



Order of the Regulator No. 2013/T02

CUSTOMER COMPLAINT AGAINST BLUESKY SAMOATEL'S BILLING PRACTICES

The Office of the Regulator ('OOTR') received a complaint from a BlueSky fixed-line subscriber with respect to charges included in their telephone bill and the manner in which BlueSky was billing its customers for services rendered.

In the interests of being transparent, the Regulator forwarded the complaint to BlueSky for comment. As a result of the response received, the Regulator concluded that an investigation would be carried out in relation to the matter.

During the process of its investigation, the Office of the Regulator ('OOTR') consulted with the relevant parties, allowing each party to make submissions on the matter. Upon the completion of its investigation, the Regulator was satisfied that BlueSky –

- (i) Has in fact breached the conditions contained in Order No. 2008/01 with regard to the manner in which it billed the complainant for each minute for a fixed-to-mobile call;
- (ii) Has wrongfully collected monies from the complainant as a consequence of the breaches detailed in (i) above.

The Regulator is also satisfied that the breaches contained in paragraphs (i) and (ii) above have impacted on other BlueSky fixed-line subscribers.

Pursuant to section 77(d) of the Telecommunications Act 2005 as amended, the Regulator hereby makes the following orders –

Order instructing BlueSky to carry out an audit of its billing system

1. The Regulator instructs BlueSky to carry out a complete audit of its billing system; such audit to be completed within ninety (90) days and a report detailing the result of such audit ('Report') is to be submitted to the Office of the Regulator seven (7) days from the date the audit is completed.

2. The Regulator instructs that the Report should identify the following –
- (a) total number of BlueSky fixed line subscribers each year starting at 1st April 2011 up until the date of this Order;
 - (b) statements detailing to total amount of revenue received from fixed-line customers affected by BlueSky's billing practice from 1st April 2011 up until 31st January 2012;
 - (c) statement indicating the variance /difference between the revenue received by BlueSky during the period from 1st April 2011 to 31st January 2012 and the amount it **should** have collected if the charges were implemented in accordance with Order No. 2008/01;
 - (d) BlueSky's proposed plan with respect to the manner in which each customer will be reimbursed for monies overpaid to BlueSky during the period from 1st April 2011 to 31st January 2012 – such proposal is to be approved by the Regulator.

Order instructing BlueSky to provide proper notification to its customers

3. The Regulator instructs BlueSky pursuant to a proposal approved by the Regulator, to inform the affected customers of its intention to reimburse them for monies overpaid to Bluesky for the period 1st April 2011 to 31st January 2012 and that this is due to the need to comply with Order No. 2008/01.
4. BlueSky shall include in its notice to affected parties the following:
- a. the error in the method of calculation of its customers' fixed to mobile per-minute charges for the period 1st April 2011 to 31st January 2012;
 - b. acceptance of the possibility of overpayment of telephone bills by its customers from 1st April 2011 to 31st January 2012;

Order instructing BlueSky to reimburse all fixed line customers affected by the billing practice implemented in contravention of Order No. 2008/01

5. Upon the completion of the audit exercise detailed in paragraph 1 above and the submission of the Report to the Regulator and having an approved proposal for customer reimbursement; BlueSky shall inform all its fixed line customers who were active subscribers from the period 1st April 2011 to 31st January 2012 to contact

BlueSky to make arrangements for reimbursement of their overpayment of telephone bills for fixed to mobile calls, and other associated costs including VAGST costs.

6. BlueSky shall ensure that all customers affected by the error in its billing practice are reimbursed of monies overpaid for fixed line services (whether by offsetting current balances or via cash payment) within ninety (90) days from the date the request from a customer is received.

Failure to action the Regulator's instruction set forth above will result in penalties being imposed on BlueSky in accordance with section 75 of the Act.

Effective date of this Order: 12th April 2013

Dated this 5th April 2013

A handwritten signature in black ink, appearing to read 'D. De Freitas', with a long horizontal stroke extending to the right.

Donnie De Freitas

Regulator