

**REPORT BY
STATE CORPORATION COMMISSION
ON
UNSOLICITED COMMERCIAL TELEPHONE CALLS
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 30

**COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
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COMMONWEALTH OF VIRGINIA



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STATE CORPORATION COMMISSION

February 10, 1978

TO: The Honorable John N. Dalton
Governor of Virginia

and

The General Assembly of Virginia

The report contained herein is pursuant to House Joint Resolution No. 287 of the 1977 Session of the General Assembly of Virginia.

This report comprises the response by the State Corporation Commission to the directive that a review be conducted of unsolicited commercial telephone calls.

Respectfully submitted,

Thomas P. Harwood, Jr., Chairman

Junie L. Bradshaw, Commissioner

Preston C. Shannon, Commissioner

HOUSE JOINT RESOLUTION NO. 287

Expressing the sense of the General Assembly that the State Corporation Commission should request telephone companies in Virginia to review the question of unsolicited commercial telephone calls.

Agreed to by the House of Delegates, February 16, 1977
Agreed to by the Senate, February 24, 1977

WHEREAS, the General Assembly is aware that there are citizens of the Commonwealth who resent the intrusion of unsolicited commercial telephone calls into their daily life; and

WHEREAS, there presently appears to be no quantitative studies of the actual extent to which citizens are bothered by unsolicited commercial telephone calls; and

WHEREAS, it is recognized that unsolicited commercial telephone calls may serve both legitimate and desirable economic functions and that the elimination of such calls might cause undue hardship to certain businesses and individuals; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That it is the sense of the General Assembly that the State Corporation Commission should request telephone companies operating in Virginia to conduct reviews where unsolicited commercial telephone calls appear to be a public concern and to formulate plans of action to assist the public with such problems in every reasonable way.

Background

Pursuant to House Joint Resolution No. 287 (1977 Session), the State Corporation Commission requested telephone companies operating in Virginia to conduct reviews where unsolicited commercial telephone calls appear to be a public concern, and to formulate plans of action to assist the public with such problems in every reasonable way.

A copy of the Commission's request and a summary of the responses from the independent companies and from the Chesapeake and Potomac Telephone Company of Virginia are attached as exhibits A, B, and C, respectively. There are two general conclusions:

1. The independent telephone companies are not experiencing public concern over such calls. These companies generally serve the more rural areas of the State and supply about 20% of telephones in use.
2. The C & P Telephone Company, which supplies 80% of the telephone service statewide, has identified some public concern over unsolicited commercial calls. C & P's service territory includes the larger metropolitan areas of Virginia.

Our conclusions indicate that the subject calls are negligible or non-existent in rural areas, but are significant in more densely populated areas. Only five of twenty-one independent companies received complaints during a two-month study period (May-June, 1977). Included in the service areas of the five companies are the cities of Charlottesville, Bluefield, and Bristol and territory bordering Roanoke, together with the Northern Virginia metropolitan area.

The remaining independent companies, serving smaller areas, received no complaints during the study period.

Since there is negligible public concern in areas served by independents those companies have formulated no plans of action. On the other hand, C & P is attempting to deal with the problem in a manner stated in Exhibit C.

Present Remedies

Complaints of unsolicited commercial calls to the SCC staff have been few in number and most complaints to the SCC pertain to receiving obscene or threatening calls, or involve repeated calls by collection agencies to an individual's place of employment.

Present tariffs include "Cancellation of Cause" regulations which address these types of problems to a degree. The process works this way:

A subscriber reports unwanted calls either to the telephone utility or to the Commission. The utility contacts the offending party if their identity is known. The party is warned that if the offending calls continue, service will be terminated in accordance with tariff regulations.

Records indicate that this has been an effective deterrent for unwanted calls. If the offending party is unknown, as is usually the case with obscene calls, tracing equipment can be installed to detect their origin. The evidence disclosed by this equipment can be used in proceeding against alleged offenders.

Unsolicited commercial calls represent a different kind of problem. Whereas the nuisance and obscene calls are of a recurring nature and can be dealt with, commercial calls are normally a one-time solicitation covering messages. Since the calls are not likely to be soon repeated, the intrusion has taken place in the absence of an effective deterrent.

Current Activities at National Level

This issue has recently surfaced as a national problem, due in part to the possibility of increased bulk postage rates. If this should occur, there is a strong possibility that there would be a significant shifting to recorded telephone messages as the more economical alternative in advertising goods and services. Given the interstate characteristic of the nation's telecommunications system, a substantial portion of the calling could originate at a location outside the State of Virginia. In that event, any plan adopted for Virginia would be only partially effective.

Since the issue has national implications, Congress, the Federal Communications Commission, and the Office of Telecommunication's Policy have become involved.

During October, 1977, bills were introduced in both houses of Congress to amend the Communications Act of 1934, "to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls." One bill would prohibit the use of automatic dialers if the message exceeds one minute.

The FCC has been asked to issue a notice of inquiry and proposed rulemaking to consider protecting the public from "nuisance, annoyance and invasion of privacy resulting from the use of automated dialing devices to present unsolicited recorded messages over the public telephone network." This request was based on a recent proliferation of telephone attachments such as the automatic dialer and recorded message player (ADRMP) which dials a series of numbers (pre-selected or chosen at random) and plays a prerecorded message when the phone is answered. This practice opens up the possibility of widespread unsolicited calls to random homes at any hour of the day or night with no means of stopping them. The proposed FCC rulemaking proceeding would:

1. Consider restrictions on the use of automated dialing devices for presenting unsolicited recorded messages to telephone subscribers;

2. Designate means by which telephone subscribers can indicate they do not wish to receive such calls, and designate penalties to advertisers who violate subscribers' desire for privacy;
3. Designate special tariffs for telephone sales campaigns to reflect fully their cost of service;
4. Require users of automated dialing devices to precede each recorded message with an announcement identifying it as coming from an automated dialing device.

The Office of Telecommunications Policy has asked that any FCC proceedings be expanded "to address all forms of solicitation by phone." OTP said further, "solicitation by phone, regardless of the method, raises serious questions concerning the infringement of individual privacy." OTP's concerns are far-reaching indeed, raising the question of whether charitable or political calling by telephone should be ended.

Although the OTP suggestion would appear to be overly restrictive, at least it avoids the major unanswered question: Just what is an unsolicited commercial telephone call? Can it be defined precisely enough to allow for effective regulation? It should also be remembered that not all consumers object to receiving solicitation calls. Various segments of our society, including the lonely and the handicapped, may be very receptive to such calls and may object strongly to their complete elimination.

Activity at the Virginia Level

The C & P Telephone Company is sponsoring meetings which bring together representatives of the telephone industry, business and consumers for the purpose of developing a Voluntary Code of Ethics. These meetings are continuing and we do not know if such a code can be developed.

