

SCHWARTZ & BALLELLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465
(202) 776-0700

FACSIMILE
(202) 776-0720

www.schwartzandballen.com

MEMORANDUM

July 14, 2005

To Our Clients and Friends

Re: Junk Fax Prevention Act

On July 9, 2005, the President signed into law the Junk Fax Prevention Act of 2005 (S. 714) (Public Law 109-21). As indicated in our memorandum of June 28th, the Act creates an “established business relationship” exception to the do not fax provisions of the Telephone Consumer Protection Act of 1991 to permit businesses and organizations to send commercial faxes to their customers and members without first receiving written permission.¹ The law was necessary in light of the Federal Communications Commission’s Do Not Fax Rule, which requires written consent from recipients before faxing unsolicited advertisements to any person, including those with whom senders have established business relationships. The new legislation, however, requires a sender to provide recipients with an opportunity to opt out from receiving future unsolicited fax advertisements from the sender. It is anticipated that the FCC will propose implementing regulations within the next few months.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.

¹ See http://www.schwartzandballen.com/whats_new.html