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December 21, 2011

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RE: CCTS Complaint #123713**

On September 8, 2011, we issued a Recommendation regarding the above complaint. As [REDACTED] rejected our Recommendation, I am required to issue a Decision under Section 11 of our Procedural Code ("the Code").

**Our Recommendation**

After investigating [REDACTED] complaint, we determined that:

- it was likely that the breach in the system had occurred through [REDACTED] telephone equipment;
- Primus had not sold, installed or maintained [REDACTED] equipment;
- Primus had no obligation to monitor [REDACTED] long distance usage and to notify it of any irregularities;
- under Primus' Terms of Service, customers are responsible for all of the charges incurred no matter who used the service;
- Primus had, without any contractual obligation to do so and in accordance with its policies, suspended [REDACTED] long distance service and notified it of the issue; and
- Primus also offered to credit a majority of the fraudulent charges and confirmed that it was only seeking to recover its costs and would not profit from the billing of these fraudulent charges;

Accordingly, in the absence of any evidence that Primus had failed to meet its contractual obligations, we did not recommend that Primus improve its offer to [REDACTED]

### [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 in an email to CCTS dated September 23, 2011. In it, [REDACTED] made two points

1. In the Recommendation, we analyzed and rejected [REDACTED] allegation that it had been overbilled for the fraudulent calls incurred, as it believes that its 4 telephone lines could not have supported the 84 hours billed by Primus for these calls. [REDACTED] repeated this position and, when asked to provide a rebuttal, stated that it was not its responsibility to provide a rebuttal.

Given [REDACTED] position, we asked Primus for additional information. Although [REDACTED] PBX equipment was not examined by Primus, Primus provided additional explanation to clarify how the number of fraudulent calls could exceed the number of calls that a single line could support on its own<sup>1</sup>.

Primus provided us with the additional information that was requested, but in the end we are not persuaded that the customer's allegation of overbilling is supported by the facts.

2. [REDACTED] also stated that Primus had a moral obligation to notify it of this type of security risk.

Under the terms of service, Primus had no obligation to warn [REDACTED] of potential security risks. Nonetheless, Primus notified [REDACTED] of the security breach the day immediately following its occurrence. Whether Primus had a moral obligation to do better, is a matter of opinion<sup>2</sup>. But under our Procedural Code, our mandate extends to ensuring that customers receive the contractual protections afforded to them.

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<sup>1</sup> Incidentally, Primus also noted that it provided 5 long distance accesses assigned to 5 numbers and one toll-free number to [REDACTED] and not simply 4 lines, as [REDACTED] had stated in its complaint.

<sup>2</sup> We note that some fraud prevention information was available on Primus' website.

## **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. As ██████████ did not provide new information or raised any doubt as to the correctness of the original Recommendation, we are of the view that there is no basis upon which to modify it.

Further to Section 11.7 and 11.8 of our Procedural Code, ██████████ may accept or reject this Decision within 20 days of receipt. Should it decide to reject this Decision, ██████████ 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

Attachments: 1. Recommendation  
2. Procedural Code