



July 11, 2008

[REDACTED]

[REDACTED]

Bell Canada – Executive Care Solutions Centre

[REDACTED]

Re: CCTS complaint #01473

This is a decision of the Commissioner for Complaints for Telecommunications Service (CCTS) with respect to CCTS complaint #01473, November 16, 2007, by [REDACTED] about the telecommunications services provided to her by Bell Canada (Bell).

In this decision, the CCTS finds that [REDACTED] has not demonstrated substantial doubt as to the correctness of the CCTS's May 12, 2008, recommendation with respect to [REDACTED] November 16, 2007, complaint. The CCTS's recommendation that [REDACTED] accept Bell's offer for an additional credit of \$197.72, bringing the total credit to \$240, is hereby maintained and becomes the decision of the CCTS.

CCTS recommendations and decisions

The CCTS is an independent agency with a mandate to receive, facilitate the resolution of, and, if necessary, resolve eligible consumer and small business complaints relating to certain retail telecommunications services.

In cases where the telecommunications services provider (TSP) and the complainant are unable to resolve the complaint, the CCTS investigates and issues a non-binding recommendation to the complainant and the TSP for the resolution of the complaint. This is referred to as the recommendation stage. If either the complainant or the TSP does not accept the recommendation, the CCTS renders a decision that becomes binding on the TSP if the complainant accepts the decision. This is referred to as the decision stage. The complainant may reject the decision and pursue redress elsewhere. If the complainant accepts the CCTS's decision, the complainant is deemed to release the TSP in accordance with Section 11.7 of CCTS's *Procedural Code* (the Code).

Standard for varying a recommendation

Prior to issuing a decision, Section 11.4 of the Code provides that the Commissioner "shall consider the reasons set out by either or both parties" for rejecting a recommendation. A recommendation will only be varied at the decision stage if the party or parties requesting a decision demonstrate that substantial doubt exists as to the correctness of a recommendation. Substantial doubt as to the correctness of a recommendation can be demonstrated by showing that the recommendation is, for example, irrational, unsupported by the evidence presented by the parties, or based on a clearly incorrect understanding of the evidence or the law.

Recommendation issued but not accepted by [REDACTED]

The CCTS issued its recommendation on May 12, 2008, regarding [REDACTED] complaint about the telecommunications service provided to her by Bell. Pursuant to Section 11.1(b) of the Code, [REDACTED] indicated on May 20, 2008, that she did not accept the recommendation.

[REDACTED]'s November 16, 2007, complaint

[REDACTED] stated in her November 16, 2007, complaint that she was lodging the complaint on behalf of her 80 year-old parents who live at the same address as well as on behalf of all the residents at that address. [REDACTED] stated that she and the others had not agreed to subscribe to Bell Sympatico Internet service. In September 2007, however, a courier delivered a Sympatico modem to their home. [REDACTED] advised the courier that neither she nor the others at her address had ordered the modem; the modem was returned to the courier.

Prior to the modem being delivered, [REDACTED] stated that she and her parents were harassed for months by the same Bell sales representative who repeatedly called from India. [REDACTED] repeatedly indicated to this Bell representative that she did not want to accept his offer and asked him not to call again. Despite these requests, Bell's representative continued to call two or three times a week and usually at night.

On November 8, 2007, [REDACTED] stated that she and the others at her address received an automated voicemail message from Bell Sympatico advising that they were going to be charged on their next bill for use of Sympatico Internet service. [REDACTED] stated that on November 9, 2007, she called Bell Sympatico and spoke with a representative in the billing department. He indicated that the order had been made on September 14, 2007, in [REDACTED]'s name. [REDACTED] asked for the name and identification number of the employee who had placed the order. The representative informed [REDACTED] that he did not have this information and that she would have to call another number to obtain this information. [REDACTED] indicated that she called the number and was advised by the representative and the representative's supervisor that they could not provide the name and identification number of the employee who had placed the order. [REDACTED] called Bell's billing department and cancelled the order. In her complaint, [REDACTED] stated: "We have endured countless unsolicited phone calls over the past several months. I vehemently resent being forced to waste over 50 hours addressing those calls and trying to sort things out with Bell and Bell Sympatico."

CCTS referred ██████ complaint to Bell on November 30, 2007.

On December 7, 2007, Bell responded that the Company had informed ██████ that Bell would take punitive measures against the Bell representative but that the Company was not at liberty to discuss these measures as this was a Bell Sympatico internal matter. Bell also indicated that they had apologized for the inconvenience and assured ██████ that the agent would be reprimanded. Bell further advised that they had ensured that the Internet account had been cancelled and that no charges had been applied. ██████ was not satisfied with Bell's response.

