



**2008-2009
ANNUAL REPORT**

October 2009

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I. Message from the Chair of the Board of Directors

On behalf of the Board of Directors, I am pleased to present the second annual report of the Commissioner for Complaints for Telecommunications Services, an agency that provides consumers of telecommunications services in Canada with recourse for the independent resolution of their complaints.

With its origins in an Order in Council and a CRTC decision, CCTS was established as a unique stakeholder-led, industry-funded organization with independent authority to resolve complaints about deregulated telecommunications services. As such, it represents a dispute resolution model that operates in the public interest but is outside government processes and without government funding.

Following the appointment of the permanent Board of Directors in June 2008 and the hiring of our first Commissioner in early August 2008, management and budgetary frameworks were approved by the Board to establish the infrastructure for resolving complaints. The Board recognized that the timely and effective resolution of complaints would require changes to the existing Procedural Code and launched a review of the Code to identify opportunities for streamlining its complaint handling processes. Proposed revisions to the Code have been developed and are currently at the stakeholder consultation stage. In addition, the Board adopted, and posted on its website, a series of Performance Standards, modeled on the guiding principles of the International Organization for Standardization (ISO 10003).

An important aspect of the Board's work in the course of the year was to oversee the development of a plan to increase awareness among consumers of their right to access our services if they could not resolve a complaint with their telecommunications service provider. Because of the significant role service providers will play in communicating with their customers about CCTS, a collaborative approach was used to develop the plan that the Board approved in July 2009.

It was a year of growth for CCTS. Our membership increased from sixteen at the time of our last Annual Report to thirty-eight. We are pleased that this growth has made our services accessible to many more Canadian consumers.

It was also a year that saw increasing recognition of the role of CCTS in the telecommunications industry. In July 2009, the CRTC dismissed a consumer group application requesting regulation of billing of short code text messages, noting that CCTS is available to resolve disputes in that area. In addition, the Canadian Wireless Telecommunications Association (the industry association for the wireless carriers) announced this year the introduction of a "Code of Conduct" for wireless services. We were pleased to have been consulted by the CWTA in the course of the development of its Code, and appreciated the opportunity to provide input. By sharing our experience gained from the wireless complaints we have received, we hope to have contributed to making the Code an effective tool that will reduce misunderstandings of wireless services and products, thus increasing consumer satisfaction (and decreasing the number of consumer complaints) in this industry sector.

I want to thank the Board and the CCTS staff for the progress we have made in our first year in establishing an agency that responds effectively to consumer complaints and I look forward to achieving the full potential of this unique experiment in stakeholder-led dispute resolution in the telecommunications sector.

Mary Gusella

II. Message from the Commissioner

2008-2009 was an exciting year for CCTS and its staff. We continued to focus on building our organization to provide consistently first-class service to Canadian consumers and the telecommunications industry. To that end, this year we completed a number of important steps and set ourselves on course to complete others in 2009-2010.

Resolving complaints is “Job 1” for CCTS. This year we re-evaluated our complaint-handling processes to determine how we could resolve complaints more quickly and efficiently without sacrificing fairness to the parties. As a result we have created new roles and procedures focussed on complaint resolution, with formal investigation procedures reserved for the more complex and difficult cases. Our Board of Directors is contributing to these efforts by conducting a review of our Procedural Code, designed to identify areas for increased efficiency, as well as clarify our role and simplify our rules of engagement. We also put in place performance standards to ensure that we meet very high standards in our dealings with the public.

Putting in place the infrastructure to resolve complaints is important, but it does not happen without people. This summer we added additional staff to work through a surplus of files that had not received sufficiently prompt attention. I am pleased to report that we have dealt with virtually all of these files. And we have ensured that our budget for 2009-2010 provides us with sufficient human resources to deal with complaints as they come to us.

In 2008-2009 we received over 17,000 contacts, and we opened over 3,200 complaints, increases of 183% and 44% respectively from the previous year. Obviously Canadians are becoming more aware of CCTS and our role. We anticipate that these numbers will increase again in 2009-2010. Our Board of Directors has approved a program of activities for CCTS and our industry member companies designed to increase public awareness of CCTS. We believe that the outreach activities described in the plan, together with the reference to CCTS as the dispute resolution provider for the wireless industry’s new Code of Conduct, will result in consumers becoming increasingly better informed about their option of recourse to CCTS for telecom complaints resolution.

In 2009-2010 we will focus on other measures designed to improve our service to our customers. These will include reaching out to consumers through a redesigned and improved web site and on-line system for filing complaints. The telecommunications service providers (TSP) who are members of our organization have also committed to this process by agreeing to post notices on their web sites with information about their own complaint-handling processes, with links to CCTS, and by providing billing notices or inserts referencing CCTS.

Increased volumes and increased expectations will increase the pressure on us to perform...but we will be up to the challenge.

Howard Maker

III. Who We Are and What We Do

The Commissioner for Complaints for Telecommunications Services (CCTS) is an independent agency with a mandate to receive and resolve consumer and small business complaints relating to most deregulated retail telecommunications services provided to them by Canadian telecommunications service providers (TSPs). We strive to do this in an accessible, impartial, timely, efficient and informal manner, after direct communication between a customer and a TSP has proven ineffective.

i. Our Mandate

We are able to handle complaints about:

- Home Telephone: deregulated local exchange services and VoIP services
- Long Distance telephone services (including prepaid calling cards)
- Wireless phone services
- Wired and wireless Internet access services
- White page directories, Directory assistance, and Operator services

We can assist with most types of problems that can arise between a customer and a TSP, including:

- Compliance with contract terms and commitments
- Billing disputes
- Service delivery, including installations, repairs, and disconnections
- Credit management
- Unauthorized transfer of service (“slamming”)

A few services and issues are not within our mandate. Please see www.ccts-cprst.ca/en/page/Scope for full details.

