



---

**Legal Advisory**  
**on**  
**Sending and Receiving Unsolicited Faxes**

**Posting Date: October 3, 2006**

I. Summary of Federal “Junk Fax” Law

Federal law dictates that businesses or other entities may not send unsolicited fax advertisements without complying with several requirements. If your office **sends or receives unsolicited commercial faxes**, the law may affect you. Please note that faxes that are not commercial in nature do not constitute “unsolicited fax advertisements” and are therefore not covered by this law. For example, faxes that do not promote a commercial product or service, such as faxes involving political or religious discourse or requesting a donation to a charitable organization, are not unsolicited advertisements under this law.

II. Receiving Unsolicited Faxes

There is no central, national “Do Not Fax” list. Therefore, if you receive an unsolicited and unwanted commercial solicitation, you must:

- Call or fax the number listed in the fax to be taken off of the list.
- Keep a record of your action.
- Report repeat violations from the same fax number to the General Counsel’s Office for further action.
- You may also file a complaint form with the Federal Communications Commission (FCC) online at <http://svartifoss2.fcc.gov/cib/fcc475.cfm>.

The sender of a fax may seek to gain your consent to continue sending the faxes. A dean, director, or department head may provide consent for a specific purpose or generally for fax numbers in their unit, but individual University employees should be careful not to sign any form that asks for general consent on the University’s behalf.

III. Sending Unsolicited Faxes

The law prohibits sending unsolicited commercial faxes such as those advertising ticket sales, selling merchandise, or conducting other business-related activity. Communications requesting

donations, promoting academic events, or publicizing other educational endeavors are not affected by the federal junk fax law and may be sent via fax.

In the event that your department needs to conduct business using fax transmissions, you should adhere to the following guidelines:

**Unsolicited faxes may be sent to:**

*...anyone with whom you have an established business relationship (a voluntary, two-way communication formed between GW and the other party based on an inquiry, application, purchase, or transaction previously made by the other party). Additionally, the fax number must have been obtained through voluntary communication with the recipient or from a publicly accessible medium such as a business directory, advertisement, or website.*

**Every unsolicited commercial fax advertisement must contain:**

*...a clear and conspicuous notice on the first page. This notice must include:*

- 1) An **opt-out clause** stating that the recipient may make a request to the sender not to receive any future unsolicited advertisement faxes.
- 2) A **fax number and a domestic contact telephone number (local or toll-free) or an email address or online form** by which the recipient can make an opt-out request 24 hours a day, 7 days a week.
- 3) The **date and time** the fax is sent.
- 4) A **clear identification of the University office** on whose behalf the fax is being sent.

**You should also:**

*...maintain a list of those individuals and businesses that have specifically asked not to be contacted. There is no central, national, “Do Not Fax” list, so be sure to update your department’s own list regularly and check that list before sending out batch faxes.*

**Alternatively, an easier way to avoid violating the law is:**

*...to obtain written, signed permission from the recipient to receive a fax advertisement from the University.*

**IV. Penalties for Violating the Law**

Individuals and entities may bring private suits against infringing parties in state court. The penalty for sending an unsolicited fax advertisement is “actual monetary loss” or “\$500 in damages” for each fax, whichever is greater. These damages can be increased by a court that finds a willful or knowing violation of the law. In addition to the federal penalty, some states may impose additional fines. Corporate officers may also be held personally liable if the officer had direct personal participation or personally authorized conduct that violates the statute.

**V. Conclusion**

Various state laws may also deal with unsolicited faxes, so if you are planning any large distributions outside of DC (which does not have such a law currently), we encourage you to check with our office on local law first.

At this time, we are not aware of any central “Do Not Fax” list across the University, but we encourage departments who send out fax advertisements to cooperate with each other on requests

to enhance compliance and good public relations. If your department sends such fax advertisements and would like to participate in collaborative efforts, or if you have any questions regarding this advisory, please contact Susan Kaplan, Senior Counsel for Labor Relations and Compliance, at [sbk@gwu.edu](mailto:sbk@gwu.edu) or 202-994-6503. For additional information, see the FCC Fact Sheet on this law at <http://www.fcc.gov/cgb/consumerfacts/unwantedfaxes.html>.