

BEFORE THE PUBLIC UTILITIES COMMISSION

Order No. 3/2014

*In a matter of a complaint by
Leonard Craig with respect
to Digicel's Voicemail
Service.*

Coram:

Justice Prem Persaud	Chairman
Mr. Badrie Persaud	Commissioner
Mr. Maurice Solomon	Commissioner

With:

Mr. Vidiahar Persaud	Secretary
Mr. Moorsalene Sankar	Financial Analyst

Complainant:

Mr. Leonard Craig

U-Mobile (Cellular) Inc – Digicel:

Mr. Gregory Dean	Chief Executive Officer
Mr. Stephen Fraser	Attorney-at-Law
Ms. Corinne Phillip	Attorney-at-Law

Guyana Telephone & Telegraph Co. Ltd.:

Mr. Radha Krishna Sharma	Chief Executive Officer
Mr. Gene Evelyn	Consultant

Guyana Consumers' Association:

Mr. Patrick Dial A.A.	President
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DECISION

Mr. Leonard Craig has filed a complaint against U-Mobile (Cellular) Inc. trading as Digicel, alleging unfair practice in the operating of its service.

The specific complaint is that whenever a call is made to a Digicel's number, if the called party does not answer after four (4) rings the call is routed to a 'voice prompt' for which a charge is imposed. The voice prompt informs the caller that the call has been forwarded to the voicemail system if the called party has one set up.

Craig's complaint is that when Digicel diverts the call to the voicemail he is not given the opportunity to exercise an option to abort the call, or to continue with it. He said that he ought not to be charged for the voice prompt; but charges should only commence when the voicemail is activated.

He further added that when he purchased the Digicel handset/sim, no notice or advisory was given concerning the voicemail service.

In response to the complaint, Digicel contends that it is frivolous and should be dismissed—that Digicel uses a standard voicemail protocol adopted by telecommunication networks worldwide.

Digicel further explained that after approximately 20 seconds on an unanswered call, it defaults to the voicemail system—and further, that the prompt is not different from what obtains when someone calls a fixed line telephone and the called party has an answering machine.

Craig sought to challenge this. He made reference to an order made by the PUC on June 23, 2003 (Order No. 2 of 2003) which stipulates that a call cannot be diverted to any voicemail box until the telephone has rung at least eight (8) times without a response.

Craig has wrongly advised himself on this aspect. The Order No. 2/2003 was made consequent upon an application by the Guyana Telephone and Telegraph Co. Ltd. to offer new services called “**Value added Services**”. That Order dealt with “*wireline voicemail service*”, “*mobile short messaging service*” and “*mobile voicemail service*”. The Order referred to the services provided by GT&T and has no relevance to, nor is it binding on Digicel.

Interestingly, in that order, the PUC directed that a call cannot be diverted to any mailbox until the telephone had rung at least eight (8) times without a response. The Order did not make any reference to any warning or advice to callers, but GT&T has inserted a notification that ***the call will be forwarded*** to the called party’s mailbox—before it is actually transferred.

Digicel insists that its service does not have what Craig refers to as a “voice prompt”. What Digicel provides is a pre-recorded message which signals that the called party’s voicemail has been accessed.

Reference was made to the services provided by GT&T, and with the consent of all the parties in the proceedings, the PUC invited GT&T to attend and participate in the process. Copies of all documents relevant to the matter were made available to GT&T by the Commission.

Mr. Gene Evelyn, GT&T’s Consultant with respect to Rate Making, appeared and welcomed the opportunity to be involved. He recommended a harmonized approach in dealing with the issue—to avoid confusion among customers.

Mr. Evelyn explained that with respect to GT&T, charges commence when the “handshake” occurs. The handshake in telecommunications parlance is when the called party answers, or alternatively, if the recipient cannot take the call, a notification comes on for approximately 11 seconds informing the caller that he/she may leave a message with the called party’s mailbox, if he/she so desires.

The Guyana Consumers' Association was represented by Mr. Patrick Dial. He argued that a voice prompt differs from a voicemail and urged that no charges should be incurred by consumers since the prompt advises that the called party is not available and that the call is transferred to the person's mailbox.

Digicel and GT&T agreed to meet and offer a joint approach to the issue.

In the Commission's judgment there are two issues to be addressed:

1. Are four (4) rings —about 20 seconds - adequate to facilitate an action or response by the called party?
2. Should the call be transferred to the called party's mailbox without alerting the caller that the call will be transferred?

Digicel and GT&T submitted a joint position in the matter, as they had undertaken to do. They considered the issue in good faith and they appear confident that their position "*shall serve to the benefit of the public*"

The Commission has given this matter serious and mature consideration, taking into account all that was advanced at the hearing and, of course, the service providers' positions.

When a caller initiates a call he/she intends to speak with the called party or anyone who would have accessed the service. If the service provider offers a service to channel the call in any manner he considers appropriate, that service ought to be *pro bono*.

The Commission is not unmindful of the fact that a call forwarded to a called party's voicemail may attract a charge, and if there is, then it would be very negligible. The Commission considers that with the number of calls amounting to millions of minutes, the returns to the service providers will more than adequately compensate for the negligible voice prompt.

The Commission considers also that a caller must have a choice to decide whether he/she will leave a message with the called party's voicemail service. In the circumstances, the Commission considers four or five rings will not be quite sufficient.

Digicel and GT&T agreed that they will exercise their discretion whether to charge the called party for the retrieval of voicemail messages; and that the charge shall not exceed \$12:00 per minute.

The Commission offers its commendation to Digicel since it understands that the company has not been exercising the option to charge the called party for the retrieval of voicemail messages.

The Commission also records its appreciation to the complainant, Leonard Craig, referred to in the media as a "*consumer advocate*", for the calm and dignified manner in which he articulated

his case before the Commission. He brought to the fore an issue in which he felt very strongly, and has represented the cause of many silent consumers.

The Commission wishes to place on record the camaraderie displayed by both Digicel and GT&T in the deliberation of this matter, and hopes that despite the robust competition between the operators in providing services from which the nation benefits, such mature consideration be continued and extended- to issues common to both parties, in the interest of eventually the consumers who sustain them, and from whom they earn their keep.

As pointed out earlier, the Commission having considered the evidence and contributions made by all, orders as follows:

ORDER

- I. Neither Digicel nor GT&T shall charge a subscriber for the mobile voicemail service offered by either of the parties, and they shall provide the service free of charge.
- II. A calling party to a mobile number shall be allowed a minimum of eight (8) rings. Customers wishing calls to their mobile number to ring more or less than eight times are free to programme their handsets accordingly since both mobile networks and the handsets they support provide this functionality.
- III. Where a call to a mobile number is not answered after eight rings, the following shall apply:
 - a) The calling party shall hear the operator pre-recorded notification that the call **will be transferred to the voicemail facility of the called party. No billing shall take place between the initiation of the call and the completion of the pre-recorded notification.**
 - b) If the caller does not terminate the call by the end of the notification referred to (a) above, the call shall be directed to the voicemail facility maintained by the called party, and billing shall commence. Billing shall commence whether or not the called party maintains a personal voicemail greeting.

- c) The charges incurred by the calling party under (b) above shall be the applicable retail calling rate prevailing at the time.

This order shall take effect from this 1st day of June 2014.

Dated this 9th day of May, 2014.

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PREM PERSAUD – CHAIRMAN

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MAURICE SOLOMON – COMMISSIONER

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BADRIE PERSAUD – COMMISSIONER