

DRAFT

Form 1088A – Junk Fax Complaint

Consumer's Information:

First Name: _____ Last Name: _____

Company Name: _____
(Complete only if you are filing this complaint on behalf of a company or an organization.)

Street Address or Post Office Box Number: _____

City: _____ State: _____ Zip Code: _____

Telephone Number (Residential or Business): (____) ____ - _____ Ext: _____

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT. *****

Background information is at the end of this section.

1. Telephone/fax number where you received the fax: (____) ____ - _____
____ Residential line ____ Business line

2. When did you receive the fax? Date ____/____/____ Time ____:____ AM PM

3. Is the following information contained either on the first page of the fax or in a margin at the top or bottom of each page? You may submit a copy of the fax.

Date of transmission: ____ Yes ____ No

Name of sender: ____ Yes ____ No If Yes, Name _____

Telephone number of sender or number of sending machine: ____ Yes ____ No

If Yes, (____) ____ - _____

4. Did the fax advertise the commercial availability or quality of any property, goods, or services?

____ Yes What property, goods, or services
did the fax promote?

____ Hot stocks

____ Cheap vacations

____ Low-interest mortgages

____ Low cost health care

____ Other (explain below)

____ No

5. List all information (*e.g.*, addresses, e-mail, websites) provided on the fax to identify the fax sender.

(____) ____ - _____ (____) ____ - _____ (____) ____ - _____

Business name(s) _____

Other information _____

____ No information available

DRAFT

Form 1088A – Junk Fax Complaint

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT. *****

Background information is at the end of this section.

6. Did the fax include an “opt-out” notice (containing a telephone number, website, or e-mail address) that provides an opportunity to request that no future faxes be sent? ___Yes ___ No (If you answer No, skip to **question 7.**)

opt-out telephone number (____) ____ - _____

website or e-mail address to transmit a do-not-fax request _____

Is the opt-out notice on the first page of the fax advertisement? ___Yes ___No

7. Record any other faxes which contain identical information (except for date/time stamp) from this fax sender.

Date ___/___/___ Time ___:___ AM PM

Date ___/___/___ Time ___:___ AM PM

Date ___/___/___ Time ___:___ AM PM

Date ___/___/___ Time ___:___ AM PM

8. Have you or anyone else in your household or business:

- (a) Done any business with the fax advertiser or involving the advertised property, goods, or services (a purchase or other transaction)?

___Yes When? Date ___/___/___

___No

- (b) Made an inquiry or application to the fax advertiser involving the advertised property, goods, or services?

___Yes When? Date ___/___/___

___No

- (c) If you answered YES to either (a) or (b): Have you taken any of the following actions to make your fax number available to the sender? (Check all that apply.)

___Provided it directly to the sender in connection with a purchase, other transaction, inquiry, or application?

___Placed it in your own directory, advertisement, or website?

___Voluntarily placed it in someone else’s publicly-available directory, advertisement, or website?

___None of the above

9. Have you or anyone else in your household or business given the fax advertiser or anyone associated with the advertised property, goods, or services permission to fax an advertisement to you?

___Yes ___No

10. Have you or anyone else in your household or business asked the fax advertiser or anyone associated with the advertised property, goods, or services NOT to fax an advertisement to you?

___Yes ___No

DRAFT

Form 1088A – Junk Fax Complaint

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT. *****

Background information is at the end of this section.

10. (Cont'd) (Provide as much detail as possible.)

When? Date ___/___/___

How did you make your request?

___ By telephone to (___) ___ - _____

___ By e-mail to _____

___ By website request at _____

___ Other (describe) _____

Describe any response from, or other contact with, the fax advertiser or telemarketer including any difficulty in making your do-not-fax request, or any telemarketing faxes that you received from this advertiser after making your do-not-fax request. _____

Continue to the Attestation Page to Complete Your Complaint

BACKGROUND

It is unlawful to fax an advertisement to any recipient – residential or business – unless the recipient has given the sender permission to fax or has an established business relationship with the sender. Under this law, you have an “established business relationship” with the fax sender if you have made an inquiry, application, purchase, or some other transaction with that individual or business. A fax advertisement sent without an established business relationship or prior express permission is unlawful even if it contains an “opt-out notice.” Non-advertising faxes, however, are permitted.