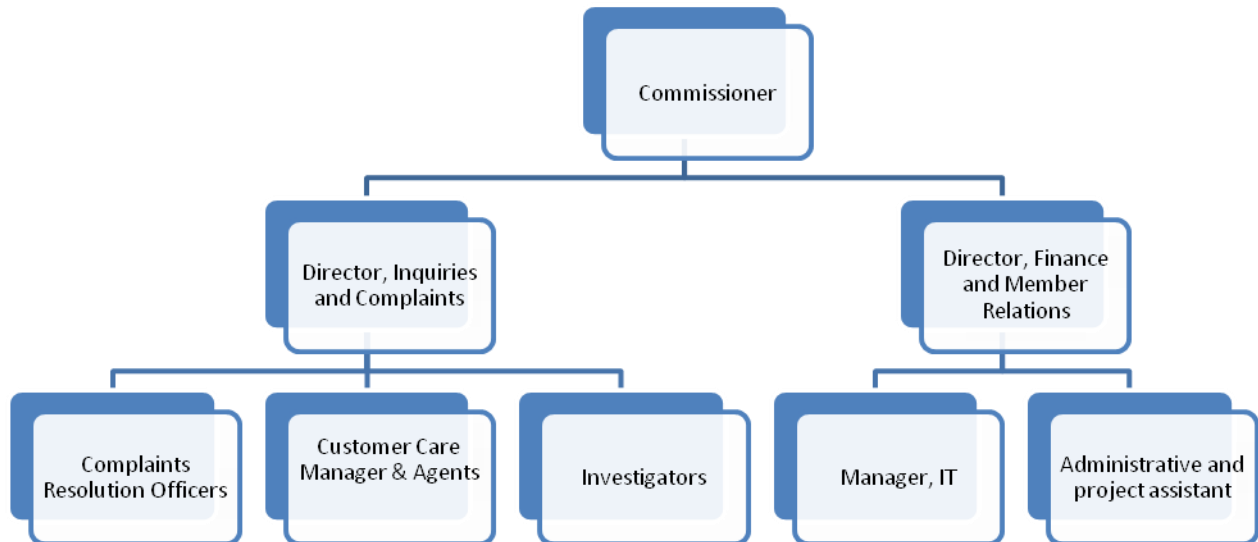
ii. Our Complaints Process

We are always examining our complaint handling process to ensure that it is thorough, fair and efficient. Our process works like this:

- When we receive a complaint, we review it to determine whether it falls within our mandate. If so, we forward a copy to the TSP. We ask the TSP to attempt to resolve the matter with the customer and report back to us within 20 business days.
- When the TSP responds, we evaluate the response to determine whether the complaint has been resolved to the satisfaction of the customer. This is the stage at which the majority of complaints are resolved. When a complaint remains unresolved we will assess its complexity, the amount of additional information which may be required, and the likelihood of successfully resolving the matter informally.

- Complaints that appear to be amenable to informal resolution are assigned to a member of our staff who will work with the customer and the TSP to arrive at a prompt resolution of the dispute. We may request additional information and documentation from both parties to effectively “mediate” a resolution. Many of these complaints are resolved to the satisfaction of both parties at this stage.
- Complaints which raise particularly challenging issues or are otherwise especially complex will be investigated. During an investigation, we will request additional information or documentation from one or both parties to help determine whether the TSP reasonably performed its obligations pursuant to the terms of the contract between it and the customer. Throughout the investigation, we may also attempt to informally mediate a resolution of the dispute.
- A complaint can be rejected or dismissed at any stage of the investigation/resolution process should we determine that the TSP has taken reasonable steps to resolve the complaint, even if this resolution is not acceptable to the customer. In cases in which we conclude that the TSP has acted reasonably in fulfilling its obligations under its contract with the customer, or has made a reasonable settlement offer, we may decide to take no further action on the complaint.
- Upon completing an investigation, we can make a written Recommendation for the resolution of the complaint, based on our analysis of the complaint. We may recommend that the TSP take some action or refrain from taking some action (for example, connection or disconnection of service, waiver of charges, collections activity). Or perhaps something simple, like an apology, may provide the necessary redress. We may also recommend that the TSP make a payment to the customer as compensation for any loss, damage or inconvenience suffered by the customer arising directly from the facts disclosed by the complaint (to a maximum of \$5,000). Our process provides both the customer and the TSP with some time to consider the Recommendation and determine whether to accept or reject it.
- If either the customer or the TSP rejects the Recommendation, we ask them to explain why so that we can reconsider the Recommendation in light of their continuing concerns. We will consider the reasons for rejecting the Recommendation, and then issue a Decision. In the Decision, the Commissioner may maintain the Recommendation, or may modify or change it. If the Decision is accepted by the customer it becomes binding on the TSP and must be implemented. However, the customer is entitled to reject the Decision. If the customer does so, the TSP is not required to carry it out and the customer retains all of the usual legal rights and remedies and is free to pursue them.

IV. CCTS Organizational Chart



V. Performance Standards

We are committed to providing timely and effective service in all aspects of our complaints service. We summarize below our performance objectives and how well our Contact Centre has done in trying to meet them:

Performance Standard	CCTS Results*
All telephone calls answered in person	89% of calls answered in person
All voice messages returned within 1 business day	100% of calls returned within 1 business day
All written communications analyzed, assessed and responded to within 1-2 business days	100% analyzed, assessed and responded to within 1-2 business days (average response time to written complaints is 0.34 days)
All eligible complaints, will be forwarded to the service provider within 1-2 business days	95%** of eligible complaints forwarded to providers within 2 business days
Once the service provider responds regarding the status of the complaint, If unresolved, we will assess the response, notify the complainant and the service provider, and prepare the file for investigation, within 2-5 business days	95%** of notifications made within 5 business days

*since the introduction of the performance standards (percentages rounded to the nearest unit)

** our best estimate using currently available tools

Our team of Complaints Resolution Officers and Investigators employ the most efficient and effective processes available to us in order to deal with complaints in a timely manner. The actual time required to investigate a complaint will vary based on a number of factors, including: the complexity of the case, the number of issues to be resolved (particularly if we need to consult with outside experts), the degree of cooperation we receive from the customer and the service provider, any delays resulting from unsuccessful efforts at resolution during the course of the investigation, and the current volume of complaints.

