

Commercial Alert
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January 25, 1999

William E. Kennard
Chairman
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

**RE: Enforcement Against Telemarketers Who Use Celebrities'
Recorded Voices in Calls to People's Homes**

Dear Chairman Kennard:

We request that the Federal Communications Commission (FCC) enforce the Telephone Consumer Protection Act of 1991¹ (TCPA) against telemarketing firms that use celebrities' recorded voices in unsolicited telemarketing calls to people's homes. Many of these calls, as described in news reports, appear to violate the TCPA, which prohibits telemarketing firms from initiating telephone calls to any home using a recorded voice without the prior consent of the called party, with some exceptions, including emergencies and calls not made for commercial purposes.²

The Washington Post reported that telemarketing firms are employing celebrities' voices for recorded phone messages. *The Post* transcribed one such telemarketing call from celebrity Dick Clark.

¹ 47 U.S.C. § 227

² 47 U.S.C. § 227(b)(1)(B)

"Hi, this is Dick Clark. I'm sorry to reach you at home, but I just wanted to call your attention to a television special I produced. It's called 'The American Music Awards' and it's on ABC, Channel 7, Monday night at 8 o'clock. It's really the biggest music party of the year. It's called 'The American Music Awards,' lots of celebrities and terrific performances. It's a huge star-studded live event, and I hope you get a chance to watch. It's 'The American Music Awards' on Channel 7 Monday night. I think you'll like it. Hey, I'm sorry to call you at home, but I just wanted to personally invite you to watch. For more information, you can check out the Web site www.americanmusicawards.com. Thanks so much."¹

We believe that these unsolicited celebrity telemarketing calls are an invasion of the sanctity and privacy of the home. They are a public nuisance, and a form of harassment. They intrude upon the family dinner table, the precious time that parents get to spend with their children. This is family time; it should not be an advertising zone for every huckster in America with something to sell.

Courts have consistently held that privacy interests are strongest in the home. For example, in *Carey v. Brown*, the Supreme Court ruled that:

Preserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value. . . . The State's interest in protecting the well being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society.²

We believe that these celebrity telemarketing calls, as described in news reports, are unsolicited commercial calls, and therefore are not exempted from the TCPA, when the telemarketing calls are made by a commercial entity on behalf of another commercial entity, and contain advertising content. For example, the Dick Clark telemarketing calls were unsolicited advertisements carried out by the Broadcast Team, a commercial entity, on behalf of ABC television, another commercial entity.

If the FCC does not undertake enforcement actions against these telemarketing firms, then it should initiate a rule-making to require that celebrity telemarketers must leave their actual home telephone numbers on any recorded message that telemarketers use to place unsolicited telemarketing calls to people's homes. The FCC could require that the celebrity telemarketers disclose their actual home phone number that they use in practice on a daily or regular basis – not a phone number set up for this or any other special purpose.

We strongly urge the FCC to use its authority to protect the peace and quiet of the home against the intrusions of telemarketers.

¹ Mark Leibovich. "A Familiar Voice on the Phone; Telemarketers Using Pitches by Dick Clark, Other Celebrities." *The Washington Post*, 13 January 1999. See Attachment #1.

² 447 U.S. 455, 471 (1980)

Sincerely,

Gary Ruskin
Director

Ralph Nader

cc: Senator Ernest Hollings
Representative Edward Markey
Dorothy Attwood, Chief, Enforcement Division, Common Carrier Bureau, FCC

NEWS RELEASE

For Immediate Release:
Monday, January 25, 1999

For More Information Contact:
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Nader Urges FCC to Enforce Law Against Telemarketers Who Use Celebrity Voices in Recorded Calls to People's Homes

Responding to news reports that telemarketing firms are using celebrities' recorded voices in unsolicited calls to people's homes, Ralph Nader and Commercial Alert today sent a letter to the Federal Communications Commission (FCC) urging that they enforce the Telephone Consumer Protection Act (TCPA) against these telemarketers.

The letter to William Kennard, Chairman of the FCC, states that: "We believe that these unsolicited celebrity telemarketing calls are an invasion of the sanctity and privacy of the home. They are a public nuisance, and a form of harassment. They intrude upon the family dinner table, the precious time that parents get to spend with their children. This is family time; it should not be an advertising zone for every huckster in America with something to sell."

On January 13, *The Washington Post* reported on a celebrity telemarketing call from Dick Clark: "Hi, this is Dick Clark. I'm sorry to reach you at home, but I just wanted to call your attention to a television special I produced. It's called 'The American Music Awards' and it's on ABC, Channel 7, Monday night at 8 o'clock. It's really the biggest music party of the year. It's called 'The American Music Awards,' lots of celebrities and terrific performances. It's a huge star-studded live event, and I hope you get a chance to watch. It's 'The American Music Awards' on Channel 7 Monday night. I think you'll like it. Hey, I'm sorry to call you at home, but I just wanted to personally invite you to watch. For more information, you can check out the Web site www.americanmusicawards.com. Thanks so much."

In 1991, Congress approved the Telemarketing Consumer Protection Act (TCPA) which prohibits telemarketing firms from initiating telephone calls to any home using a recorded voice without the prior consent of the called party, with some exceptions, including emergencies and calls not made for commercial purposes.

The letter states that "If the FCC does not undertake enforcement actions against these telemarketing firms, then it should initiate a rule-making to require that celebrity telemarketers must leave their actual home telephone numbers on any recorded message that telemarketers use to place unsolicited telemarketing calls to people's homes. The FCC could require that the celebrity telemarketers disclose their actual home phone number that they use in practice on a daily or regular basis – not a phone number set up for this or any other special purpose."

Commercial Alert was founded last year to oppose the excesses of commercialism, advertising and marketing. The web address for Commercial Alert is <http://www.essential.org/alert/>.