



Howard Maker
Commissioner
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December 8, 2008

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Manager
Bell Canada

[REDACTED]
[REDACTED]
[REDACTED]

**Re: CCTS Complaint # 06075
Decision**

On November 18, 2008, we issued a recommendation in this matter (copy attached). The original complaint was made by [REDACTED] regarding billing for the local exchange and internet services provided to him by Bell Canada (Bell). [REDACTED] was disputing the total monthly cost of his two services and asserted that his agreement with Bell from May 23, 2008 was not being upheld. We concluded that we do not believe that any contract was agreed to on May 23, 2008, and therefore did not recommend any further action by Bell. We also concluded that [REDACTED]'s internet speed, which he had said was too slow, was not guaranteed by Bell and therefore we did not recommend any further action by Bell on this matter either.

The Complaint

[REDACTED] wrote to us on November 25, 2008, objecting to our recommendation. He provided further documentation¹ and asserts that CCTS made an incorrect statement by not finding that a contract was agreed upon on May 23, 2008. He says that Bell did lead him to believe that an offer was made to him on this date, which he accepted. He thus wishes to have this oral contract honoured. [REDACTED] has requested that CCTS review Bell's copies of his two conversations with a Bell representative on May 23, 2008.

Bell's Position

We referred [REDACTED]'s objections to Bell for its comments. Specifically, we asked Bell for all documentation of [REDACTED]'s conversations on May 23, 2008. Bell has confirmed that it did not record this call. It has provided the following comment from the Bell representative who spoke with [REDACTED] that day:

¹ The additional documentation refers to the cost of the internet service [REDACTED] agreed to in 2002 and a screen shot of an internet service offer from Bell from 2002. Neither document refers to the download speed.

I spoke with [REDACTED] on May 23rd 2008 and discussed Price Plans. As it was not my first time speaking with him and knowing he wanted all information in writing (see email trail), I did not confirm any price. I explained the price discussed sounded legitimate but would need time to validate and return a written confirmation. No verbal contract was agreed upon. Once again, please note that in the email trail, [REDACTED] requests written confirmations before accepting any contracts. The conversation took place from [REDACTED] number, but unfortunately, the calls from that station could not be recorded.

Bell provided a further response with regard to the documents from 2002 that [REDACTED] provided, stating that "providing touch tone to a customer without charge would need CRTC approval, unless a programming mistake was made of which we were unaware of [sic] for us to rectify".

Decision

We have considered [REDACTED]'s objection to the recommendation and the supplemental information provided by both parties. The available evidence falls short of persuading us that [REDACTED] and Bell reached agreement on a contract during the May 23, 2008 conversation. Accordingly, we see no basis for any change to the November 18, 2008 recommendation.

This concludes our investigation of this complaint. We draw the attention of the parties to sections 11.6 to 11.9 of the CCTS *Procedural Code* (Code), which describe in detail [REDACTED]'s right to accept or reject the Decision within 20 business days of its receipt, and the consequences of acceptance, rejection or a failure to respond. A copy of the Code is attached.

Howard Maker
Commissioner



November 18, 2008

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
Manager
Bell Canada
[REDACTED]
[REDACTED]
[REDACTED]

Re: CCTS Complaint # 06075

On May 29, 2008, we received a written complaint from [REDACTED] regarding local exchange and internet services provided to him by Bell Canada (Bell).

The Complaint

[REDACTED] is disputing his billing from June 6, 2008 onwards. He states that he agreed to a contract with Bell on May 23, 2008 for telephone and internet service for \$45.59 plus tax and wants to have this alleged agreement recognized. He states that June 6, 2008 was the date on which a new contract for internet service was to begin, and was thus the date from which an agreement on price for the two services was to come into effect.

[REDACTED] has provided a history of his email discussions with Bell. These discussions also include various other disputes which appear to have been resolved.¹ The following review of these communications is relevant to the current dispute.

On January 16, 2008, [REDACTED] spoke with a Bell representative and agreed to accept a promotional offer for two separate one year contracts, one for each of his telephone and his internet services. Each contract was to include a \$5 discount on the service for a one year period. He was also to receive a further \$5 discount for bundling the two services together. Because his current internet service contract was not ending until June 2008, this new

¹ On March 18, 2008, Bell credited a disputed long distance charge of \$1.97 for a call to Guam. On the same date, Bell confirmed that [REDACTED]'s internet is being provided at full speed and not a slower rate as he claimed. On March 27, 2008, Bell offered to allow [REDACTED] to cancel his telephone service, waiving any early termination charges on the one year telephone contract, if he gives 30 days notice by April 22, 2008. [REDACTED] did not cancel his service. On April 18, 2008, Bell retroactively added a \$5 bundle discount that applied from the March 26, 2008 invoice forward.

promotional internet contract was to be effective beginning in June. After this conversation, [REDACTED]'s telephone service was switched from pulse to touch tone as a requirement of the offer.

