

ARTICLE

# D.C. Circuit Challenge to FCC's Authority Over Fax Advertisements Has Important First Amendment Implications

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A battle is brewing in the D.C. Circuit over the Federal Communications Commission's authority to regulate fax advertisements under the relevant statute and the First Amendment. For many years, the FCC has regulated unsolicited fax advertisements as clearly permitted under the Telephone Consumer Protection Act (TCPA). 47 U.S.C. § 227(b)(1)(C). The TCPA defines an unsolicited fax advertisement as one sent to any person without that person's prior express invitation or permission. In 2006, the FCC expanded its reach to solicited fax advertisements sent with the recipient's prior express consent or permission. Now, the FCC's authority to regulate solicited fax advertisements is being challenged in the D.C. Circuit. **Click here to read the full article.**

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## Practice Areas

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First Amendment/Commercial Speech  
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Telecom, Media & Technology  
TMT Appellate