Our complete performance standards can be found at: <http://www.ccts-cprst.ca/en/page/PerformanceStandards>

VI. 2008- 2009 Highlights - The Year in Review

- Number of public contacts increases by 183%
- Number of complaints accepted increases by 44%
- Number of complaints processed in the year increases by 80%
- CCTS staff grows by 30%
- TSP membership increases from 16 to 38
- Customer service improves dramatically through acquisition of new telephone system, upgraded IT infrastructure, and improved complaint-handling processes
- Final CRTC “conditions of approval” satisfied
- Performance standards adopted
- Public awareness plan developed and published (see www.ccts-cprst.ca/en/attach/DevelopingPublicAwarenessofCCTS)
- Board of Directors initiates review of Procedural Code

VII. Our Members (as of 31 July 2009)

Below is an alphabetical list of our member companies and other brand names by which they are known. Complaints about services provided by our Members under any of these names are eligible for our service:

Member Name (Brand Names)

- 1 768812 Ontario (Vianet Internet Solutions, ExaTEL Inc.)
- 2 All Communications Network (ACN Canada, ACN)
- 3 America Tel (Vancouver Telephone Company, Startec)
- 4 Atria Networks
- 5 Bell Aliant Regional Communications, Limited Partnership (Sympatico, NBNNet, Vibe)
- 6 Bell Canada (Bell Mobility, Bell Internet, Solo)
- 7 Bragg Communications Incorporated (East Link, Amtelecom, People's, Persona)
- 8 Bruce Telecom
- 9 Cablevision du Nord de Québec
- 10 Cityfone Telecommunications Inc.
- 11 Cogeco Cable Canada Inc.
- 12 Cogent Canada Inc.
- 13 Distributel Communications Limited (Speak Telecom, Cybersurf Internet Access (CIA)
3Web)
- 14 Execulink
- 15 Global Crossing Telecommunications Canada
- 16 Globility Communications
- 17 MTS Allstream Inc.
- 18 Mountain Cablevision
- 19 Northern Telephone Limited Partnership
- 20 Northwestel Inc.(Sympatico)
- 21 Ontera Communications
- 22 Premiere Conferencing (Canada)
- 23 Primus Telecommunications Canada Inc. (WIN-TEL)
- 24 Rogers Communications Inc. (FIDO)
- 25 Saskatchewan Telecommunications (Navigata Communications)

- 26 Shaw
- 27 Sogetel (Société générale de télécommunications, Le pigeon voyageur, à dimension humaine, Galilée)
- 28 Tata Communications
- 29 TBay Tel
- 30 Télébec, société en commandite
- 31 Telizon (Simcoe County Long Distance, Quinte Long Distance, Net Reach)
- 32 TELUS Communications Company (Koodo)
- 33 TeraGo Networks Inc.
- 34 Verizon Canada Ltd (MCI Canada)
- 35 Videotron Ltd.
- 36 Virgin Mobile Canada
- 37 Vonage Canada Corporation
- 38 YAK Communications (Opcom, Canopco, Looney Call, 450Tel, 1010580, LuckyCall)

VIII. Statistics

We are pleased to present our statistics for 2008-2009, provided below on an aggregate basis as well as on a TSP-specific basis.

i. Definitions

In order to fully understand the data being provided, familiarity with the terminology that we use is essential. In particular, it is important to understand how we define “Contacts” and “Complaints”.

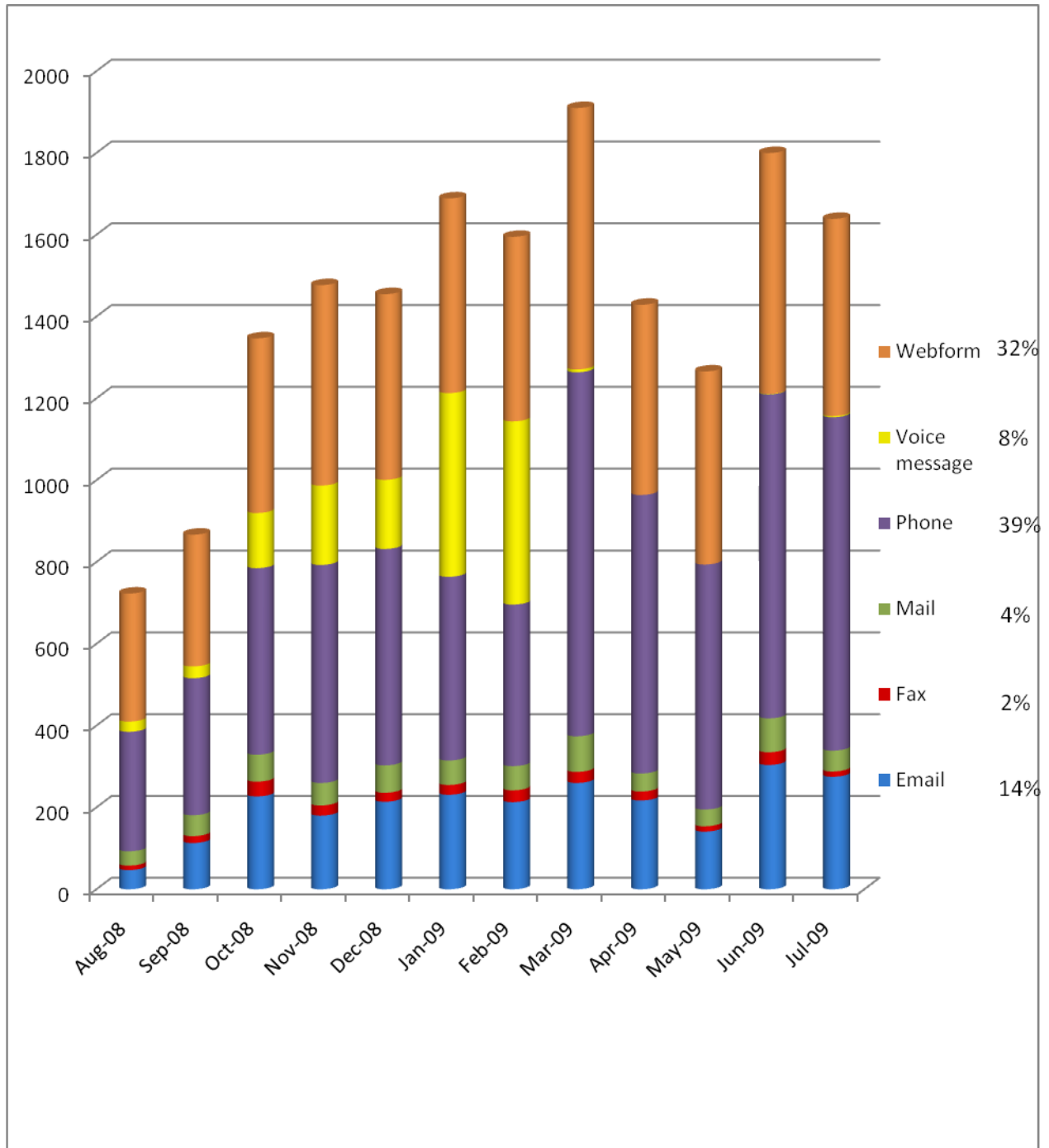
Contact: A contact is any communication by a member of the public with CCTS by phone, fax, mail, email or web form, as long as the communication does not relate to a complaint that we have already accepted.

