

December 10, 2004

To: Merrill Customers

Regarding: **FCC NEW AND RESTRICTIVE FAX RULE**

On July 1, 2005, the Federal Communications Commission (FCC) published amendments to the Telephone Consumer Protection Act of 1990 (TCPA) which became effective August 25, 2003.

The amendments have a significant impact on all associations and many businesses.

SUMMARY: After July 1, 2005, it will be illegal for any business (including associations) to send faxes with a “commercial purpose” to any person or business that has not expressly indicated in writing their willingness to receive such faxes.

“Commercial Purpose” is not clearly defined. However, the FCC has indicated any fax selling, promoting, or marketing products or services will be considered “commercial.”

Previously, the FCC had included an exemption to this law known as the “Established Business Relationship” exemption. This covered any person or business entity that had a business transaction with or had received an inquiry from within a period of time. Now the exemption is gone.

Legally, after July 1, 2005, if you wish to fax a current or prospective customer, vendor, or member to inform them of a new product, a special sales promotion, service, program, event, etc., you will be required to obtain written and signed permission in advance. Additionally, after July 1, 2005, you may not fax the permission form to them, although they may fax the consent back to you.

The new rules carry stiff penalties if a violation is found. Individuals can sue for up to \$500 per fax. (This can be tripled by a judge if the faxing party’s conduct is considered willful). Additionally, the FCC has authority to fine a violator up to \$11,000 per violation.

These regulations only apply to faxes. At this time, email is not affected. We will keep you posted if there are any further developments.

Please check with your corporate attorneys to determine how the new “no-fax rules” affect your business individually.

After July 1, 2005 Merrill can no longer fax its customers or potential customers without prior written consent. Therefore, we have attached a consent form to this communication. Please complete the form, sign it, and return it to Merrill as soon as possible.

MERRILL CONSENT FORM

Company / Organization:

Company / Organization Address:

Name of Person & Title Authorization or Providing Consent:

Telephone Number: _____

Fax Number(s) for which consent is being authorized/provided (list all fax numbers that can be used):

I understand that by authorizing/providing the fax number(s) listed above, I consent to its receipt of communications sent by or on behalf of Merrill. [I understand that Merrill will not share my fax with other organizations.] This consent is intended to fully comply with certain amendments to the Telephone Consumer Protection Act of 1990 effective July 1, 2005. This consent remains in effect until specifically terminated in writing by an authorized person.

Name: (print clearly) _____

Signature: _____

Date: _____

RETURN WITHIN 10 DAYS TO:

**MERRILL MFG
FAX: 800-269-3569 OR 712-732-4401
OR Mail to: PO Box 392
Storm Lake IA 50588**