



November 19, 2012

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (Rogers)
855 York Mills Road
Don Mills, ON
M3B 1Z1

RE: CCTS Complaint #182513

On October 11, 2012, we issued a Recommendation regarding the above complaint. Rogers exercised its right to reject the Recommendation. As such, I am required to issue a Decision under Section 11 of our Procedural Code ("the Code").

Our Recommendation

Neither party disputed that Mr. [REDACTED]'s term was set to expire on December 30, 2011 nor that he contacted Rogers on November 20, 2011 to advise it that he would be cancelling his mobile services with Rogers after December 30, 2011. However, Rogers' position is that it did not honor his request as he refused to be transferred to the department that processes the cancellation requests (retention department). As such, Rogers claimed that charges applied to Mr. [REDACTED]'s account after December 30, 2011 were appropriate.

We reviewed Rogers' Terms of Service ("Terms") and the November 20, 2011 account remarks and concluded that Rogers' ought to have cancelled Mr. [REDACTED]'s service on December 30, 2011. We also determined that Rogers failed to demonstrate that it correctly followed its collection policy. As such, we recommended that Rogers reimburse all amounts it billed to Mr. [REDACTED] after December 30, 2011, less the cost of the 2 minutes of usage (80¢) he incurred after this date, and that Rogers should take all the necessary steps to reverse its collection activity.

Rogers' 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. Rogers provided its objections in an email to CCTS dated October 29, 2012, with which it provided copies of copious account notes, internal procedures, customer invoices and other account information.

Rogers rejected our Recommendation. It clarified that it is not relying on its Terms of Service but rather on its internal policies and procedures, which it feels authorized it to act as it did. Rogers takes the

position that it advised Mr. [REDACTED] of its cancellations procedure but that he failed to comply with it and thus it did not cancel his service at the end of his term on December 30, 2011.

In the Recommendation CCTS noted that Rogers did not provide a reply to the issues raised by Mr. [REDACTED] regarding the collection activity on his account. In rejecting the Recommendation, Rogers explained that it did not feel it had reason to demonstrate that it had followed the correct collection policy as the account was not subject to collection activity either at the time that the complaint was made or at the point at which CCTS required it to respond to the complaint. Rogers states that it did not subject Mr. [REDACTED]'s account to collections activity until May 2012, 3 months after its response was sent to CCTS. Nonetheless Rogers says that it has appropriately followed its collection policy.

Therefore, it is Rogers' position that it was within its rights to continue billing Mr. [REDACTED] after December 30, 2011 and that all subsequent collection activity was justified.

Our Analysis

Section 11.5 of the 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.

Notice of Cancellation

We have reviewed Rogers' internal procedures regarding cancellations initiated by customers, which Rogers provided to us for the first time together with its rejection of the Recommendation. It details the steps to be taken by Rogers' representatives when customers request the cancellation of their services. Rogers' internal procedures states "...Cancellation requests should be handled by the appropriate group in order to promote customer retention...". The policy directs Rogers' customer service representatives to transfer customers to the appropriate group in order to place the cancellation request. We understand why Rogers would prefer that such requests be processed by a specialized group of employees. However, the policy does not say that customers who refuse to be transferred to the "appropriate group" will not have their cancellation requests processed.

In rejecting the Recommendation, Rogers stated that the November 20, 2011 account remarks demonstrate that Mr. [REDACTED] was provided an opportunity to cancel his services by following Rogers' policies and operating procedures, however Mr. [REDACTED] chose not to do so.

November 20, 2011:

"... Cx called cancel acc with Rogers at term end date of 12/30/2011.. req'd He be trans to ret dep but he refused said to leave a note on acc saying is is giving His 30 day notice Now would not talk to RET.//cm..."

The above account remarks demonstrate that Mr. [REDACTED] advised Rogers of his intention of giving his "30 day notice". The account remarks indicate that the Rogers representative requested permission to transfer Mr. [REDACTED] to the retention department. Mr. [REDACTED] declined. There is no evidence to indicate that Mr. [REDACTED] was informed that Rogers would refuse to process his cancellation request unless he agreed to speak with its retention department. In my view, if Rogers insists that customers who cancel must speak to its retention department as a condition of processing their cancellation request, it must clearly tell them so. On the facts of this case, it was reasonable for Mr. [REDACTED] to

conclude that he had properly notified Rogers that he wished his service to be cancelled at the end of his contract term.