N.B. *A contact that escalates into a complaint is still considered a contact.*

Complaint: A complaint that we have received, reviewed and found to be within our mandate.

ii. Method of Contact

Consumers contacted us in almost equal numbers by telephone (47%) and electronically (46%).



iii. Aggregate Data (August 1 2008 – July 31 2009)

The following table shows the number of contacts and complaints that we accepted and the number we dealt with at the various stages of our complaint process. The “Contacts” number is the total number of contacts with CCTS during the year. The “Complaints” figures represent the number of matters we processed to conclusion this year. The numbers are not intended to tally.

	<u>2008-2009</u>
Number of New Contacts	17,407
Number of Complaints Opened	3,214
Pre-Investigation Dispositions	
Number of Complaints resolved between the TSP & complainant	1,968
Number of Complaints closed before investigation level	239
Investigations	
Number of Complaints moved to Investigation	1,004
Number of Complaints resolved at Investigation	427
Number of Complaints closed at Investigation	321
Recommendations	
Number of Recommendations issued	48
Number of Recommendations accepted	31
Number of Recommendations rejected	6
Decisions	
Number of Decisions issued	6
Number of Decisions accepted	5
Number of Decisions rejected	1

Out of Scope Contacts

Of the 17,407 Contacts we received, 2,667 were considered “out of scope” because they were about a service or matter that falls outside our mandate.

Because they are out of scope, they could not become Complaints. They break down as follows:

<i>CCTS Mistaken for other organization</i>	34
<i>Customer service</i>	632
<i>Misleading advertisement</i>	45
<i>Outsourcing of calls</i>	20
<i>Pricing</i>	199
<i>Service out of scope</i>	143
<i>Telemarketing</i>	260
<i>TSP general policies</i>	578
<i>Other</i>	756
Total Out of scope	2,667

Non-Member Contacts

Of the 17,407 Contacts we received, 1,940 were about TSPs that were not members of CCTS. We track these statistics in order to provide stakeholders with a sense of the number of consumers who we could not assist because their service provider does not participate in CCTS. Below is a summary of the issues raised in these contacts with non-members.

	Contacts	% of Total Contacts
Billing issues	193	9.9%
<i>Charged after disconnection</i>	13	0.7%
<i>Credit management</i>	16	0.8%
<i>Overcharged</i>	14	0.7%
<i>General billing issue</i>	150	7.7%
Contract dispute	40	2.1%
Misleading representative	3	0.2%
Service delivery (installation, repair and maintenance)	86	4.4%
Unauthorized transfer of service (slamming)	85	4.4%
Other: in scope	7	0.4%
Out of scope	579	29.8%
<i>CCTS Mistaken for other organization</i>	22	1.1%
<i>Customer service</i>	15	0.8%
<i>Misleading advertisement</i>	1	0.1%
<i>Outsourcing of calls</i>	1	0.1%
<i>Pricing</i>	20	1.0%
<i>Service out of scope</i>	16	0.8%
<i>Telemarketing</i>	151	7.8%
<i>TSP general policies</i>	56	2.9%
<i>Other</i>	297	15.3%
Not provided	947	48.8%
Total	1,940	100%

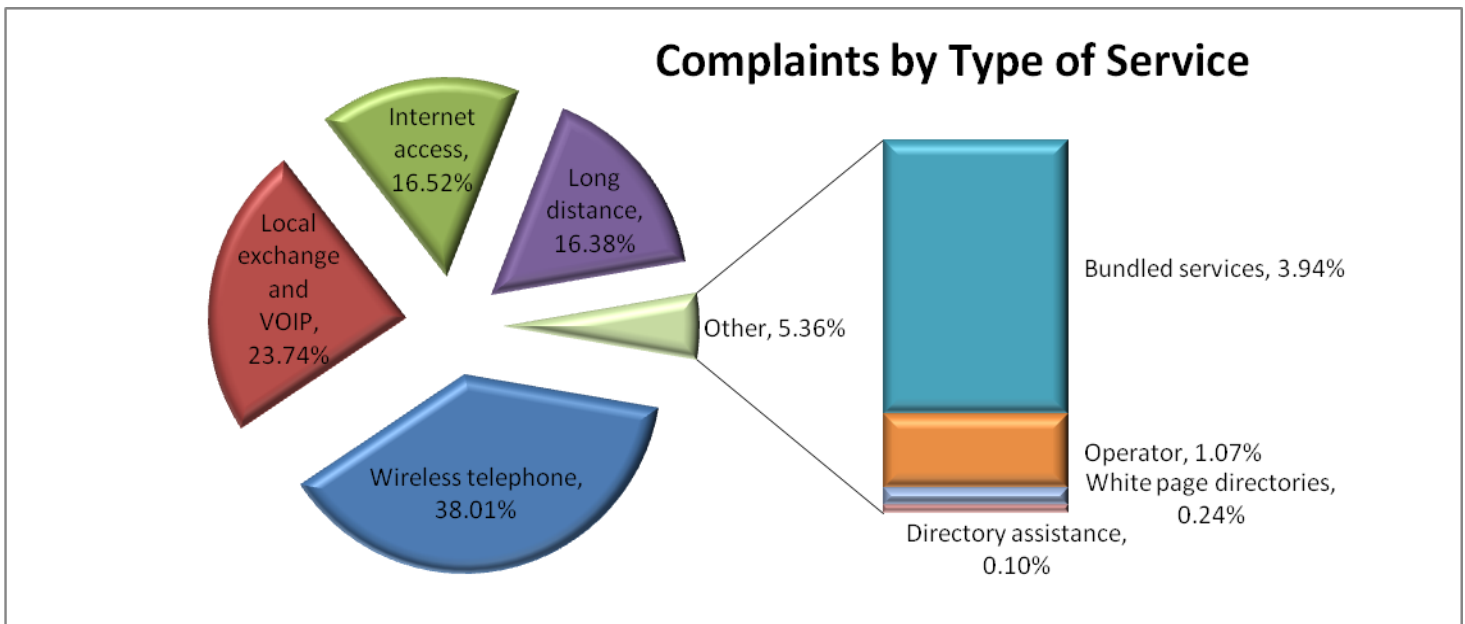
iv. Complaints Regarding our Members

This section provides a breakdown of the complaints we received in 2008-2009 by type of service and by issue.

Complaints by Type of Service

As in 2007-2008, more consumers complained about wireless services than anything else.

