COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES

Howard Maker
Commissioner
P.O. Box 81088
Ottawa, Ontario
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[redacted]
1-888-221-1687
[redacted]

February 25, 2009

[redacted]

[redacted]
Manager, Office of the President
Rogers Communications Inc.
[redacted]

Re: CCTS Complaint # 05807

On December 19, 2008, we issued a recommendation regarding the above complaint. We concluded that there was some uncertainty about the details of the wireless service plan originally offered to [redacted]. After investigation, we recommended that:

- Rogers' offer of a new plan with substantially similar options and price as that which [redacted] thought she originally had, was a reasonable resolution of the complaint;
- Rogers issue an additional credit of $92.00 for overage charges on [redacted]'s bills, including late payment charges;
- in the event that [redacted] chooses not to retain her service, Rogers' offer to reduce the termination fee by half is reasonable.

A copy of our December 19, 2008 letter is attached.

[redacted] wrote to us on January 5, 2009 and, as permitted by our Procedural Code, rejected the recommendation. She reiterated her original position - that she was told by Rogers that her original plan would permit one of the cell phones on the plan to have a New Brunswick phone number. In addition, she informed us that her son's cell phone had stopped working in December 2008 and that she had numerous issues with having the phone repaired. [redacted] also pointed out that on her latest bill, she had been charged for two bill reprints that she had not requested. Finally, [redacted] told us that if she was to accept the new plan offered by Rogers, it would need to include 1000 long distance minutes, unlimited local calling with family members on the plan and 100 Canadian long distance minutes per phone.

[redacted] wrote to us again on January 27, 2009 to advise that she had to contact Rogers to reverse long distance charges on her account and to voice her concern about having to contact Rogers in the future about such issues. [redacted] wrote to CCTS once more on February 1, 2009 to advise that her daughter's cell phone had stopped working.

New Issues Raised by [redacted]

Under our Procedural Code, problems with "equipment" are not within our mandate. Accordingly we can take no action in connection with the problems that [redacted] says she encountered with her son's and daughter's cell phones.

[redacted] stated that she has been charged $8.30 for two bill reprints that she had not requested. Rogers credited the charges in full to [redacted]'s account. Thus no action on our part is required.

The long distance charges that were charged to [redacted]'s account have been reversed by Rogers.

Our Decision

Under section 11 of our Procedural Code, the party objecting to a recommendation is entitled to explain why he or she considers it to be unacceptable or inappropriate. I have reviewed the additional information provided by [redacted], and I conclude that it does not provide sufficient basis to cause us to change our view as to the reasonableness in the circumstances of Rogers' offer.

Further to section 11.6 to 11.9 of the CCTS Procedural Code, [redacted] may accept or reject this Decision within twenty (20) business days. Should decide to reject this Decision, she may pursue this complaint in any other forum and Rogers shall be fully released from the Decision.

A copy of the CCTS Procedural Code is attached for ease of reference.

Sincerely,

Howard Maker
Commissioner

Enclosures: 1. CCTS letter dated December 19, 2008

2. CCTS Procedural Code

COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES

Natalie Senst
Investigator
P.O. Box 81088
Ottawa, Ontario
K1P 1B1
1-888-221-1687
[redacted]

December 19, 2008

[redacted]

[redacted]
Manager, Office of the President
Rogers Communications Inc.
[redacted]

Re: CCTS Complaint # 05807

On May 19, 2008, we received a written complaint from [redacted] about a billing error involving the wireless services provided to her and her husband, [redacted] by Rogers Communications Inc. (Rogers).

The Complaint

[redacted] states that the contract for wireless service with Rogers began on December 25, 2007. She states that she has been overbilled for her service since that date. The "family plan" was purchased in a store in Nova Scotia, upon affirmation from the store manager that one son could change his number to a New Brunswick area code and still remain on the plan. According to [redacted] the plan includes four telephones that share 800 minutes per month of air time, unlimited local calling among the four telephones, 100 minutes of Canadian long distance per telephone per month, plus an extra 1000 minutes of long distance among the four telephones, and 100 music downloads per telephone each month for a total of $75 plus service fees and taxes per month.[1] The first three months were to offer unlimited local calling and texting. The activation fee was to be waived and a 15% monthly discount applied monthly.

