

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Mary)	
Bajus,)	
)	
Complainant,)	
)	
v.)	Case No. 09-603-TP-CSS
)	
AT&T Ohio,)	
)	
Respondent.)	

ENTRY

The Commission finds:

- (1) On July 20, 2009, Ms. Mary Bajus (complainant) filed a complaint against AT&T Ohio (AT&T) alleging that AT&T committed errors and omissions with respect to her Yellow Pages listing and an intercept message for a discontinued telephone number. In the complaint, Ms. Bajus states in the fall of 2007 she spoke to an AT&T representative about discontinuing her landline business telephone number and using, instead, her cellular telephone as her business telephone. To ensure that her business would be listed, Ms. Bajus alleges that she followed AT&T's recommendation that she continue the publication of her landline business telephone number in the 2008 Yellow Pages Directory. Because Ms. Bajus discontinued her landline, she alleges that she arranged a one-year intercept message that would refer callers to her new business number.

Ms. Bajus alleges that in the spring of 2008 she discovered that her landline business telephone number was not listed in the 2008 Yellow Pages Directory and that there was no intercept message. Without a directory listing or intercept message, Ms. Bajus complains that clients, colleagues, and others have no means of contacting her. This, in turn, affects her livelihood as a practicing psychotherapist. For her, Yellow Pages advertising is a major source of referrals and community connection. For relief, Ms. Bajus demands compensation for financial loss, loss of professional visibility, and the emotional impact that she has

suffered because of the alleged disrespectful and rude behavior on the part of AT&T representatives.

- (2) AT&T filed an answer to the complaint on August 10, 2009. AT&T alleges that the Commission has no jurisdiction over Yellow Pages Directory listings. In addition, AT&T asserts that the Commission has no authority to award the damages sought by the complainant. Overall, AT&T concludes that the complainant has failed to set forth reasonable grounds for complaint pursuant to Section 4905.26, Revised Code.
- (3) On December 3, 2009, the attorney examiner issued an entry scheduling this matter for a mediated settlement conference. The parties met on January 13, 2010, but thus far they have not resolved the issues raised in the complaint.
- (4) For lack of jurisdiction, that portion of the complaint that relates to Yellow Pages advertising must be dismissed. In *Dale S. Miller v. SBC Ohio*, Case No. 01-469-TP-CSS (*Miller v. SBC*), the Commission addressed the issue of its jurisdiction over Yellow Pages advertising. In *Miller v. SBC*, the complainant alleged that SBC printed the wrong 800 number in a Yellow Pages advertising. On another occasion, SBC omitted an 800 number entirely. The complainant sought review of the matter before the Commission. In an entry issued March 13, 2003, and confirmed in an entry on rehearing issued May 14, 2003, the Commission concluded that it did not have jurisdiction over Yellow Pages advertising. Generally, Yellow Pages advertising is regarded as a matter of private concern. *Richard A. Berjian, D.O., Inc. v. Ohio Bell Tel. Co.*, 54 Ohio St. 2d 147, 375 N. E. 2d 410 (1978). Staying consistent with our conclusion in *Miller v. SBC*, we must dismiss that portion of the complaint relating to Yellow Pages advertising.
- (5) Having dismissed the cause relating to Yellow Pages advertising, we find at least two remaining issues: (1) whether the complainant's allegation that AT&T failed to provide an intercept message for non-residence service states reasonable grounds for complaint and (2) whether AT&T, in fact, neglected to provide an intercept message pursuant to the complainant's proper request.

In Part 11, Section 4 of the AT&T Ohio Guidebook (Guidebook), AT&T describes intercept message service as "Intercept Referral Extension Service." The Guidebook describes Intercept Referral Extension Service as a "service provided to business customers for the purpose of notifying calling parties about changes in the status of the business customer's access line when the access line has been called." We find that a failure to provide intercept message service upon a customer's proper request states reasonable grounds for complaint pursuant to Section 4905.26, Revised Code.

Finding reasonable grounds, this matter may proceed to hearing on whether AT&T failed to provide intercept message pursuant to a proper request. Accordingly, the attorney examiner is authorized to schedule a hearing so that the parties may present evidence on this issue.

- (6) In her complaint, Ms. Bajus demands compensation for financial loss, the loss of professional visibility, and emotional impact. We must advise Ms. Bajus that it is not within the Commission's jurisdiction to award monetary damages or compensation for emotional or professional loss. The Commission does, however, have exclusive jurisdiction to determine whether a public utility has violated a statute or committed an unlawful act. Only upon a finding that such a violation has occurred may a complainant seek treble damages in a court of law pursuant to Section 4905.61, Revised Code.

It is, therefore,

ORDERED, That the issues relating to Yellow Pages advertising be dismissed for lack of jurisdiction. It is, further,

ORDERED, That the attorney examiner is authorized to schedule an evidentiary hearing on whether AT&T failed to provide intercept message service upon the complainant's proper request. It is, further,

ORDERED, That a copy of this entry be served upon the parties, counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO




Alan R. Schriber, Chairman

Paul A. Centolella



Steven D. Lesser

Valerie A. Lemmie

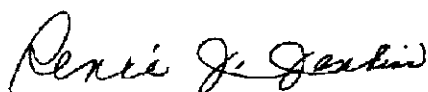


Cheryl L. Roberto

LDJ/vrm

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Renee J. Jenkins
Secretary