

Cagayan de Oro City, January 17, 2014

To the CEO of Smart Communications, Inc.

**Mr. Napoleon L. Nazareno**

SMART Tower

6799 Ayala Avenue

Makati 1226

Dear Sir Nazareno,

Since around 2006 until last year I have been a very satisfied user of your Smartbro internet service. Apart from a few hiccups, that of course are to be expected and in general were solved quite quickly, I, and I am sure many others, have been using your Smartbro internet solution to full satisfaction. Over time our connection has even been upgraded from 512Kb/s to 2Mb/s where in my opinion 512Kb/s was already sufficient for the way I am using the internet. Of course this increased the convenience and pleasure of using the internet.

I am writing you this letter as for quite a while now I have been encountering severe problems with our Smartbro internet connection. The connection seems to be 'on-and-off' most of the time, which is especially inconvenient when using Skype or when downloading larger files. Visiting friends and family using our internet have also been complaining about the very bad internet connection we have compared to other locations providing internet access, including home based locations.

So quite a while ago, I can't remember the exact date; your staff has even made a site visit and concluded that the signal parameters were out of range. That didn't make any sense to me as the connection had been working fine for about seven years and I presume technology has become better, not worse. So I insisted to your support staff that they solve the problem which they did: internet access was back to normal, meaning perfect, reliable and fast.

Last month however, without any reason, I found that the connection was back to its very bad 'on-and-off' state, meaning internet access was virtually impossible. So again I asked your support staff to solve the problem. This time however, the problem was not solved meaning that I and visiting friends and family during Christmas were very much affected by the practically inaccessible internet. After many complaints to your support desk your staff finally informed me that my connection was being 'throttled' under your Fair Usage Policy as I had passed my monthly data limit. This volume limit didn't make any sense to me as I have a plan that promises unlimited 2Mb/s internet access.

To make a long story short, I exchanged many e-mails with your support staff where they kept on pointing to a Fair Usage Policy that would lower down my speed after having consumed my monthly volume of data. This didn't and doesn't make any sense as this would mean I have a limit on my monthly data traffic where I signed up for an unlimited plan or at least you made me believe I signed up for an unlimited plan.

Of course I could live with a lower speed in favor of other users so each user would have a fair share of the available bandwidth, however, my experience is that after having consumed my volume limit in practice I completely lose my internet access, as the 'throttled' speed seems to be 0.1Mb/s. This is insufficient for even normal internet browsing in 2013 and 2014. The limit also doesn't make sense in a technical way as to my knowledge internet usage is about bandwidth and not about data volume and certainly not about monthly data volume.

I have done some further research and I could make my story much longer, but based on what I know about internet and internet traffic the whole implementation of your Fair Usage Policy does not make any sense. It even contradicts what I thought I signed up for, namely unlimited internet access at a certain speed. This is also what you still advertise: unlimited internet at 2Mb/s. As indicated, with the way how your Fair Usage Policy is implemented, internet access is virtually impossible after reaching the allocated volume. It seems that many connections are being cut, either by your system or by timing out, meaning in my case toward the end of every month my Smartbro connection is virtually useless. In practice this means that I nor my partner nor visiting friends can use the internet in a way that we could before and is common in 2013 and now 2014, where using the internet as being fun is even being advertised by your company very aggressively.

Looking back and knowing now that you implemented this policy in April 2013 I can explain why I experienced 'on-and-off' connections by then and that the connection was mostly ok and sometimes not. It also explains why my friends and family have been complaining about internet access, calling our house the house with the worst internet access they ever experienced. And believe me, I have spent hours and days, even weeks to figure out what was going on, and I couldn't find it. No wonder, as no one ever informed me that it would be possible that our connection would be limited to something like 0.1Mb/s, where possibly TCP/IP connections are being cut or are timing out.

With this letter I would kindly request to change the implementation of your Fair Usage Policy or explain to me why it is implemented the way it is. This whole implementation technically doesn't make any sense. Internet is all about bandwidth and a volume limit, especially on a monthly basis, doesn't make any sense at all.

And please don't get me wrong. I have nothing against any Fair Usage Policy as long as it is related to fair sharing of resources. On the contrary, fair sharing of resources is how the internet works and should work. However, calling something that in practice is a straight monthly volume limit a Fair Usage Policy seems to me breach of contract and, for new users, misrepresentation of your service. Based on the latter I intend to postpone my payments as the current implementation of your Fair Usage Policy in practice puts a monthly limit on my internet usage where I signed up for, or you made me believe I signed up for, was unlimited internet access at a certain speed.

I am looking forward to your reply, or actually more to implementing a real Fair Usage Policy and not a straight limit to data volume on a monthly basis on unlimited plans,

Regards,

ir. Gustaaf Hendrik Ellenkamp CPIM  
"The Malasag House"  
Malasag, Cugman  
9000 Cagayan de Oro City

P.S. If I don't get any serious reply to this letter or if the implementation of your Fair Usage Policy is not being changed from a straight monthly volume limit into a real Fair Usage Policy on or before January 31, 2014, copies of this letter may be sent to people and organizations I deem appropriate or be published on locations I deem appropriate.

Copies of this letter have been or will be sent to various Smartbro, Smart and/or PLDT staff and to the National Telecommunications Commission.