

- [REDACTED] had failed to implement all of the security measures listed in Primus' fraud and prevention documentation, following [REDACTED] having incurred a prior occurrence of fraudulent calls; and
- Primus would not profit from the fraudulent activity.

Accordingly, we saw no basis to recommend that Primus waive these charges, and recommended that the dispute be resolved on the basis of Primus' offer to credit \$694.09 of the disputed charges.

[REDACTED] Objections

Under Section 11 of the Code, the party objecting to the Recommendation is required to explain why he or she considers it to be unacceptable or inappropriate. [REDACTED] provided its objections by way of an email, dated July 20, 2012.

[REDACTED] email essentially reiterates that its telephone equipment could not have been "hacked" as its system is equipped with software that logs all the calls that go through the system, and it did not log any of the fraudulent calls in dispute.

[REDACTED] suggests that the contradictory nature of the technical evidence submitted by both parties demonstrates that the origin of the hacking was external to its telephone equipment and thus it should not be responsible for the fees generated by these calls.

Analysis of the Objection

One imagines that the best possible approach to investigating complaints about long distance toll fraud would be to conduct a technical examination of the PBX system contemporaneously with the making of the fraudulent calls. Unfortunately this is not feasible. The customer generally does not know of the calls until some time after they occur. And by the time a complaint reaches CCTS (following attempts at resolution between the customer and the service provider) so much time has passed that it is impossible to determine the state of the system at the time of the events. In this case, for example, the calls took place in early April but the complaint was not filed with CCTS until mid-September.

We are therefore left to rely on the next best available evidence. In this respect, [REDACTED] position is based entirely on its system-generated call log. CCTS must examine it and determine the extent to which we can rely on it. In this case the log was provided to us in the form of an Excel document, and was provided without any related technical information, including an explanation as to the manner in which it was installed, the point in the system at which it was logging the calls, or the manner in which it was configured to report them. This presents some difficulties in understanding and assessing the information contained in the log.

Nonetheless we reviewed the call log, as presented, and compared it to Primus' invoices. In doing so we noted some discrepancies between the invoices and the log relating to long distance calls which are undisputed by [REDACTED]. For example:

- On the May 2011 invoice, three long distance calls are listed as being made from two of [REDACTED] lines on April 12, 2011 to the same number in Manchester, New Hampshire:
 - at 2:06 PM (duration of 7 min. 48 sec.),

- at 2:19 PM (duration of 13 min. 36 sec.) and,
- at 3:01 PM (duration of 7 min. 12 sec.);
- However, on [REDACTED] call log, four calls to this matching number in Manchester, New Hampshire are listed on April 12, 2011:
 - at 2:06 PM (duration of 39 sec.),
 - at 2:07 PM (duration of 8 min. 05 sec.),
 - at 2:20 PM (duration of 13 min. 47 sec.), and
 - at 3:01 PM (duration of 1 min. 37 sec.);

Unfortunately there were very few other long distance calls made during this period and therefore our ability to make additional comparisons was limited.

Decision

Section 11.5 of our Procedural Code provides that in formulating a Decision the Commissioner shall consider whether there is substantial doubt as to the correctness of the original Recommendation. Given the challenges in interpreting the log and the discrepancies in it relating to undisputed long distance calls, we cannot conclude that the contents of the log reliably demonstrate doubt as to the correctness of the Recommendation.

As such, there is no basis upon which to modify our Recommendation.

Further to Section 11.7 and 11.8 of our Procedural Code, [REDACTED] may accept or reject this Decision within 20 days of receipt. Should it decide to reject this Decision, [REDACTED] may pursue this complaint through any other forum and Primus shall be fully released from the Decision.

A copy of our Procedural Code is attached for reference.

Sincerely,

Howard Maker
Commissioner