

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Sprint Communications Corporation)	IC No. 01-S52058
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: April 23, 2003

Released: April 25, 2003

By the Deputy Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we reconsider, on our own motion, DA 03-973 (March Order), released on March 28, 2003. In the March Order, we found that Sprint Communications Corporation (Sprint) changed the above-referenced Complainant's telecommunications service provider without obtaining proper authorization and verification.¹ On reconsideration, we conclude that Sprint's actions did not result in an unauthorized change in Complainant's telecommunications service provider; and we therefore modify our findings in the March Order and deny Complainant's complaint.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).² Section 258 prohibits the practice of

¹ See 47 C.F.R. §§ 64.1100 – 64.1190. Two other complaints were also considered in the March Order (IC Numbers 02-S80173 and 02-F0007651). This Order does not affect our determination of the other two complaints

² 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, 16 FCC Rcd 4999 (2001); Third Order on Reconsideration. Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. See, e.g., *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

“slamming,” the submission or execution of an unauthorized change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service.³ In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁴ Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.⁵ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁶

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.⁷ Where the subscriber has paid charges to the unauthorized carrier, the Commission’s rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.⁸ Carriers should note that our actions in this order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.⁹

4. We received Complainant’s complaint on May 7, 2001, alleging that in March 2001, complainant’s telecommunications service provider had been changed from their authorized carrier to Sprint without Complainant’s authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,¹⁰ we notified Sprint of the complaint and Sprint responded on July 10,

³ 47 U.S.C. § 258(a).

⁴ See 47 C.F.R. § 64.1120.

⁵ 47 U.S.C. § 258(a).

⁶ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

⁷ See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

⁸ See 47 C.F.R. §§ 64.1140, 64.1170.

⁹ See 47 U.S.C. § 503.

¹⁰ 47 C.F.R. § 1.719 (procedures for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

2001.¹¹ In its response, Sprint stated that it verified Complainant's order through a third party verifier, but was unable to provide a recording of this third party verification. Our rules requiring carriers to preserve third party verifications did not go into effect until April 2, 2001.¹² We find, therefore, that Sprint complied with our rules as they existed at the time of the alleged unauthorized change of complainant's telephone service and we deny complainant's complaint.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.108 of the Commission's rules, 47 C.F.R §1.108, that In the Matter of Sprint Communications, Inc., DA 03-973, IS AMENDED TO THE EXTENT INDICATED HEREIN.

6. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaint filed by Complainant (IC No. 01-S52058) against Sprint IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Margaret M. Egler, Deputy Chief
Consumer & Governmental Affairs Bureau

¹¹ Sprint's Response to Informal Complaint No. 01-S52058, July 10, 2001.

¹² See *Third Report and Order and Second Order on Reconsideration*, 15 FCC Rcd 15996 at 16016 (2000); *Public Notice: Common Carrier Bureau Announces Effective Date of Rules Adopted in Slamming Third Report and Order*, 16 FCC Rcd 7072 (2001).