In January 2008, [redacted] switched one of the telephones to a New Brunswick area code. Although Rogers originally refused to switch the number, she was eventually allowed to change the number but was told she was going to be on a different "Canadian plan".[2] She has no documentation of this change, but believes she was told she would still have "over 800 shared min [sic] plus 100 long distance Cdn min" per month.

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[1] [redacted] originally stated that the agreed amount was a total of $95.29 plus taxes per month.
[2] In an email on December 31, 2007, sent to the Rogers store manager the telephones were purchased from, [redacted] states that her son returned to New Brunswick and was unsuccessful in changing his telephone number.

[redacted] says that she has continued to receive incorrect invoices. She states that she called Rogers every month to receive adjustments to her account. [redacted] believes that her monthly invoice with taxes should total about $110 and thus she has continued to pay this amount each month. She also notes that the account number listed on her Wireless Service Agreement and on the Family Plan Checklist, both signed by Rogers, do not match up.

Her first invoice from December 2007 totalled $227.35, no discount was applied and charges were incurred for music downloads and internet use. After [redacted] called Rogers, adjustments were made to her account and she paid $121.86. [redacted] continued to pay for her service, despite disputing portions of the charges she received in the following months. Each time she received an invoice, she would call Rogers and receive credit for these amounts. She continued to pay approximately $110 each month.

After having problems with music download and internet use charges, [redacted] asked Rogers to block internet capabilities on the telephones. She also requested that text messaging be blocked upon the expiry of the free service.[3]

When [redacted] called Rogers after receiving her April 2008 invoice for $213.75, she was advised that since January 2008 her family plan had offered only 100 minutes per telephone each month. [redacted] requested to speak with management to no avail and finally decided to email her complaint, whereby she was again told to call Rogers.

[redacted] spoke with Rogers on June 13 and 16, 2008. She states that Rogers told her that her original plan had expired but that Rogers would offer her the same coverage as on her original plan for $150 plus tax per month. She refused as this was about twice as expensive as the original plan. She also wanted a plan that would include her son's phone number in New Brunswick, and stated that the Rogers store manager was aware of this when the plan was offered. She states that Rogers eventually offered her the original plan for $80 plus tax per month, including a $5 discount per telephone for the remainder of the contract. She says that Rogers refused to send her a copy of this written offer by fax. Rogers also told [redacted] that she could pay $800 to terminate the contract for all of her telephones.

[redacted] states that Rogers has at no time apologized for "months of stress and harassment." She is also currently receiving calls from Rogers for her overdue account. On November 14, 2008, she called CCTS to advise that her service had been disconnected.

She is seeking to be charged properly for her service since December 2007 and therefore wants the balance on her account to be cleared as she believes she has continued to pay Rogers the full proper amount each month for the service. She also wants to terminate her contract for service with Rogers for all of the telephones and does not want to be charged a termination fee. She is, however, willing to pay up to $400 to cancel all of the telephones, as long as her outstanding account balance is waived. Alternatively, she has offered to return the telephones and pay $200 towards the cancellation fee.

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[3] On May 3, 2008, [redacted] called to request that only his telephone be able to use the text messaging function.

Although [redacted] was initially willing to be returned to the correct plan with an added Caller ID feature at no cost[4], she is now frustrated with Rogers, and no longer wishes to be a customer.

Rogers' Position

Rogers states that the original service plan agreed to was changed after [redacted] changed one of the telephone numbers to a New Brunswick number. This change of plan is reflected n the January 2008 invoice. Although [redacted] is adamant that the in-store representative had promised that the original plan would be available even if one of the telephone numbers was changed to an out-of-province number, Rogers states that the contract originally agreed to was modified upon this change of telephone number. [redacted] was converted from the Provincial Price Plan to a version of the National Price Plan at a similar rate but with less airtime.[5] Rogers has provided [redacted] with a series of credits for additional use of the telephones, including use of data and text messaging services that had been promised to be free to try for the first three months. No credits were applied for charges received in May 2008 onwards.

Rogers confirmed, in a June 16, 2008 letter sent to [redacted] and copied to CCTS, that although a $400 cancellation fee applies to each telephone, Rogers would allow [redacted] to cancel her service contract for all of the telephones for half of the total fee, $800. Rogers refuses to reduce the early termination charge any further.