An **advertisement** is “any material which advertises the commercial availability or quality of any property, goods, or services.” Materials that appear to be surveys or informational “newsletters” actually may be advertisements. For instance, a “survey” is actually an advertisement if it costs money to participate or if the survey promotes property, goods, or services in addition to asking questions.

Likewise, so-called newsletters often are advertisements. Fax advertisements must contain on the first page of the advertisement a clear and conspicuous **opt-out notice** that explains how to avoid receiving future faxes. Recipients must be provided a cost-free way to opt-out of receiving future fax advertisements (by phone, Internet website, or e-mail) and the sender must honor such opt-out requests within no more than 30 days.

The restrictions on fax advertisements apply regardless of whether the recipient’s fax number is on the National Do-Not-Call Registry. The National Do-Not-Call Registry, which provides consumers an opportunity to opt-out of most telemarketing calls to their homes, applies only to telephone solicitations – in other words, advertising telephone calls – not faxes. By contrast, the FCC’s fax rules prohibit fax advertisements unless an individual or business chooses to opt-in to receiving them by maintaining a business relationship with the sender or giving prior express permission.

All faxes – including those that are not advertisements – must include the following information on either the first page of the fax transmission or in a margin at the top or bottom of every page of the transmission: the date and time the fax was sent, the name of the sender, and the telephone number of the sender or the sending machine.

DRAFT

Form 1088A – Attestation Page

ATTEST TO THE ACCURACY OF YOUR COMPLAINT Thank you for filing your complaint. **Your complaint will be most useful to us if you execute this sworn statement.** The FCC will make every effort to take enforcement action against any party who violated the FCC's rules.

Fill in the blanks below and then check the “EXECUTE” box, to declare under penalty of perjury that the information you have provided is, to the best of your knowledge, true and correct.

I declare under penalty of perjury that (1) I am over 18 years old, (2) I am authorized to make decisions regarding the telephone number listed below, and (3) the information I have provided today on this Federal Communications Commission form is, to the best of my knowledge, true and correct.

_____ (name) _____ (date) EXECUTE

(____) ____ - _____ (telephone number where you received the call(s) that is the subject of your complaint)

You may submit this form over the Internet at <http://www.fcc.gov/cgb/complaints.html>, by e-mail to fccinfo@fcc.gov, by fax to 1-866-418-0232, or by postal mail to:

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Complaints
445 12th Street, SW
Washington, D.C. 20554.

In addition, you may submit your complaint over the telephone by calling 888-CALL-FCC. If you choose to submit your complaint over the telephone, an FCC customer service representative will fill out an electronic version of the form for you during your conversation. If you have any questions, feel free to contact the FCC at 888-CALL-FCC.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT AND THE PRIVACY ACT

The Federal Communications Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information that we request in this form. This form is used for complaints that involve (1) junk faxes, (2) telemarketing (including do-not-call violations), and (3) other related issues such as prerecorded messages, automatic telephone dialing systems, and unsolicited commercial email messages to wireless telecommunications devices. The public reporting for this collection of information is estimated to average 3-30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, OMD-PERM, Paperwork Reduction Project (3060-1088), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-1088.

In addition, the information that consumers provide when filling out FCC Form 1088 is covered by the system of records notice, FCC/CGB-1, Informal Complaints and Inquiries File (Broadcast, Common Carrier, and Wireless Telecommunications Bureau Radio Services). The Commission is authorized to request this information from consumers under 47 U.S.C. 206, 208, 301, 303, 309(e), 312, 362, 364, 386, 507, and 51; and 47 CFR 1.711 *et seq.*

Under this system of records notice, FCC/CIB-1, the FCC may disclose information that consumers provide as follows: when a record in this system involves a complaint against a common carrier, the complaint is forwarded to the defendant carrier who must, within a prescribed time frame, either satisfy the complaint or explain to the Commission and the complainant its failure to do so; where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit; a record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body; a record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when: (a) the United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Commission determines that the disclosure is relevant or necessary to the litigation; a record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office; a record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

In each of these cases, the FCC will determine whether disclosure of the information in this system of records notice is compatible with the purpose for which the records were collected. Furthermore, information in this system of records notice are available for public inspection after redaction of information that could identify the complainant or correspondent, *i.e.*, name, address and/or telephone number.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507 AND THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. SECTION 552a(e)(3).