



January 24, 2012

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

[REDACTED]

Bell

1 Carrefour Alexander Graham Bell
Aile C, 3ème étage, bur. 3271
Verdun, Québec
H3E 3B3

RE: CCTS Complaint #136661

On December 20, 2011, we issued a Recommendation regarding the above complaint. As Bell 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;
- Bell did not sell, install or maintain [REDACTED] equipment; and
- Bell's Terms of Service placed no contractual obligation on Bell to secure [REDACTED] telephone equipment.

However, as Bell had not provided any evidence to demonstrate that it had also followed its own policy with regard to fraudulent long distance calls, we had recommended that Bell credit

all fraudulent long distance charges billed within 90 days of May 2011, which is when [REDACTED] states that it disputed these charges.

Bell's Objection

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. Bell provided its objections in an email to CCTS dated January 10, 2012. In it, Bell informed us that:

1. its own internal investigation concluded that [REDACTED] phone equipment was breached by an unauthorized person or persons by way of an unsecure password and that under its Terms of Service, Bell had no obligation to either secure [REDACTED] phone equipment or to notify it of this security breach;
2. as a goodwill gesture, Bell has provided a credit of \$881.16 and that it is prepared to offer a payment plan to [REDACTED] to help it pay the remaining \$195.15 in fraudulent long distance charges; and
3. [REDACTED] was in the best position to protect its own phone equipment from being breached.

Analysis of Objection

In the Recommendation, we recommended that Bell credit \$702.53 (plus taxes and any late payment charges) of the \$920.97 in fraudulent long distance charges. This would leave [REDACTED] responsible for approximately \$218 in related charges. Bell objected to this Recommendation, explaining that it had calculated the fraudulent charges to total \$1,076.31, and that it had credited \$881.16 of that sum, leaving a balance payable by [REDACTED] of \$195.15. In addition, Bell offered [REDACTED] a payment plan to assist it in paying this outstanding amount.

We are confused by the fact that Bell rejected the Recommendation when it had already credited the client in an amount greater than the amount set out in the Recommendation. Quite apart from the differences in our respective calculations of the amount of the fraudulent charges, Bell's credit leaves the customer with an outstanding balance that is less than that proposed by the Recommendation.

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 indicated in the Recommendation, Bell had not provided a written response to the complaint, as required under the Procedural Code. In determining the appropriate resolution of a complaint, section 4.1 of the Code directs the Commissioner to consider whether the service provider *“reasonably performed its obligations pursuant to the applicable contract and followed its usual policies and operating procedures in its dealings with the Customer”* (underlining added). The Recommendation was based in particular upon our assessment that Bell had failed to demonstrate that it had followed its usual policies and procedures in this case.

Bell’s policy with regard to fraudulent long distance calls consists of the following:

- 1) notifying the customer of the breach;
- 2) issuing a credit to reflect the retroactive billing of the charges to the lowest possible rate; and
- 3) providing fraud management documentation to the customer.

In cases of long distance fraud, the customer is generally unaware that fraudulent activity is occurring until well after it has begun – the customer often learns of the activity only when it receives its next bill. Because of this delay, and because the amount of the fraudulent charges can escalate so quickly, most long distance service providers, including Bell, have developed policies which aim, in part, to reduce the risk of loss for both the customer and the service provider. These policies typically provide for the service provider to give early notice of the breach to the customer (though the applicable contract, the service provider’s Terms of Service, generally does not require it to do so), for the provider to offer the customer the opportunity to block long distance service until it can have its telephone equipment inspected and secured, as well as the for the provider to offer the customer material that explains how it can avoid future fraud.

While Bell’s Terms of Service do not make it a contractual requirement to do so, Bell has developed such a policy (described above), and because of the importance of such policies in this type of case, CCTS must investigate to determine whether the requirements of the self-imposed policy have been met.

The information provided by Bell on January 10, 2012 enables us to confirm that Bell provided the customer with the credits mandated by Bell’s policy. However, it does not allow us to conclude that the customer was notified of the breach nor that fraud management

documentation was provided. In order to fill in these gaps we questioned the customer. [REDACTED] maintains that Bell did not notify it of the fraudulent long distance calls, nor communicate any fraud management documentation. In addition, Bell's objection provided a calculation of the fraudulent charges that differed from the one in the Recommendation. Bell failed to address this and to explain the inconsistency.

We therefore conclude that Bell failed to follow a material component of its policy, one which may have reduced the customer's loss (although we cannot know for certain because Bell has failed to provide the relevant data).

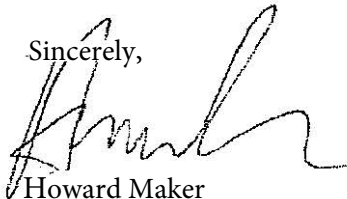
Bell was notified of the filing of this complaint on June 23, 2011. Under the Code, it is required to provide us with a full response to the complaint, together with relevant documentation, within 30 days. It failed to do so. In addition, we formally requested its response to the complaint (and the related documents) on at least three subsequent occasions, yet Bell did not provide it. Given that Bell has had seven months to do so, we conclude that Bell is unable to provide the evidence that it complied with its policy.

Decision

As Bell has not raised substantial doubt as to the correctness of the Recommendation, my Decision is that Bell should credit all of the fraudulent long distance charges together with any taxes and related late payment charges. As it appears to have already done so, no further action on its part is required.

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 Bell 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