[REDACTED]'s February 26, 2008 invoice reflected the new telephone service contract. His "Residential line" telephone service was \$24.97 plus tax prior to this agreement.² From the February 2008 invoice, the new "Home Phone Lite package" was charged at \$20.64 plus tax.³

On May 28, 2008, he received an email from Bell that stated: "Following our telephone conversation of May 23rd 2008, here are the details requested regarding the promotional contract offers for the telephone service and Internet." The offer cited a total pricing of \$48.39 plus tax. In the email, the price of home telephone service was quoted as \$23.44. This included an adjustment of an extra \$2.80 for touch tone service, which Bell had mistakenly forgotten to charge [REDACTED] since beginning the service in January.⁴ Bell emphasized "[t]he telephone line must have the Touch Tone service, and this, since March 1993."

No changes were made to the agreed upon "Internet Essential Plus" service contract for 12 months as of June 6, 2008, at \$29.95.

[REDACTED]'s email response of the same day states that he left a message on the Bell representative's voicemail stating his agreement to pay \$45.59 plus tax for both services.⁵ In the email, he requests that his contract be terminated as of June 6, 2008 if Bell will not honour the agreement. He adds that he has been on pulse service since 1982.

On May 29, 2008, Bell clarified that the offered price is \$48.39 and "includes Touch Tone service which is obligatory with the Home Phone Lite package." Bell confirms that [REDACTED] is using Touch Tone service, not pulse service, since agreeing to this package. Bell offered to reinstate the pulse service, but would not provide the Home Phone Lite contract offer for pulse service.

Bell's \$5 discount for bundled services was applied to service received from January 16, 2008 to June 3, 2008. Reverting to pulse also removed the \$5 monthly discount for bundling his services, bringing the total cost of both services to \$54.88 plus tax. Bell requested [REDACTED]'s written final decision in order to proceed.

[REDACTED] responded, requesting pulse telephone and internet service for \$45.59 plus tax. He does not want his services disconnected. Pursuant to his refusal to pay for touch tone service and expressed request to maintain his pulse service, Bell placed [REDACTED] back on pulse telephone service on June 3, 2008. Bell credited all touch tone charges.

² \$19.28, plus call waiting, \$5.50, and 911 emergency access, \$0.19.

³ \$19.95, plus call waiting, \$5.50, 911 emergency access, \$0.19, and a \$5.00 monthly discount.

⁴ The email states: "[REDACTED], during the course of my verification of your account profile to provide you with the specific details you require, I noticed you are not charged for Touch tone service. I needed to correct this situation and the charges will be added to your monthly service as of May 27th 2008."

⁵ He refers to a 12 month contract (seemingly for internet service) offered by telephone on January 16, 2006 [sic] (presumably 2008) and a renewal offer (for home telephone service) received by mail on May 21, 2008.

Since being back on pulse, [REDACTED] is upset that it takes him longer to dial out and that he cannot use his cordless phone.

Further, [REDACTED] mentioned that in his new internet service contract, begun on June 6, he is offered service at a rate up to 2 Mbps. He says he is receiving only 1 Mbps.

Request

[REDACTED] finds all of the adjustments applied to his bills confusing and he requests clarity before paying the requested amount. He has continued to pay \$45.59 plus any long distance charges and taxes each month. He states that Bell has not been honouring his contract of May 23, 2008 which was for this amount.

[REDACTED] requests that Bell provide "timely technical support for telephone and internet." He notes that the cancellation fees applicable to his services (\$75 and \$100 for telephone and internet respectively) should be paid to him from Bell if Bell cancels his contract.

He states he has spent 21.5 hours dealing with Bell and his billing rate is \$75 per hour, calculating his claim against Bell worth \$1,693. This amount was reduced from an initial claim for \$5,000 compensation due to this time spent, as well as the frustration and stress which he states are aggravating his high blood pressure.

He is also seeking an appropriate discount for the reduced internet speed he is receiving.

Bell's Position

Bell states that touch tone telephone service became obligatory by the CRTC as of March 1993. For customers like [REDACTED] with pulse service existing prior to 1993, the pulse service was maintained until any future changes to the telephone line were requested. Changes include requests to move or promotional services.