<u>Service Type</u>	<u>Complaints</u>
Wireless telephone	38.01%
Local exchange and VOIP	23.74%
Internet access	16.52%
Long distance	16.38%
Bundled services	3.94%
Operator	1.07%
White page directories	0.24%
Directory assistance	0.10%
Total	100.00%



Nature of Complaints

Some complaints raise more than one issue. The 3,214 complaints that we received in 2008-2009 raised 4,406 separate issues, broken down as illustrated in the table below.

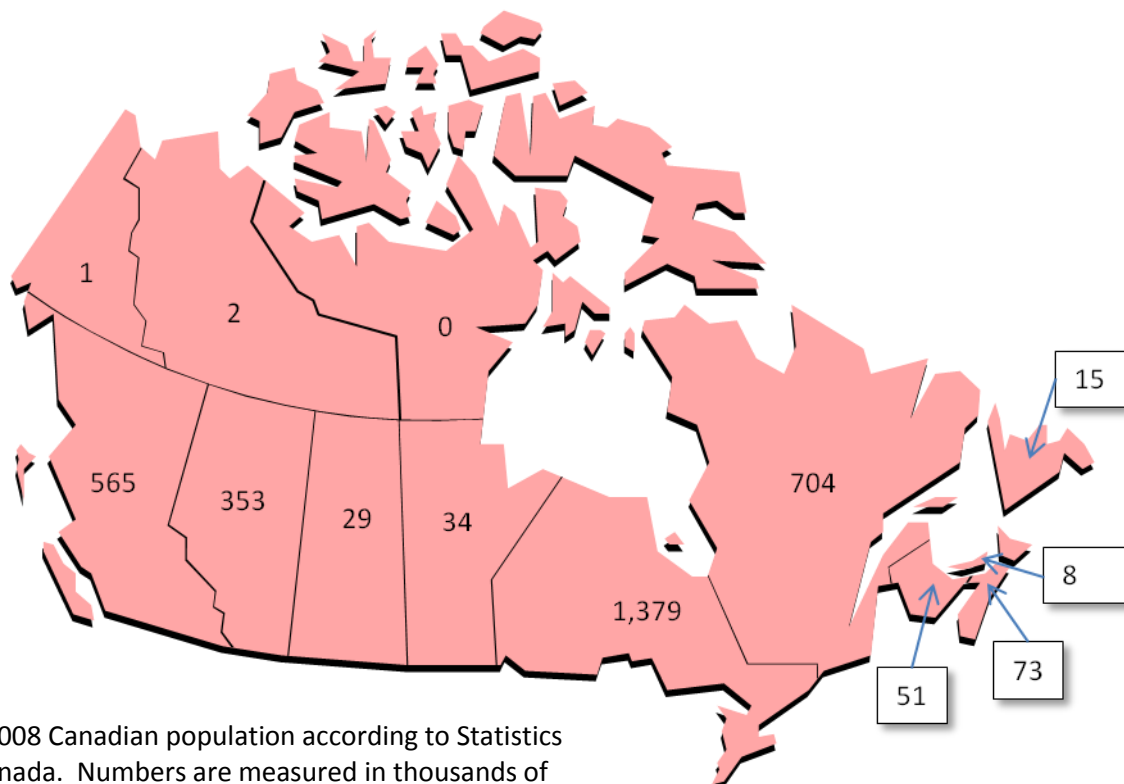
	Issues	% of Issues
Billing issues	1,525	34.6%
<i>Charged after disconnection</i>	111	2.5%
<i>Credit management</i>	217	4.9%
<i>Overcharged</i>	50	1.1%
<i>General billing issue</i>	1147	26.0%
Contract dispute	1,209	27.4%
Misleading representative	31	0.7%
Service delivery (installation, repair and maintenance)	737	16.7%
Unauthorized transfer of service (slamming)	267	6.1%
Other: in scope	637	14.5%
Total	4,406	100.0%

	Complaints Opened	Resolved	Closed	Moved to Investigation	Resolved	Closed	Recommendations Issued	Recommendations Accepted	Recommendations Rejected	Decisions Issued	Decisions Accepted	Decisions Rejected
Northern Tel	1	0	0	1	0	0	0	0	0	0	0	0
Northwestel	0	0	0	0	0	0	0	0	0	0	0	0
Ontera	0	0	0	0	0	0	0	0	0	0	0	0
Peoples Communications	0	0	0	0	0	0	0	0	0	0	0	0
Persona Communications	1	1	0	0	0	0	0	0	0	0	0	0
Premiere Conferencing Canada Ltd.	0	0	0	0	0	0	0	0	0	0	0	0
Primus	393	204	14	123	32	16	2	2	0	0	0	0
Rogers Communications Inc.	672	445	66	173	92	45	8	7	1	1	1	0
Saskatchewan Telecommunications	5	3	0	2	0	0	0	0	0	0	0	0
Shaw	14	9	2	2	1	1	0	0	0	0	0	0
Sogetel	0	0	0	0	0	0	0	0	0	0	0	0
Tata Communications	0	0	0	0	0	0	0	0	0	0	0	0
TBayTel	0	0	0	0	0	0	0	0	0	0	0	0
Télébec	6	8	1	4	2	2	0	0	0	0	0	0
Telizon	0	0	0	0	0	0	0	0	0	0	0	0
TELUS Communications Company	579	378	70	149	89	56	11	4	2	2	2	0
TeraGo Networks Inc.	0	0	0	0	0	0	0	0	0	0	0	0
Verizon	1	0	0	0	0	0	0	0	0	0	0	0
Vidéotron Ltd.	72	51	5	25	12	12	0	0	0	0	0	0
Virgin Mobile Canada	56	19	3	25	9	0	0	0	0	0	0	0
Vonage Canada Corporation	13	7	0	5	1	3	0	0	0	0	0	0
Yak Communications Corp.	82	16	3	53	22	0	0	0	0	0	0	0
TOTAL	3,214	1,968	239	1,004	427	321	48	31	6	6	5	1

