

OP. NO. 04-038

TRADE AND COMMERCE: VIRGINIA TELEPHONE PRIVACY PROTECTION ACT.

Telephone calls made by foundation to general public for sole purpose of requesting donations of used clothing, or other items such as household goods, for subsequent sale by foundation to public to raise funds for foundation are not 'telephone solicitation call[s]' as defined by Act.

The Honorable H. Morgan Griffith
Majority Leader, House of Delegates
December 29, 2004

Issue Presented

You ask whether telephone calls made by a foundation to the general public solely for the purpose of requesting donations of used clothing, or other items such as household goods, for subsequent sale to the public, to raise funds for the foundation, are "telephone solicitation call[s]" as defined in § 59.1-510 of the Virginia Telephone Privacy Protection Act.

Response

It is my opinion that telephone calls made by a foundation to the general public, solely for the purpose of requesting donations of used clothing, or other items such as household goods, for subsequent sale by the foundation to the public in order to raise funds for the foundation, are not "telephone solicitation call[s]" as defined in § 59.1-510 of the Virginia Telephone Privacy Protection Act.

Background

You describe a foundation that makes telephone calls to members of the public solely for the purpose of requesting donations of used clothing, or other items such as household goods, so that the foundation subsequently may sell the donated items to the public to raise funds for the foundation. You state that the foundation does not use the telephone calls to offer or advertise to the persons called the donated items or any other property, goods or services for sale. The telephone calls are made only to request the donations.

Applicable Law and Discussion

Sections 59.1-510 through 59.1-518 comprise the Virginia Telephone Privacy Protection Act. Section 59.1-510 defines "telephone solicitation call" as "any telephone call made to any natural person's residence in the Commonwealth, or to any wireless telephone with a Virginia area code, for the purpose of offering or advertising any property, goods or services for sale, lease, license or investment, including offering or advertising an extension of credit." Thus, for a call to be considered a "telephone solicitation call" under § 59.1-510, the call must be "for the purpose of offering or advertising ... property, goods or services for sale, lease, license or investment." A call that is made for the sole purpose of

requesting a donation of used clothing, or other items such as household goods, is not a call made for the purpose of offering or advertising property, goods or services for sale, lease, license or investment.

You relate that, while the foundation you describe requests the donated items so that they subsequently may be sold to the public to raise funds for the foundation, the foundation does not use the telephone calls to offer or advertise the donated items or any other property, goods or services for sale to the persons called. The telephone calls are made only to request donations. Therefore, the telephone calls do not involve "offering or advertising any property, goods or services for sale, lease, license or investment."¹ Consequently, it is my opinion that the telephone calls are not "telephone solicitation call[s]" as defined in § 59.1-510 of the Virginia Telephone Privacy Protection Act.

Conclusion

Accordingly, it is my opinion that telephone calls made by a foundation to the general public, solely for the purpose of requesting donations of used clothing, or other items such as household goods, for subsequent sale by the foundation to the public in order to raise funds for the foundation, are not "telephone solicitation call[s]" as defined in § 59.1-510 of the Virginia Telephone Privacy Protection Act.

¹Va. Code Ann. § 59.1-510 (LexisNexis Supp. 2004) (defining "telephone solicitation call").

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