On December 7, 2007, ██████ wrote to CCTS asking if CCTS would obtain a full report on what had happened and if CCTS would ensure that this never happened to anyone else.

The CCTS's recommendation

After investigating ██████'s complaint, the CCTS issued a recommendation to ██████ and Bell on May 12, 2008. The CCTS found that Bell addressed ██████'s concerns regarding closure of the unauthorized Internet account in a timely manner. The account was deactivated and all charges credited within 24 hours.

During the course of the investigation, Bell stated that the Company had provided a credit of \$42.28 – one month's charges for telephone service – to ██████'s parents, the account holders at ██████'s address, as a gesture of goodwill. Later in the investigation, Bell stated that the Company was willing to provide an additional credit of \$197.72 as a further gesture of goodwill, bringing the total credit to \$240. The CCTS found that the credit was reasonable compensation for the inconvenience caused to ██████ and the others at ██████'s address.

The CCTS recommended that ██████ accept the credit offered by Bell as resolution of her complaint.

██████'s reasons for rejecting the recommendation

██████ rejected the recommendation on May 12, 2008, stating that she had spent "many hours" attempting to resolve her complaint with Bell. She stated, "I am being generous by capping the time I have spent at 50 hours." ██████ also stated that the CCTS's recommendation had failed to take into account that the matter at hand was Bell's second offense against her and the others. She requested that this be taken into account in my decision. ██████ further stated that the recommendation provided an incomplete summary of the facts and that the recommendation did not include the reasons underlying the recommendation. ██████ reiterated her April 18, 2008, request for 23.5 months of credit "for time, stress, and inconvenience". In her April 18, 2008 request, she stated that this amounts to \$940.

Has [REDACTED] raised substantial doubt as to the correctness of the recommendation?

[REDACTED] states that her claim for compensation is based on the time, stress and inconvenience caused by Bell, requiring 50 hours of her time. I note from her November 16, 2007, complaint that a portion of these hours were devoted to dealing with unsolicited telemarketing calls from Bell over several months. Complaints about telemarketing are not within the scope of the CCTS's mandate. In addition, I note that Bell deactivated and credited all charges with respect to the unauthorized Internet account within 24 hours of being contacted by [REDACTED]. As a result, I conclude that significantly less than 50 hours of time would directly relate to the complaint that falls within the scope of the CCTS's mandate.

With respect to [REDACTED]'s assertion that the CCTS failed to take into account that the matter at hand was Bell's second offense against her and the others at her address, I give no weight to this assertion. The alleged first offense occurred before the CCTS was created and, therefore, falls outside the CCTS's mandate. The alleged first offense was correctly not investigated by the CCTS with respect to its merit and, therefore, it properly had no role in formulating the recommendation for the complaint at hand.

With respect to [REDACTED]'s assertion that the CCTS's recommendation provides an incomplete summary of the facts, [REDACTED] states that the alleged first offense by Bell noted above was not identified in the recommendation. As discussed above, the alleged first offense is not relevant to the complaint at hand. After reviewing the record with respect to [REDACTED]'s complaint, I conclude that the recommendation includes all the relevant and material facts.

With respect to [REDACTED]'s assertion that the CCTS's recommendation did not include the reasons underlying the recommendation, I have reviewed the recommendation. I conclude that the four-page recommendation sets out in detail the investigation of [REDACTED]'s complaint and adequately identifies the reasons underlying the recommendation. For example, the recommendation states that Bell addressed [REDACTED]'s concerns regarding the unauthorized Internet account in a timely manner. The recommendation also finds that [REDACTED] suffered inconvenience, the fundamental reason underlying the recommendation for monetary compensation. The amount of the compensation flows from the circumstances of [REDACTED]'s complaint; the circumstances are set out in the recommendation.

Finding with respect to [REDACTED]'s rejection of the CCTS recommendation

Based on the above, I find that [REDACTED] has not demonstrated substantial doubt as to the correctness of the CCTS's May 12, 2008, recommendation with respect to [REDACTED]'s November 16, 2007, complaint.

CCTS decision with respect to CCTS complaint #01473

The CCTS's recommendation that [REDACTED] accept Bell's offer for an additional credit of \$197.72, bringing the total credit to \$240, is hereby maintained and becomes the decision of the CCTS.

If [REDACTED] rejects this decision within 20 business days of receipt, Bell will be released from this decision. If [REDACTED] does not reject this decision within 20 business days of receipt, the decision will bind Bell and [REDACTED] will be deemed to release Bell as described in Section 11.7 of the Code.

A copy of the Code is attached.

David McKendry
Interim Commissioner for Complaints for Telecommunications Services