TSP	Number of Issues	Charged after disconnection	Credit management	Overcharged	General billing issue	Contract dispute	Misleading representative	Service Delivery	Unauthorized Transfer of Service	Other: in scope
		Billing issue								
Ontera	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Peoples Communications	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Persona Communications	1	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%
Premiere Conferencing Canada Ltd.	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Primus	543	3.7%	3.5%	0.4%	18.0%	19.3%	0.4%	21.7%	21.7%	11.2%
Rogers Communications Inc.	932	1.8%	5.5%	1.5%	26.9%	27.9%	0.5%	15.9%	3.4%	16.5%
Saskatchewan Telecommunications	7	0.0%	0.0%	0.0%	42.9%	0.0%	0.0%	28.6%	0.0%	28.6%
Shaw	16	0.0%	0.0%	0.0%	18.8%	12.5%	0.0%	43.8%	6.3%	18.8%
Sogetel	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Tata Communications	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
TBayTel	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Télébec	6	0.0%	0.0%	0.0%	16.7%	33.3%	0.0%	16.7%	16.7%	16.7%
Telizon	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
TELUS Communications Company	803	3.0%	4.9%	1.4%	25.2%	26.7%	1.0%	18.6%	3.2%	16.2%
TeraGo Networks Inc.	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Verizon	1	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Vidéotron Ltd.	96	3.1%	2.1%	2.1%	13.5%	39.6%	0.0%	16.7%	6.3%	16.7%
Virgin Mobile Canada	82	0.0%	11.0%	1.2%	24.4%	25.6%	0.0%	12.2%	1.2%	24.4%
Vonage Canada Corporation	17	5.9%	0.0%	0.0%	11.8%	11.8%	0.0%	29.4%	11.8%	29.4%
Yak Communications Corp.	108	5.6%	2.8%	0.0%	29.6%	18.5%	0.0%	22.2%	12.0%	9.3%
AGGREGATE	4406	2.5%	4.9%	1.1%	26.0%	27.4%	0.7%	16.7%	6.1%	14.4%

Complaints by Province/Territory

	Complaints		Population*	
Alberta	353	11.0%	3,585.1	10.8%
British Columbia	565	17.6%	4,381.6	13.2%
Manitoba	34	1.1%	1,208.0	3.6%
New Brunswick	51	1.6%	747.3	2.2%
Newfoundland	15	0.5%	507.9	1.5%
Northwest Territories	2	0.1%	43.3	0.1%
Nova Scotia	73	2.3%	938.3	2.8%
Nunavut	0	0.0%	31.4	0.1%
Ontario	1,379	42.9%	12,929.0	38.8%
Prince Edward Island	8	0.2%	139.8	0.4%
Québec	704	21.9%	7,750.5	23.3%
Saskatchewan	29	0.9%	1,016.0	3.1%
Yukon	1	0.0%	33.1	0.1%
Total	3,214	100.0%	33,311.4	100.0%



*2008 Canadian population according to Statistics Canada. Numbers are measured in thousands of persons.

IX. Noteworthy Issues & Case Examples

In this section we discuss some issues that we dealt with frequently this year, with some case examples to demonstrate the way in which we tend to deal with those issues. These include disputes relating to the Terms of Service and contractual obligations between customers and their service providers, the unauthorized transfer of long distance services (“slamming”) and small business toll-fraud.

i. Understanding Your Terms of Service

A telecommunications services provider’s (“TSP”) *Terms of Service* (also called the *Service Agreement, Service Terms, Contract Terms, Terms and Conditions, or Terms of Use*) set out the rights and responsibilities of each party to the service contract.

We routinely review, interpret and apply the provider’s Terms of Service (“Terms”) when we investigate complaints. In 2008-2009, 27% of complaints filed with CCTS specifically involved a provision or issue in the provider’s Terms. In a large number of these complaints, customers reported that they were not aware, nor had they been informed by their TSP, of the existence of the Terms, and that they were bound by them. Customers have expressed significant frustration at not being clearly informed of the applicable Terms, noting in many cases that their ultimate decisions regarding such issues as subscribing for or cancelling services would have been different had they been aware of these contractual provisions. Although TSPs should be bringing the relevant Terms to the attention of their customers, we strongly encourage customers to review the Terms before making a decision about purchasing telecommunications services from a provider. You can usually find them on the TSP’s web site. If not, you should specifically ask to see them.

When investigating complaints, we often request copies of the applicable Terms, signed contract, monthly invoices and any other relevant documents that might help us better understand the information that was presented to the customer at the time the contract was entered into, in order to assess whether the TSP reasonably performed its obligations to the customer. It is important for customers to be fully informed about what they are contracting for with the TSP, as generally we will expect all parties to respect the rights and obligations detailed in the Terms. These documents facilitate our determination of whether the parties have respected those rights and obligations.

We do not address the legality, fairness or validity of any particular contract or service term. For example, in a complaint about a termination fee charged to a client for cancelling service before the end of a contract term, we would not consider whether it is appropriate for TSPs to levy termination charges. We would review the Terms to see whether the Terms allow the TSP to charge the fee. If not, we would ask the TSP to waive it. If so, we would review whether it was properly charged and calculated. In exceptional circumstances, such as where the customer has not received any benefit of the contract through no fault of their own, we have been able to arrive at a mutually agreeable resolution that recognizes that it was not reasonable for the TSP to charge the amount in question.

In order to reduce the number of complaints about issues arising from the application or interpretation of the Terms, we recommend that TSPs increase their visibility and accessibility when a customer is at the initial decision-making stages of subscribing for service. Clear and concise information presented prior to entering into or renewing a contract ensures that customers are adequately informed of their rights and obligations and can make informed purchasing decisions. In addition, we support the use in the Terms of simple, lay terminology, and the elimination of as much industry jargon as possible. Finally, TSPs should ensure that their Terms are easily accessed on their websites and available at retail locations before a contract is entered into. This can be challenging, particularly in an industry in which customers often subscribe for service by telephone. As such, we encourage the industry to use its creativity to develop means by which key information can be provided to customers either prior to subscribing, or in writing thereafter with a right of cancellation until that information has been provided. We are aware that some providers give a copy of their Terms to customers who subscribe for services at retail locations, and require them to sign an acknowledgement of receipt of the Terms as part of the “sign up” process. This is a positive step, particularly if combined with a “trial period” for the service, which gives customers the opportunity to take the Terms home and review them in a more leisurely manner.

The case studies below describe some of the scenarios we saw this year, and the way we dealt with those complaints.

Case #1 - “No One Ever Told Us”

The customers complained that upon signing up for an unlimited Canada-wide long distance calling plan, they were told by the TSP that all long distance calls within Canada would be included in the cost of their monthly plan. Two years into their agreement, the customers were billed for long distance calls to a particular region in the country, which they believed had always been included in their plan. The customers tried to resolve the issue with their TSP but were unsuccessful.

The TSP explained that the provision that excluded this particular region had always been a part of the customers’ agreement. The TSP added that the customers should have been notified of this at sign up, that notices were sent to the customers with their billings and that the provision can currently be found on its website. Nonetheless, the TSP offered to waive half of the charges.

