



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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DA **12-1704**

Released: October 23, 2012

## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR CONSIDERATION AND CLARIFICATION FROM WESTFAX, INC.

CG Docket No. 02-278  
CG Docket No. 05-338

**Comments Due: November 23, 2012**  
**Reply Comments Due: December 10, 2012**

With this Public Notice, we seek comment on the petition for consideration and clarification filed by Westfax, Inc.<sup>1</sup> Westfax asks the Commission to clarify the applicability of the Telephone Consumer Protection Act (TCPA),<sup>2</sup> the Junk Fax Prevention Act of 2005, and the Commission's related rules<sup>3</sup> to facsimile messages that are converted to electronic mail.<sup>4</sup> Westfax asks for this clarification to "ensure that lawful facsimile transmissions may continue to be sent."<sup>5</sup>

Pursuant to sections 1.415 and 1.419 of the Commission's rules,<sup>6</sup> interested parties may file comments and reply comments on or before the respective dates indicated on the first page of this Notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

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<sup>1</sup> See Petition for Consideration and Clarification, CG Docket No. 02-278 and Docket No. 05-338, filed by Westfax, Inc. on Sept. 25, 2009 (*Petition*).

<sup>2</sup> Codified as 47 U.S.C. § 227.

<sup>3</sup> 47 C.F.R. § 64.1200.

<sup>4</sup> *Petition* at 2-7.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> 47 C.F.R. §§ 1.415, 1.419

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>7</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

**FOR FURTHER INFORMATION CONTACT:** B. Lynn Follansbee Ratnavale, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (202) 418-1514 or [lynn.ratnavale@fcc.gov](mailto:lynn.ratnavale@fcc.gov).

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<sup>7</sup> *Id.* §§ 1.1200 *et seq.*