

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
John Marshall Courts Building

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| COMMONWEALTH OF VIRGINIA, |) |
| EX REL. MARK R. HERRING, |) |
| ATTORNEY GENERAL, |) |
| |) |
| Plaintiff, |) |
| |) |
| v. |) |
| |) |
| SIRIUS XM RADIO INC., |) |
| a Delaware corporation, |) |
| |) |
| Defendant. |) |

Civil Action No. _____

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| RECEIVED AND FILED CIRCUIT COURT |
| DEC - 4/2014 |
| EDWARD F. JEWETT, CLERK BY _____ D.C. |

COMPLAINT

The Plaintiff, Commonwealth of Virginia (the "Commonwealth"), by, through, and at the relation of the Attorney General, Mark R. Herring, brings this action against the Defendant, Sirius XM Radio Inc. ("Sirius XM"), pursuant to the Virginia Consumer Protection Act ("VCPA"), Va. Code §§ 59.1-196 through 59.1-207. The Commonwealth prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Circuit Court of the City of Richmond has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-202, 59.1-203, and 59.1-206.

2. Venue is permissible in this Court pursuant to Virginia Code §§ 8.01-262(3) because the Defendant has regularly conducted substantial business activity within the City of Richmond.

3. The Defendant has agreed to execute an Assurance of Voluntary Compliance that is acceptable to the Plaintiff in accordance with § 59.1-202 of the VCPA.

PARTIES

4. The Plaintiff is the Commonwealth of Virginia (the “Commonwealth”), by, through, and at the relation of Mark R. Herring, Attorney General of Virginia.

5. Defendant Sirius XM is a Delaware corporation with its principal place of business located at 1221 Avenue of the Americas, New York, New York 10020. Sirius XM was issued a Certificate of Authority to Transact Business in Virginia on July 18, 2013.

CAUSE OF ACTION

6. The Plaintiff realleges and incorporates herein by reference the matters set forth in Paragraphs 1 through 5 above.

7. The Defendant is or was during all relevant times a “supplier” of “goods” and/or “services” in connection with “consumer transactions” as those terms are defined in § 59.1-198 of the VCPA.

8. The Defendant offers satellite and internet radio services to consumers that allow consumers to listen to Sirius XM’s broadcasts of music, sports, news, talk, entertainment, traffic, and weather information.

9. Consumers subscribed to free trial subscriptions of the Defendant’s services and/or entered into service contracts with the Defendant.

10. In some instances, consumers did not receive copies of the service contract they entered into with the Defendant.

11. The Defendant automatically renewed consumers' services at the expiration of a free trial offer without consumers' consent and/or without consumers' knowledge of the Defendant's automatic renewal policy.

12. The Defendant charged consumers' debit or credit cards, deducted funds from consumers' bank accounts, or billed consumers for the automatic renewal of services without the consumers' consent and/or knowledge of the Defendant's automatic renewal policy.

13. The Defendant failed to honor consumers' cancellations of the Defendant's services or made it difficult for consumers to cancel the Defendant's services.

14. The Defendant failed to provide timely refunds or refused to refund the payments the Defendant accepted from consumers for automatic renewals done without the consumer's consent and/or knowledge of the automatic renewal policy.

15. The Defendant misrepresented to consumers that the consumer's services would be cancelled, that the consumer's services would not be renewed, and/or that the consumer would receive a refund.

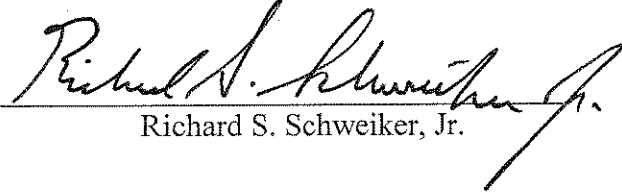
16. Section 59.1-200(A)(14) of the VCPA prohibits using any "deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction."

17. The aforesaid acts and practices of the Defendant constitute the use of deception, fraud, false pretense, false promise, or misrepresentation in connection with consumer transactions in violation of § 59.1-200(A)(14) of the VCPA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, respectfully requests this Court to enter its Order Approving and Adopting the Assurance of Voluntary Compliance filed simultaneously herewith.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: 
Richard S. Schweiker, Jr.

Mark R. Herring
Attorney General

Cynthia E. Hudson
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Civil Litigation Division

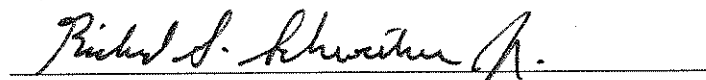
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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December, 2014, a true copy of the foregoing Complaint was mailed, postage prepaid, to: Barrie VanBrackle, Esquire, Manatt, Phelps & Phillips LLP, 700 12th Street, NW, Suite 1100, Washington, DC 20005, and Clayton S. Friedman, Esquire, Manatt, Phelps & Phillips LLP, 695 Town Center Dr., Fourteenth Floor, Costa Mesa, CA 92626, counsel for Sirius XM Radio Inc.


Richard S. Schweiker, Jr.