In order to determine with greater certainty what transpired during the November 20, 2011 phone call, CCTS requested a copy of the call recording. Rogers responded by saying that it was unable to confirm if the call recording was available and that if it was able to locate it, that it could take up to 30 days to provide CCTS with a copy. Given the uncertainty that the recording exists, and the delays to date in concluding this complaint, I have determined to issue the Decision without waiting for Rogers to see if the recording can be located.

For the above reasons, we conclude that Rogers did not reasonably perform its obligations pursuant to its contract with Mr. [REDACTED].

Referral to Collections

CCTS acknowledges that at the time Mr. [REDACTED] submitted his complaint to CCTS, his account was not subject to any collection activity. The collection activity began while his complaint was actively being investigated by CCTS. As such, it was not appropriate to criticize Rogers for failing to address this issue in the reply to the complaint, and I apologize to Rogers for this error. At the same time, I am concerned that Rogers would initiate collection activity on an account that is subject to a complaint that is under active investigation by CCTS. I urge Rogers to develop a process to identify such files in its system and exclude them from the collection process until they are concluded on the merits by CCTS.

Summary

At the time CCTS issued the recommendation, we only had access to Mr. [REDACTED]'s January 2012 and February 2012 monthly invoices. Rogers provided CCTS with a copy of Mr. [REDACTED]'s December 2011 monthly invoice upon rejecting the recommendation. This has allowed us to determine more precisely the amounts billed during the period in question. We reviewed Mr. [REDACTED]'s December 2011, January 2012 and February 2012 monthly invoices. These monthly invoices revealed that Mr. [REDACTED] was billed a total of \$74.34 between December 16, 2012 and February 9, 2012.

Upon further review of these monthly invoices, we determined that Mr. [REDACTED] was appropriately billed \$17.95 for services between December 16, 2011 and December 30, 2011. They also demonstrate that Mr. [REDACTED] was charged \$56.39 between January 1, 2012 and February 9, 2012.

We note that Mr. [REDACTED] did make some very limited use of the service after December 30, 2011. As outlined in the Recommendation, Mr. [REDACTED]'s monthly invoices do not reveal Rogers' pay-per-use rate but Rogers' website indicates that its "anytime" pay-per-use rate is 40¢ per minute. Mr. [REDACTED] is also responsible to cover these charges. Therefore, Mr. [REDACTED] is responsible to pay Rogers \$18.75 (\$17.95 + \$0.80).

In light of this information, we concluded that only \$18.75 out of the \$74.34 forwarded to collections were valid charges.

This case highlights the dangers of premature referrals to collections. We have concluded that Rogers was legitimately entitled to bill Mr. [REDACTED] \$18.75 rather than the \$74.34 it actually billed him. Rogers' collections policy calls for referral to collections only for accounts that have outstanding

balances of at least \$50. So with the benefit of hindsight, we can conclude that Rogers ought not to have referred this account to collections.

Decision

Section 11.5 of our Procedural Code states that in formulating a Decision the Commissioner shall consider whether there is substantial doubt as to the correctness of the original Recommendation.

My Decision is that Rogers will credit \$55.59 to Mr. [REDACTED] account and that Mr. [REDACTED] owes \$18.75 to Rogers. In addition, Rogers will withdraw from Mr. [REDACTED]'s credit bureau file any derogatory comments related to this account.

Further to Section 11.7 and 11.8 of our Procedural Code, Mr. [REDACTED] may accept or reject this Decision within 20 days of receipt. Should he decide to reject the Decision, Mr. [REDACTED] may pursue this complaint through any other forum and Rogers shall be fully released from the Decision. A copy of our Procedural Code is attached for reference.

Sincerely,

Howard Maker
Commissioner

Attachments:

- (1) Procedural Code
- (2) Recommendation