

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

In the Matter of	)		
	)		
WorldCom, Inc.	)	IC Nos.	02-B0002274
	)		02-B0009364
Complaint Regarding	)		02-B0010749
Unauthorized Change of	)		02-S76256
Subscriber's Telecommunications Carrier	)		02-S81376
			02-S81838
			03-S82587
			03-S82640
			03-S82644
			03-S82766
			03-S82790
			03-S82883
			03-S82862
			03-S82931
			03-S83129
			03-S83144
			03-S83171
			03-S83264
			03-S83273
			03-S83285

**ORDER**

**Adopted: November 3, 2003**

**Released: November 7, 2003**

By the Acting Deputy Chief, Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaint<sup>1</sup> alleging that WorldCom, Inc., (WorldCom) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainant in violation of the Commission's rules.<sup>2</sup> We conclude that WorldCom's actions did not result in an unauthorized change in Complainants' telecommunications service providers and we deny Complainants' complaints.

2. In December 1998, the Commission released the *Section 258 Order* in which it

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<sup>1</sup> See Appendix A.

<sup>2</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).<sup>3</sup> Section 258 prohibits the practice of “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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> Where the subscriber has paid charges to the unauthorized

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<sup>3</sup> 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, FCC 01-67 (rel. Feb. 22, 2001); *reconsideration pending*. 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).

<sup>4</sup> 47 U.S.C. § 258(a).

<sup>5</sup> *See* 47 C.F.R. § 64.1120.

<sup>6</sup> 47 U.S.C. § 258(a).

<sup>7</sup> *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.

<sup>8</sup> *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.*

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.<sup>9</sup> 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.<sup>10</sup>

4. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed to WorldCom without Complainants' authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,<sup>11</sup> we notified WorldCom of the complaints and WorldCom responded.<sup>12</sup> We find that WorldCom has produced clear and convincing evidence of a valid authorized carrier change by Complainants.<sup>13</sup>

5. 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 Complainants against WorldCom ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Acting Deputy Chief  
Policy Division  
Consumer & Governmental Affairs Bureau

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<sup>9</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>10</sup> See 47 U.S.C. § 503.

<sup>11</sup> 47 C.F.R. § 1.719 (Commission procedure 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).

<sup>12</sup> See Appendix A.

<sup>13</sup> If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainants' informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

## APPENDIX

INFORMAL COMPLAINT(S)	COMPLAINANT(S)	DATE OF INCOMING COMPLAINT	DATE OF CARRIER RESPONSE
02-B0002274	Delphine Purnell	July 8, 2002	January 13, 2003
02-B0009364	Sarah G. Kelly	October 8, 2002	May 13, 2003
02-B0010749	Patrick McShaw	October 9, 2002	March 11, 2003
02-S76256	Patricia Kowalewski	April 29, 2002	December 13, 2002
02-S81376	Gilda Romanolo	October 30, 2002	January 16, 2003
02-S81838	Ellsworth Stickley	September 11, 2002	September 9, 2003
03-S82587	Kazimierz Tylka	November 15, 2002	April 18, 2003
03-S82640	Connie Rigotti	January 17, 2003	April 1, 2003
03-S82644	Amrik Singh	January 29, 2003	April 18, 2003
03-S82766	Gloria Marshall	February 11, 2003	May 13, 2003
03-S82790	Paul Vanderhulst	March 27, 2003	April 24, 2003
03-S82883	Marleen Padbeg o/b/o Eileen Kruse	February 19, 2003	April 18, 2003
03-S82862	Margaret Burms o/b/o Michael Barns	February 14, 2003	April 16, 2003
03-S82931	Audrey Steinmeyer	February 26, 2003	April 24, 2003
03-S83129	Irina Strunina	March 11, 2003	June 6, 2003
03-S83144	Mary Green o/b/o Ida Daniels	March 10, 2003	June 6, 2003
03-S83171	Dorothy Zywalewski	March 24, 2003	June 6, 2003
03-S83264	Collette Hinrichsen o/b/o Ester Schmidt	March 5, 2003	June 6, 2003
03-S83273	Stanley D. Morris o/b/o Stanley H. Morris	March 24, 2003	May 13, 2003
03-S83285	Wayne Munscher	June 24, 2003	May 16, 2003