone the monetary liability, would likely put you out of business.

That appellate case involved two lawsuits, one against telemarketers Fax.com and Cynet, Inc. for sending 728,776 faxes, and the other against a software company (ACS Systems, Inc.) for sending 13,919. The potential liability in these cases would put Fortune 500 companies out of business.

While it may be tempting to fax your menu or auto service special to build up business, don’t. What you gain in business may be more than offset by your exposure to liability.

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Professional, business growth programs offered through SCORE

SCORE, the Service Corps of Retired Executives, is offering three special programs in April, with two targeted especially at women entrepreneurs.

A special import/export workshop will be offered April 28 from 9 a.m. to 4 p.m. at Pt. Loma Nazarene University in Mission Valley. Lunch is included. The fee is \$59 in advance or \$69 at the door. Call SCORE at (619) 557-7272 for information.

On April 16, at TGIFriday’s at 890 Palomar Airport Road, Carlsbad, A. J. Frank will speak on “Anti Bag-Lady Coalition...Planning for your Financial Freedom.” This is part of the Women’s Breakfast Roundtable program. Another of the Women’s Breakfast Roundtables will be offered April 23 at the King’s Inn, 1333 Hotel Circle South, in Mission Valley. The speaker will be Joy Nordquist, speaking on “Power Thinking for Entrepreneurs—Paradigms & Practices for Super Success.”

The fee for each breakfast session is \$25 in advance or \$30 at the door. Call SCORE at (619) 557-7272 for more information.

From the President, continued

The Chamber would like to thank the Ramona Real Estate Association for its cooperation with San Diego County’s sign policy. As you may have noticed, most of the real estate directional signs are gone. Our street corners are much more appealing. It’s great to see organizations in our community work together to make Ramona even better.

P.S. Be sure to expose yourself to criticism; a fine polish requires an abrasive.

Karen Clendenen