

# FCC Preparing Multiple "Junk Fax" Enforcement Actions

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There has not been an official announcement, but indications are strong that the FCC is planning soon to issue a number of forfeitures and proposed forfeitures for the sending of so-called "junk faxes." Under the Telephone Consumers Protection Act of 1991 ("TCPA"), it is unlawful to send "unsolicited advertisements" via facsimile. In the past two weeks, [the Enforcement Bureau has begun "circulating" 11 new orders](#) that appear to be junk fax enforcement orders. (Circulation is the process of submitting an order for a vote by the Commission.)

The Commission, rather than the Bureau, must vote on all proposed fines above \$100,000, so one may presume that each item involves a significant fine. Significant fines also are likely because several of the subjects of the draft enforcement orders have histories of prior FCC enforcement actions. One company -- The Hot Lead LLC -- received a fine of \$2.5 million in 2008 for junk faxes. Pending against it are four proposed fines, of \$739,500, \$695,000, \$47,000 and \$51,500. Another company -- Sunstar Travel and Tours -- received a fine of \$169,500 in 2008 and has a proposed fine of \$136,000 pending now.

In addition, one potential action appears to be against an alleged "fax broadcaster." If issued, it would be the first proposed forfeiture issued under the Commission's "high degree of involvement" standard for fax broadcaster liability.

**Caveat:** Circulation of an item does not necessarily indicate impending action by the FCC. Four apparent "junk fax" orders began circulating in June 2009. 14 months later, those orders remain under consideration.

**UPDATE 9/3/10:** The FCC is beginning to release the orders. On Thursday, it released a Notice of Apparent Liability against [Clean Credit, Inc.](#) in the amount of \$528,000. The Commission imposed the statutory maximum penalty of \$16,000 per violation because

"Clean Credit has exhibited a flagrant disregard for the TCPA and the Commission's rules and orders, with a lengthy history of violations, and an ongoing pattern of violations extending to as recently as a few months ago."

If the Commission similarly applies the \$16,000 maximum forfeiture to the remaining investigations, multi-million dollar forfeitures are on the way.