

# TCPA Regulatory Update: Who Qualifies as a “Sender” under the Junk Faxes Rule?

March 20, 2019 | Article | By [Russell H. Fox](#), [Radhika U. Bhat](#), [Elana R. Safner](#)

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## FCC Seeks Comment on Petition Requesting Clarification

On March 7, the FCC’s Consumer and Governmental Affairs Bureau released a [Public Notice](#) seeking comment on a [Petition for Expedited Clarification or Declaratory Ruling](#) filed by the law firm Akin Gump Strauss & Feld LLP on February 26. The petition asks the FCC to clarify the definition of “sender” under the TCPA’s Junk Faxes Rule—specifically, it asks the FCC to find that “a fax broadcaster is the sole liable ‘sender,’ when it both commits TCPA violations and engages in deception or fraud against the advertiser (or blatantly violates its contract with the advertiser) such that the advertiser cannot control the fax campaign or prevent TCPA violations.” The petition contends that companies whose goods and services are advertised in an unsolicited fax are not always the TCPA-liable senders, claiming that “numerous advertisers around the country have fallen victim to unscrupulous, dishonest or rogue fax broadcasters, and have been left open to liability in the courts even though they were not the source of offending TCPA conduct.” Comments are due on April 8, followed by reply comments on April 23.

Although it did not release any TCPA-related decisions this month, the FCC saw some activity regarding outstanding TCPA petitions. Multiple parties met with FCC staff this month to discuss the outstanding Petition for Expedited Declaratory Ruling filed by AmeriFactors Financial Group, LLC on July 13, 2017 addressing the applicability of the TCPA to fax advertisements. The FCC also met with parties to discuss the SGS North America, Inc. [Petition for Expedited Declaratory Ruling](#) and received a handful of comments regarding the [Petition for Expedited Declaratory Ruling](#) filed by NorthStar Alarm Services, LLC on “soundboard technology.” Both petitions were covered in greater detail in last month’s [TCPA blog](#). Finally the FCC met with a number of stakeholders to discuss various other TCPA issues, including acceptable methods for revocation of consent, the definition of an “automated telephone dialing system,” and the definition of a “called party” under the TCPA.

## Authors

### Radhika Bhat



**Russell H. Fox**  
, Member

Russell H. Fox is a wireless communications attorney at Mintz. He guides clients through federal legislative, regulatory, and transactional matters. Russell also participates in FCC proceedings, negotiates spectrum agreements, and represents clients in spectrum auctions.



**Elana R. Safner**, Associate



Elana R. Safner is an attorney who advises Mintz clients on public policy, regulatory issues, and disputes affecting the communications sector. Elana also handles privacy and cybersecurity matters. She has CIPP certification from the International Association of Privacy Professionals.

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