

# FCC Cancels Proposed Fine of Fax Broadcaster

December 10, 2010

Complaints of unsolicited faxes (aka "junk faxes") persistently are the most common type of complaint that the FCC receives. As a result, the FCC issues a steady stream of investigations, citations and [proposed fines for junk faxes](#). This week, the FCC released an order that we believe marks the first adjudication determining that a "fax broadcaster" is not liable for unsolicited faxes sent on behalf of others. See below for the details.

On December 8, the FCC released an order [canceling a proposed fine against CyberData, Inc.](#) The FCC concluded, based on the record before it, that CyberData presented a "reasonable case" that it was a fax broadcaster, not a sender under the FCC's junk fax rules. The Commission noted three factors that supported the conclusion that CyberData was not liable:

1. The ads were for services that CyberData does not provide and appeared to be transmitted on behalf of third parties;
2. No evidence contradicted CyberData's assertion that it did not have a "high degree of involvement" with the senders' transmissions.
3. CyberData took steps to prevent further transmission of unsolicited faxes. The FCC noted that CyberData maintained a do-not-fax database and that it terminated services to entities found by the FCC to have violated the junk fax rules.