

JUST THE FAX

A fax may seem like an innocuous means of communication with business customer and others but it may become a trap for the unwary. As legislators continue to try to regulate the use of faxes and e-mails and enact legislation to impose penalties on those who seek to disrupt commerce by improperly sending faxes or e-mail messages, businesses that use faxes to communicate with customers or potential customers should be aware of the rules governing the use of faxes. The Junk Fax Prevention Act (the "Act") was passed in July, 2005 with a directive to the Federal Communications Commission ("FCC") to create regulatory requirements based upon the Act. Since the Act became effective, the FCC has developed and continues to develop rules as recently as April, 2007 for the use of faxes.

No matter what relationship a business may have with its customers, each fax sent that contains a solicitation or advertisement must comply with the requirements of the Act. The first page of every solicitation fax must inform the recipient of the fax on how to "opt out" of receiving future fax solicitations. The "opt out" notice must meet the specific requirements set forth by the FCC. Failure to meet the requirements will result in a penalty being assessed of \$500-\$1,500 for each fax sent. Even if you use a third party to send faxes, the responsibility may still fall on your doorstep. If you routinely send faxes to customers and/or prospects, please contact us on how to meet the FCC requirements.