[REDACTED] accepted a promotional offer on January 16, 2008 for Home Phone Lite service. When this service became effective as of February 4, 2008, his telephone line was switched to touch tone. He was not charged the regulated \$2.80 per month fee for touch tone service until May 28, 2008. On this date, Bell provided an email confirmation to a telephone conversation on May 23, 2008. Bell states that it never confirmed the provision of services to [REDACTED] for \$45.59 per month on May 23, 2008. Bell states that further investigation of the promotions was required and that Bell was to provide [REDACTED] a confirmation of the agreement, which was Bell's email of May 28, 2008, offering service for \$48.39, after adding \$2.80 for touch tone service.

Bell states that [REDACTED] accepted the renewal of his internet contract on June 9, 2008. Bell also confirms that no internet delivery problem was found. Bell states that [REDACTED]'s 12 month promotional internet service contract is \$34.95 per month. This price is inclusive of a \$5 discount per month for the duration of the contract.

Analysis

██████████'s complaint is based upon his allegation that a contract was formed between Bell and himself on May 23, 2008 for telephone and internet service at a combined pre-tax price of \$45.59. Bell states that although this was the price discussed on May 23, 2008, Bell needed to verify ██████████'s account profile in order to provide him with specific details before confirming the offer. When such verification was conducted, Bell adjusted the payment required from earlier discussions and, on May 28, 2008, formally offered to provide the two services for \$48.39.

██████████ rejected this offer that included an extra \$2.80 per month for touch tone service. Because of his refusal to pay for touch tone service, Bell reinstated his pulse service and, without charging a termination fee, cancelled the 12 month contract promotional telephone offer he had agreed to in January 2008 that required touch tone service. ██████████ is upset that he is back on pulse service but remains unwilling to pay for touch tone service, even though the total cost of the promotional offer with the touch tone fee is less than the cost of his current pulse service.

██████████ states that Bell did not inform him that the acceptance of the January 16, 2008 promotional telephone offer would require him to switch to touch tone service and incur an additional \$2.80 fee. This is true – Bell failed to mention this fee – but Bell confirmed the fee during the negotiations in May 2008. ██████████ was on touch tone service for five months, from January to May, 2008, in which he was not charged the \$2.80 per month. Further, Bell has since reversed any charges to ██████████ for touch tone service. ██████████ was therefore receiving a promotion that gave him less expensive telephone service than pulse service, and was not charged the standard \$2.80 for the touch tone service.

We have reviewed ██████████'s recent invoices, in which he found his billing unclear. The May 2008 invoice was \$45.64 plus tax for both telephone and Internet service. Further pre-tax costs for these services (not including long distance usage fees or late fees) were: June 2008, \$53.48; July 2008, \$61.17; and August 2008, \$62.24. Changes on ██████████'s June 2008 invoice reflect the change of his internet service part way through the billing cycle, from a plan for \$31.00 per month to a plan for \$34.95 per month. Changes between his July 2008 and August 2008 invoice reflect an increase in the cost of call waiting service from \$5.50 to \$6.95 per month.

Recommendation

We do not believe that any contract was agreed upon on May 23, 2008, as there was no consensus reached between the parties. In fact, we find that no agreement was ever reached with regard to the provision of services at any time thereafter. Bell did not make a formal offer to provide services at a particular price until May 28, 2008, and this offer was rejected by ██████████. Thus, we are not recommending any further action by Bell.

With regard to the speed of ██████████'s "Internet Essential Plus" service, section 12 of the applicable Bell Internet Service Agreement available online, states:

Performance Levels. To the extent permitted by applicable law, Your Service Provider does not guarantee or warrant the performance of the Service. Speed is a function of the bottlenecks experienced upon the wider network architecture of the Internet itself. As such Your Service Provider does not guarantee the maximum Service performance (throughput speeds) levels. You understand that any content that you may access through the Service may be subject to "caching" at intermediate locations on the Internet. Similarly, simultaneous use of high bandwidth applications (example, streaming media) by one or more (example, home networking) users may result in an experience that is slower when compared to a single application used by a single user.

We therefore find that upon agreeing to his contract for Internet service, [REDACTED] accepted the related terms, including section 12, such that Bell does not guarantee him a particular minimum speed although the service he purchased may have a higher maximum speed. Thus, we are not recommending any further action by Bell on this issue.

Finally, with regard to [REDACTED]'s confusion regarding the charges on his recent invoices, we have reviewed the invoices for the period in question and are satisfied that the billing reflects no material error in the amounts currently outstanding. Bell may therefore continue to seek payment of the full balance owing on [REDACTED]'s account.

Attached is a copy of the CCTS *Procedural Code* (Code). The Code contains important information with respect to recommendations made by CCTS, including information about acceptance of recommendations by a complainant and a telecommunications service provider. In particular, we refer [REDACTED] and Bell to sections 10 and 11.

Natalie Senst
Investigator
CCTS / CPRST