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26 May 2006

Telecommunications Industry Ombudsman

John Pinnock
Ombudsman

Mr Gary Looney
Lot 44 Wentworth Rd
MENINDEE NSW 2879

Dear Mr Looney

TIO reference: 06/005234-1 - Fink

Telstra Big Pond has responded to the complaint that the Telecommunications Industry Ombudsman (TIO) raised on your behalf. I enclose a copy of the response (with personal details of company representatives removed for privacy reasons).

In this letter, I will identify the issues in dispute in your complaint, summarise Telstra Big Pond's response, and set out my preliminary assessment of your complaint. Then I will discuss the options available to you.

Your complaint
You have claimed that:

- you were given incorrect advice about the availability of broadband internet services
- initial advice was that only a dial up service is available
- you were given subsequent advice that a CDMA wireless connection would be available
- you purchased a lap top computer suitable for a wireless connection
- you were then advised that a wireless connection was not available in your area and that the only connection available would be through ISDN
- you were advised that the ISDN service would allow for live broadcasts
- the ISDN service is very slow often dropping to 64kbps
- you have been offered resolution by signing an indemnity where you will receive a credit of $700 for the purchase of the lap top computer and a further credit of $214.53 as a goodwill gesture
- you will accept the offer to resolve the complaint and the offer of a credit of $214.53, but believe that Telstra applied undue pressure when making the offer
- you want the $700.00 paid to you as a cash payment, and
- you want to be released from your ISDN contract without the imposition of termination fees.

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Telstra Big Pond's response to your complaint

Telstra Big Pond has offered to resolve your complaint by crediting your telephone account $700.00 to cover the cost of the lap top computer you have purchased. Telstra advises that a credit of $214.53 has been applied to your account already.

In response to your complaint, Telstra Big Pond claims that:

- you were advised that wireless CDMA broadband connection would be available in your area
- You were advised on 18 January 2006 that CDMA wireless connection would not run at full broadband speeds
- Telstra denies any liability for the cost of the lap top computer
- You advised that you needed a faster internet connection in order to have a video conferencing facility for business use
- You advised Telstra on 24 January that you needed the service to watch overseas television programs not locally available
- Only a cable broadband or ADSL connection would have provided sufficient speeds for this function
- Telstra had offered to rebate the cost of the lap top computer you purchased if you were able to provide proof of purchase
- Telstra as offered to release you from your ISDN contract without penalty
- Telstra has offered to install a 2-Way Satellite connection for free
- This offer closed on 10 February 2006
- In discussion with you on 14 February 2006 you advised that you wanted to retain your ISDN service
- Telstra apologises for the error and advises that should you accept the offer of a $700.00 credit that correct forms can be prepared and sent to you
- Telstra denies that you had undue pressure applied to you whilst attempting to effect resolution of the complaint
- Telstra will only offer the $700.00 as a non- refundable credit
- Telstra will not release you from your ISDN contract without the imposition of early termination fees as you have already been offered this and rejected the offer, and
- Telstra believes that the if the service was not meeting your needs that you would have taken the opportunity to move to another provider when it was offered, and
- Telstra is unwilling to leave the offer of termination without fees open indefinitely

The TIO's preliminary assessment of your complaint

Having considered the evidence submitted in this complaint I believe that Telstra has offered a reasonable resolution for your compliant.

It would appear that on two occasions Telstra had offered to release you from your ISDN contract without incurring early termination fees. Telstra asserts that you were also offered a free 2-way satellite connection that you refused. Telstra customer care notes from 4 March 2006 support the view that you advised Telstra you wanted to retain your ISDN service and that you were no longer pursuing the installation of a satellite service.

With regard to your claim that the ISDN service is slow Telstra has advised that the speed of your service will be affected if you use the telephone at the same time as the Internet. Telstra Customer care notes from 18 January 2006 state that you were advised that your speed could be affected if the phone was being used . Telstra states in these notes that if voice line is being used the speed for the Internet will drop to 64kbps.

The TIO notes that Telstra had offered to cancel the contract for ISDN and that this offer remained open until 10 February 2006. This means if you were not satisfied with the service or offers of resolution made by Telstra that you were free to take your service to another provider. On 4 March

2006 it would appear that you advised Telstra that you wanted to retain your service. At this time you had been made aware of the limitations on the service you were choosing to retain when you spoke with Telstra on 18 January 2006.

Your claim that you were placed under undue pressure from Telstra to sign the forms provided to you has been rejected by Telstra. At this point I can see no basis for further investigation of this issue unless you are able to provide evidence supporting this claim.

Telstra has advised that it is only willing to offer a non-refundable credit($700) and not a cash payment of $700.00. The TIO will not investigate this matter further. On reading the case notes for this file it is apparent that Telstra has attempted to resolve this complaint as best it can. You have claimed that you purchased a computer for $1000.00 when you were advised that a CDMA wireless Internet connection was available. Telstra is offering to credit you $700.00 for this purchase. I note that you have provided a copy of a receipt for purchase. The receipt provided contains insufficient detail to establish when, and from whom you purchased the computer. In the absence of supporting evidence that you purchased this computer, Telstra is acting in a fair and reasonable manner when it offers you the $700.00 credit. In most situations Telstra would be within its rights to refuse the credit.

In summary and based on the evidence viewed to date I am satisfied that Telstra has offered a reasonable resolution to your complaint and I am not inclined to pursue this matter further.

Your options

First, Telstra Big Pond has offered to credit your account $700.00 as a goodwill gesture. If you are satisfied with this proposed resolution, it is important that you let me know before 6 June 2006 so I can inform Telstra Big Pond.

If you are not satisfied with Telstra Big Pond's response to your complaint, I may be able to investigate further if I receive more information from you. Please contact me before 6 June 2006 with your general comments and any evidence that you believe may support your complaint.

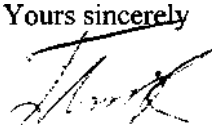
I would remind you that the outcome of any further investigation is not foreseeable, and Telstra Big Pond may withdraw its current offer in future communications.

If you do not contact me by 9 June 2006, I will close your complaint and tell Telstra Big Pond that you have not responded. I will not follow up your complaint after closing it. Please be aware that this may mean that Telstra Big Pond does not finalise its proposed resolution.

Right of review by a senior officer
You have another option if you have no comments or additional information for further investigation, but are not satisfied with Telstra Big Pond's response and/or my assessment of your complaint. You may contact me to ask for a senior officer to review the complaint.

Please contact me if you have any questions about this letter.

Yours sincerely



Jason Fink
Investigations Officer