

Trade & Professional Association Bulletin

August 22, 2003

FCC EXTENDS EFFECTIVE DATE OF AMENDED FAX ADVERTISING RULES UNTIL JANUARY 1, 2005

On August 18, 2003, the Federal Communications Commission (“FCC”) adopted an Order on Reconsideration extending until January 1, 2005 the effective date of new rules requiring written consent before sending commercial faxes. The extension will keep in place the current rules, which exempt from the prior consent requirement commercial faxes sent to parties with whom the sending organization has an established business relationship.

Earlier this month, Vedder Price issued a bulletin summarizing a July 3, 2003 FCC Report and Order that made certain changes to the Rules and Regulations Implementing the Telephone Consumer Protection Act (the “Amended Rules”). The Amended Rules, which were scheduled to take effect on August 25, 2003, would have eliminated the exception allowing organizations to send faxes with commercial purposes to individuals and companies with whom the organization has an established business relationship. Instead, organizations would have been required to obtain the prior written consent of every individual or company to whom it sends faxes with a commercial purpose, regardless of any prior relationship between the parties.

Many associations and non-profit organizations filed petitions to postpone the effective date of the Amended Rules as well as requests for clarification of the

applicability of the Amended Rules to non-profit organizations. After noting such filings, the FCC stated in an August 19, 2003 News Report accompanying the Order on Reconsideration that the extension of time gives organizations sending commercial faxes more time to comply with the Amended Rules and affords the FCC the opportunity to consider any petitions for reconsideration and other filings that may be made on the issue. The FCC further has indicated that any reconsideration made during the delay will be limited to the appropriateness of its prior determination that an established business relationship no longer would constitute express permission to receive commercial faxes.

In summary, the FCC’s Order on Reconsideration allows organizations to continue sending unsolicited commercial faxes to those with whom it has an established business relationship, such as association members, sponsors and vendors, until January 1, 2005. The FCC News Report emphasizes that fax transmitters still must obtain prior express permission from fax recipients with whom they do not have established business relationships.

Should you have questions about the Amended Rules or the FCC’s extension, please contact Michael E. Reed, Esq. (312/609-7640), Kathryn L. Stevens, Esq. (312/609-7803), or any Vedder Price attorney with whom you regularly work.

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About Vedder Price

Vedder, Price, Kaufman & Kammholz, P.C. is a national, full-service law firm with approximately 200 attorneys in Chicago, New York and Livingston, New Jersey.

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Vedder, Price, Kaufman & Kammholz, P.C. has assembled a team of attorneys with knowledge and experience in the particular and various areas of law that impact today's trade and professional associations. Whether your association is local, national or international, whether it has its own executive staff or is administered by an outside management firm, Vedder Price is uniquely qualified and experienced in the issues which confront you, including:

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- Tax issues;
- Insurance coverage;
- Standard setting, certification and accreditation;
- Publication activities;
- Intellectual property protection;
- Meeting and convention concerns;
- Employee benefits matters;
- Personnel considerations; and
- Membership issues.

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