In the June 16 letter, one month after [redacted] brought her complaint to CCTS, Rogers also offered to change [redacted] to a plan for 800 minutes, similar to her original contract, but for $120 for the four telephones, plus applicable fees and additional services. This is the National Family Plan, which takes into account that not all telephone numbers on the plan are in the same province.[6] Rogers has also offered to provide a $5 discount for each line for the remainder of the contract in addition to the 15% discount the complainant receives through another service provider. With the discount, Rogers confirms that monthly service would cost $82. Rogers will offer no further discount. It notes that the offer of a $5 discount per telephone for the remainder of the contract term has a value of $600. Rogers has apologized to [redacted] for any inconveniences caused to her.

Rogers has continued to receive monthly, although not complete, payments from [redacted] and confirms that her account was never suspended. Rogers received the most recent payment for the account on November 18, 2008, such that the outstanding balance is $126.73. Collection activity was suspended pursuant to that payment.

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[4] She sought this service as she believes this feature will help Rogers to identify the calls being made any hopefully end any erroneous overage charges that Rogers has continued to make on one of the telephones (691-4151).

[5] Based on the invoices provided to CCTS, the December 2007 invoice included a pooled family evening and weekend plan, which offered unlimited use on evenings and weekends and 200 minutes of airtime per telephone on weekdays. On each subsequent invoice, the plan is called a "pooled family weekend plan" and only offers unlimited weekend calls and otherwise just 100 "pooled" minutes between all telephones for weekdays.

[6] Rogers states that the original price plan was only available on family plans where all the telephone numbers were in the same province.

Analysis

[redacted] has provided CCTS with a copy of her contract and a "Family Plan Checklist", signed by Rogers and the customer. Neither document mentions that the plan is a "Provincial" rather than a "National" plan or that the plan price is contingent on all telephone numbers being from the same province.

Rogers has no documentation of what its in-store sales representative told [redacted] although it states that this representative has affirmed that [redacted] was not told that the price plan would remain the same cost if one of the telephone numbers was changed to an out-of-province number.

Rogers applied a series of credits to [redacted]'s account, upon her request, for all extra charges beyond the basic service fees until the May invoice.[7] The following additional pre-tax charges were applied to the account for overage without being credited: June, $62.00; and July, $8.75. The total additional charges are $70.75 plus tax.

The following factors are relevant to our finding:

- this issue has been ongoing for nearly a year, as problems with service charges began with the first bill and continued after one of the telephones changed to a New Brunswick area code;
- [redacted] continues to pay Rogers partial payments on a monthly basis, refusing to pay for additional charges;
- Rogers has provided some goodwill credits and other credits in order to comply with the original offer in the contract – although [redacted] had to call upon receipt of each bill to have these credits applied;
- despite Rogers disagreement, [redacted] continues to state that she was told that the plan she agreed to would allow her son to change his telephone number to an out-of-province number;
- in June 2008, more than five months after the original plan was switched, Rogers offered an alternative plan for an $82 base rate instead of $75 per month;
- Rogers alternatively offered to reduce the total termination fee by half to $800 for all telephones.

The parties remain in dispute about what was originally represented to [redacted] with regard to her service plan. Rogers states that it never promised her the same rate if one telephone number changed to an out-of-province number, but Rogers does not state that it ever told [redacted] that this change would cause her service plan to change <u>in some way</u>.

Recommendation

Given the uncertainty about the details of the original Plan, we believe that Rogers' offer of a substantially similar plan at a cost of $82 per month is a reasonable offer for settlement of this dispute. However, we believe that Rogers should credit [redacted] for the overage charges on

[7] The credits were provided on a monthly basis, to reduce the charges on the previous month's bill. The credits ranged between approximately $100 and $200 each month.

her bills from May 2008 to the date of this recommendation, including late payment charges incurred in the period since she brought the matter to dispute at CCTS[8], for a total of $92.00.[9] Further to this, we find no basis on which to award any monetary remedy for inconveniences incurred.

If [redacted] decides that she does not want to retain her service, we believe that it is reasonable for Rogers to charge half of the applicable termination fee on each telephone, currently a total of $800.

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 Rogers to sections 10 and 11.

Sincerely,

Natalie Senst
Investigator

[8] Late payment charges are documented as follows: May, $2.08; June, $0.33; July, $1.98; August, $2.39; September, $2.61; October, $2.67. The total for these months is $12.06.
[9] This does not include any long distance charges incurred after October 2008, but should be adjusted to include November charges. The total includes $70.75 plus tax in overage charges and $12.06 in long distance charges.