When we investigated, the TSP was unable to demonstrate that it ever provided to the customers any reasonable notification of the Terms of Service provision that it was relying upon. The TSP had not notified the customers either at sign-up or through a billing notice. We determined that the customers’ contract did not include this restriction and that the only time it was brought to their attention was when they contacted the TSP to dispute the charges. We decided that the TSP should waive the entirety of the disputed charges incurred to the date that the customers received notification of this restriction. The TSP agreed to do so.

Message: TSPs cannot expect to bind customers to contracts that have not been disclosed to them.

Case #2 - “Away On Vacation”

The customer explained that he contacted his TSP to advise it that he wanted to place his wireless service on a “vacation suspension” for several months while he was traveling abroad. Upon returning to Canada, the customer discovered an unusually large bill that included a termination

charge. The customer immediately contacted his TSP to reactivate his service. He was advised that his service had been disconnected for non-payment and that he had to pay the outstanding amount, which had since proceeded to collections treatment. The customer remitted full payment but complained that he had been wrongfully disconnected by the TSP and sought reimbursement of the termination charge.

The TSP confirmed that a “vacation suspension” was placed on the customer’s account, however, during the voluntary suspension period it had deactivated the account due to non-payment. As a result, the contract was cancelled before the end of the term, resulting in a termination charge being applied to the account. The TSP also noted that the customer had made only one payment in the six month time period prior to the termination of the account.

We found that the Terms of Service provided the TSP with the right to terminate service if the customer failed to make payments when due and that if the service was terminated for this reason, the customer would remain liable for accrued fees and charges. The Terms also permitted the imposition of a termination charge in these circumstances. The “vacation suspension” did not absolve the customer of his responsibility to make payments when due.

We were provided with a copy of the contract that set out the obligation of the customer to make payments when due, and we found that the TSP gave sufficient notice and ample time for the customer to remit payment before service was terminated. We concluded that the TSP’s actions were consistent with its rights under the contract and we declined to recommend further action to the TSP.

Message: When the Terms have been provided to the client and are clear, we will apply them to complaints. TSPs’ Terms typically provide a right of suspension or cancellation for failure to pay for services when due.

Case #3 - “I Thought It Was Free”

The customer complained that the TSP charged him two cancellation fees – one for terminating his internet service agreement before expiry of the contract term, and a second for a promotional laptop that was included with his three-year plan. The customer explained that he thought the computer was a “free gift”. He explained that he had terminated his contract before it expired due to the continuing difficulty he had with the quality of his internet connection over the course of his service term. The customer paid his account but sought a refund of both cancellation fees.

At the time of cancellation, the TSP credited the customer’s balance owing for internet service to compensate him for the time that he was unable to use his internet connection. The amount credited also covered the cancellation fee associated with the termination of his service. However, the TSP refused to refund the cancellation fee for the promotional laptop, on the basis that its Terms allowed it to charge a cancellation fee for promotional equipment.

Upon investigation we discovered that although the TSP’s Terms allow it to charge a cancellation fee for termination of service, they did not authorize the TSP to charge a cancellation fee for promotional equipment. A *Frequently Asked Questions* section on the TSP’s website suggested that cancellation fees might be higher if a promotional item was involved, but the section failed to provide any specifics.

Although it was likely the TSP's intention to charge a cancellation fee for the promotional equipment, we were unable to find support for this charge generally or any provision specifically describing the amount of such a charge. Thus we recommended that the TSP refund the promotional equipment cancellation fee, and it did so.

Message: When the Terms are clear, we will apply them – whether for the benefit of the TSP or the benefit of the customer.

ii. Unauthorized Transfers of Long Distance Service

The unauthorized transfer of telecommunications services from a customer's existing provider to a new provider (also known as "slamming") most frequently occurs in relation to long distance ("LD") service. Although this can happen for a variety of reasons, it is often the result of a misunderstanding during a communication from a service provider soliciting the customer's business, or in the course of a legitimate transfer of local service. The unauthorized transfer of LD service is not usually discovered until after the customer receives an invoice from the new service provider. We received the same proportion of complaints about LD service this year as last (16%). This year, however, complaints relating to the *unauthorized transfer* of LD service tripled from two percent to six percent.

The investigation of these complaints is challenging for us due to the frequent lack of evidence to prove that the consent of the customer to the transfer was (or was not) obtained. This lack of evidence is troubling, as industry rules require LD service providers to confirm most customer orders through one of a series of standard validation methods. Nevertheless, some LD providers have been unable or unwilling to provide this evidence. Or in cases in which they have provided it, the evidence does not sufficiently demonstrate the use of these standard validation methods.

In many cases, LD service solicitations are made and accepted by phone. We have seen cases in which TSPs have provided us with recordings purporting to demonstrate that the customer consented to the transfer, but we have found many of these to be incomplete. In cases in which recordings or other "evidence" of consent has been provided to us, we frequently remain challenged in assessing the evidence. This year, customers with slamming complaints have denied giving consent for the following reasons:

1. I have free LD with my local provider. Why would I agree to pay another provider for LD?
2. I am the account holder and the provider did not speak to me. They may have spoken to someone, but it wasn't me;
3. I was misled by a telemarketer – I believed:
 - a. It was my local provider calling to provide me with a better rate on my existing plan;
 - b. I was participating in a survey; and
 - c. I spoke to the provider but was just "shopping around" – I did not agree to a transfer.

This type of complaint can be extremely difficult to sort out.

We urge TSPs to:

- review their sales practices with a view to improving accountability by ensuring that clear and proper authorization is given by the customer;
- ensure that they obtain explicit order confirmations in accordance with industry standards, and that they store this evidence in a manner that it can be quickly retrieved in the event of a customer transfer dispute; and
- investigate slamming complaints promptly when they are received.

We also advise customers to vigilantly review their invoices on a regular basis. If customers believe that an unauthorized transfer has occurred, they should immediately contact the provider to whom the service has been directed (the “slammer”) and inform it that they did not authorize the transfer of service. We also recommend that customers immediately contact their previous provider and ask to have their service returned. CCTS is committed to assisting customers with slamming complaints. We will investigate and ensure that the right of customers to their provider of choice in the competitive LD market is respected by our member TSPs.

iii. Toll-Fraud (Important Information for Small Business Telecom Customers)

Toll fraud is the theft of LD service. In 2008-2009 we received a significant number of complaints from small business customers which received large bills (in one case over \$200,000) from LD telephone service providers. These bills contain charges for dozens, sometimes hundreds of LD calls that everyone agrees that the customers did not make. The calls normally terminate overseas. Although residential customers can also be victims of toll fraud, the cases we have seen deal exclusively with small business customers.

