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May 31, 2013

[REDACTED]

[REDACTED]

Fido Solutions Inc.  
800 de la Gauchetiere West  
Montreal, Quebec  
H5A 1K3

**RE: CCTS file number 15010300274525**

On March 28, 2013, we issued a Recommendation regarding the above complaint. As Mr. [REDACTED] and Fido have both rejected our Recommendation, I am required to issue a Decision under Section 11 of our Procedural Code ("the Code").

**Our Recommendation**

Mr. [REDACTED] complained that he had been billed for data usage that he did not incur. After investigating Mr. [REDACTED]'s complaint, we determined that:

- The material provided by Fido was insufficient to demonstrate that any data usage was incurred through Mr. [REDACTED]'s device;
- Fido failed to include the documentation necessary for the full and proper investigation of the complaint;
- Mr. [REDACTED] made a payment to Fido of \$904.73 on December 31, 2012, which he claims was paid exclusively towards data charges; and
- Under section 4 of our Procedural Code, Fido is required to demonstrate that it met its contractual obligations to Mr. [REDACTED] and, based on the material it provided to the CCTS, it failed to do so.

Accordingly, we recommended that Fido credit all of the data charges that were applied to Mr. [REDACTED]'s account, including his October 2012 invoice. We further recommended that Fido refund to Mr. [REDACTED] the sum of \$904.73, which he had paid to Fido on December 31, 2012.

## ██████████ Objections

Under Section 11 of the Code, a party objecting to a recommendation is required to explain why he or she considers it to be unacceptable or inappropriate. Mr. ██████████ provided his official objections in an email to CCTS dated April 7, 2013. It stated that in addition to being refunded \$904.73, he is seeking to be refunded all charges Fido has billed him since October 2012, termination of his contract without penalty, and \$3,000 in compensation for "general damages and prejudice". Additionally, he alleges that Fido was in "breach of trust" and therefore must provide all the details of its investigation to him and a letter of apology. However, Mr. ██████████ did not provide any additional facts or information for the investigation or any additional documentation to his position.

### Fido's Objections

Fido also objected to the recommendation, in an email to CCTS dated April 17, 2013. In it, Fido stated that in its view:

- It had previously provided sufficient evidence to support its position that the charges billed on Mr. ██████████'s account for data usage are valid; and
- It had previously provided sufficient material to demonstrate that the data usage was incurred through Mr. ██████████'s device.

In order to support its objection and despite its position that it had previously provided to us all the relevant information and documents, Fido provided a copy of the invoices in dispute<sup>1</sup>, the data add-on details, a screenshot of its system demonstrating the two SIM<sup>2</sup> cards associated to Mr. ██████████'s account and IMEI<sup>3</sup> numbers on which the usage was incurred. It also provided details of its data add-on plans and data rates.

### Analysis

We reviewed our recommendation and considered both Mr. ██████████'s original requests and the additional information provided by Fido. The invoices demonstrate that a total of \$721.00 in data charges was billed between September 2012 and November 2012. The invoices do not support Mr. ██████████'s allegation that he was charged \$904.73 for data usage.

Fido explains that there are two phone lines on Mr. ██████████'s account; phone number ██████████-5753 and ██████████-5753. The invoices demonstrate that the disputed usage was incurred on ██████████-5753 which Mr. ██████████ confirms is the number used by his son.

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<sup>1</sup> September, October, November 2012.

<sup>2</sup> A subscriber identity module (SIM) is a removable card which securely stores the service-subscriber key (IMSI) used to identify a subscriber on a wireless network.

<sup>3</sup> International mobile equipment identity is a number within an international coding system assigned to each individual cell phone.

Fido has confirmed that an IMEI and SIM number is required in order to make use of its wireless service. Fido uses the IMEI and SIM to link usage incurred through a device to an account, and to ensure that accurate billing is performed.

Fido confirmed that the disputed usage was incurred from IMEI number 357752046264441, and SIM card number 89302370201028615342. We reviewed system screenshots, provided by Fido, which demonstrate that this same IMEI and SIM number are linked to Mr. [REDACTED]'s account for the phone number [REDACTED] 5753.

Mr. [REDACTED] also provided a picture of his IMEI and SIM numbers which match the information provided by Fido.

In light of the above, we have no reasons to doubt that the disputed usage was incurred from Mr. [REDACTED]'s wireless device associated with [REDACTED] 5753.

We reviewed the invoices and confirm that the usage was charged in accordance with the data plans that were active on Mr. [REDACTED]'s account at the time the usage was incurred. (Appendix A)

#### **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. As we have determined that the disputed data usage was incurred from Mr. [REDACTED]'s device, we conclude that the Recommendation was incorrect.

My Decision is that Fido's billing of the data usage was accurate and accordingly Fido is not required to credit/refund the \$904.73 to Mr. [REDACTED]

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 this Decision, Mr. [REDACTED] may pursue this complaint through any other forum and Fido shall be fully released from the Decision. A copy of our Procedural Code is attached for reference.

Sincerely,

Howard Maker  
Commissioner

Attachments: Recommendation & Procedural Code