We are in the process of investigating the complaints filed with us. To date, some have been settled or otherwise resolved, and some remain outstanding.

Toll fraud losses can devastate a small business. The Terms of Service of most, if not all providers, state that the customer is responsible for the cost of all calls that have passed through the customer’s equipment, whether or not the calls are authorized by the customer. As a customer, you should exercise extreme care to ensure that you do not become the next victim.

How could it happen to me?

Easily. Hackers (also called “phreaks”) look for weak spots in the security configuration of small business telephone systems. They tend to be expert and are very familiar with most of the hardware in the marketplace. They can get into your phone system:

- through your PBX board or a modem installed for maintenance of your system;

- by accessing the “call through” (also known as Direct Inward System Access) functionality of your system. This feature allows employees who are out of the office to connect to the office telephone system and make long distance calls;
- through an inadequately secured voice mailbox.

How can I protect myself?

Most small businesses will benefit from turning this task over to a system security expert. An expert can advise you of the steps that should be taken to protect your particular system based on its configuration. They will probably advise you, among other things, to:

- change log-ins and passwords from the factory default settings. Set new, secure ones and change them regularly;
- consider how important “call through” functionality is to your business. If you don’t need it, disable it;
- keep track of your LD usage and be alert to any irregularities; and
- notify your security provider and your LD provider immediately if you detect suspicious activity. Since much of this activity takes place after hours and on weekends, make sure that your providers can contact you in case they detect suspicious activity.

A combination of expert advice, customer vigilance and good security practices will go a long way to prevent you from becoming another victim.

X. Our Board of Directors

Our Board is structured to provide for participation of all stakeholders, on the one hand, and, independence from the telecommunications industry, on the other. The Board consists of eight Directors, seven of whom are voting Directors:

- four Independent Directors, two of whom are nominees of consumer groups;
- three Industry Directors, one each to represent the ILEC¹ Members, the Cable Company Members, and the Other TSP Members; and
- the Commissioner, who is an *ex-officio* non-voting Director, and is independent of the telecommunications industry.

i. Independent Directors

The Independent Directors are intended to represent a diversity of experience and interests, being individuals known and respected on a regional and national basis and representative of the Canadian population, including gender, linguistic, minority and geographic representation.

ii. Industry Directors

The Industry Directors represent each of the ILEC, Cableco and Other TSP Member categories. The current appointed Industry Directors are Jonathan Daniels (ILEC), Dennis Béland (Cableco) and Jill Schatz (Other).

XI. Director Biographies

Mary M. Gusella (Chair)

After a 36 year career in the federal public service, Mary retired in 2006 from the position of Chief Commissioner of the Canadian Human Rights Commission where she led the transformation of the organization, eliminating a chronic backlog, drastically reducing wait times, developing new tools and partnerships for human rights prevention and maximizing the use of conflict resolution techniques to resolve complaints in a timely and effective manner.

A lawyer by training, Mary was awarded the Prime Minister's Outstanding Achievement Award, the Public Service's highest award, for her "Outstanding contribution to the Public Service of Canada". She received the Queen's Jubilee Medal and has been inducted into the Honour Society of the University of Ottawa Law School.

¹ Incumbent Local Exchange Carrier

Marie Bernard-Meunier

A career diplomat, Marie served in Ottawa as Assistant Deputy Minister for Global Issues and abroad as Canada's Ambassador to UNESCO, to the Netherlands and to Germany. She left the Foreign Service in 2005 and has since published extensively on various public policy issues. She currently serves on the Boards of many public institutions, including the Public Policy Forum and the Audit Committee of the Canadian Space Agency. She holds a Master's Degree in Political Science from the Université de Montréal.

Dick Gathercole

Dick is a lawyer and former Executive Director of the BC Public Interest Advocacy Centre. In his varied career Dick has been the Chair and CEO of the BC Energy Council, a member of the University of Toronto Faculty of Law, and counsel with Ontario's Ministry of the Attorney General.

Jean Sébastien

Jean has a Ph.D. in Comparative Literature and is currently professor of media and literature at College de Maisonneuve in Montreal. Jean has served as a policy analyst on matters of broadcasting, telecommunications, and information technology for L'Union des consommateurs and a member of the Board of Directors of the Canadian Internet Registration Authority. Prior to this, Jean spent some 15 years working in various capacities in the media.

Dennis Béland

Dennis is Director, Regulatory Affairs, Telecommunications, Quebecor Media Inc. Dennis has a Bachelor's Degree in Engineering and Management and a Master's Degree in Public Policy from the John F. Kennedy School of Government at Harvard University. He is a Member of the Board of Directors of the Canadian LNP Consortium Inc., the Canadian Numbering Administration Consortium Inc. and a former Member of the Board of Directors of the Canadian Wireless Telecommunications Association.

Jonathan Daniels

B.A. (McGill) 1990, J.D. (Toronto) 1994, is Vice President Regulatory Law at Bell Canada. Prior to joining Bell, Mr. Daniels has served in various positions at Cable & Wireless based in the Cayman Islands, C1 Communications, Covad Communications, Sprint Canada and as an associate with the law firm Stikeman, Elliott. Mr. Daniels teaches telecommunications law at the University of Toronto Faculty of Law; he has also taught telecommunications market dynamics at Ryerson University and has published a number of articles in the telecommunications and broadcasting fields.

Jill Schatz

Jill joined Primus Canada in 2008 as General Counsel and VP Law and has overall responsibility for the legal requirements of the company. Jill has extensive in-house experience in various public and private corporations and has held senior legal, corporate secretarial and executive roles in the IT and Telecommunications industries since 2000 with Momentum Advanced Solutions Inc. (formerly OnX Enterprise Solutions Inc.) and Cybersurf Corp. Prior to 2000 she held in-house positions with ICI Canada Inc. (formerly C-I-L Inc.) and TransCanada PipeLines Limited.

Jill is active in the corporate counsel community and is a past-President, Vice-President and Treasurer of the Canadian Corporate Counsel Association (CCCA). She serves on the Executives of the IT and E-Commerce Section of the Ontario Bar Association and the Toronto Chapter of the CCCA and is currently the President of the CMHA York Region Board of Directors. Jill holds a Juris Doctorate (J.D.) and MBA (Finance Major), both from the University of Toronto as well as a Masters in Law (International Trade & Competition Law) from Osgoode Hall Law School.

XII. How to Contact Us

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