

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

In the Matter of)		
)		
MCI, Inc.	)	IC Nos. 02-B0012074	03-I0039325S
	)	02-S72010	03-I0045385S
Complaint Regarding	)	02-S72796	03-S82789
Unauthorized Change of	)	02-S73547	03-S82842
Subscriber's Telecommunications Carrier	)	02-S79789	03-S84588
		02-S80082	03-S82974
		02-S80783	03-S84979
		02-S81714	03-S84480
		02-S81862	03-S85086
		02-S82029	03-S83814
		03-E0040412S	03-S85188

ORDER

Adopted: May 28, 2004

Released: May 28, 2004

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

1. In this Order, we consider the complaint¹ alleging that MCI, Inc., (MCI) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants in violation of the Commission's rules.² We conclude that MCI'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 adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).³ Section 258 prohibits the practice of

¹ See Appendix A.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

³ 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 v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI 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); Third Order (continued....)

“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.⁴ 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.⁵ 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.⁶ 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.⁷

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.⁸ 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

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on Reconsideration and Second Further Notice of Proposed Rule Making, 18 FCC Rcd 5099 (2003); Order, FCC 03-116, (rel. May 23, 2003). 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).

⁴ 47 U.S.C. § 258(a).

⁵ See 47 C.F.R. § 64.1120.

⁶ 47 U.S.C. § 258(a).

⁷ 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.

⁸ 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.*

all charges paid by the subscriber to the unauthorized carrier.⁹ 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.¹⁰

4. We received Complainants' complaints alleging that Complainants' telecommunications service providers were changed to MCI without Complainants' authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,¹¹ we notified MCI of the complaints and MCI responded.¹² We find that MCI did not violate our carrier change rules.¹³

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 complaints filed by Complainants against MCI ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹⁰ See 47 U.S.C. § 503.

¹¹ 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).

¹² See Appendix A.

¹³ If a Complainant is unsatisfied with the resolution of this complaint, such 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 such Complainant. See 47 C.F.R. § 1.719.

APPENDIX A

INFORMAL COMPLAINT NUMBER	DATE OF INCOMING COMPLAINT	DATE OF CARRIER RESPONSE
02-B0012074	October 4, 2002	February 4, 2003
02-S68196	February 26, 2002	April 30, 2002
02-S71573	April 4, 2002	December 10, 2002
02-S72010	March 25, 2002	June 13, 2002
02-S72796	February 28, 2002	December 4, 2002
02-S73547	May 14, 2002	July 31, 2002
02-S79146	June 20, 2002	December 13, 2002
02-S79366	July 3, 2002	January 7, 2003
02-S79789	July 22, 2002	January 7, 2003
02-S80082	August 16, 2002	December 4, 2002
02-S80460	November 4, 2002	December 13, 2002
02-S80783	October 7, 2002	December 13, 2002
02-S81714	November 19, 2002	February 4, 2003
02-S81862	December 9, 2002	March 4, 2003
02-S82029	December 10, 2002	February 21, 2003
03-E0040412S	May 1, 2003	August 1, 2003
03-I0039325S	April 24, 2003	August 11, 2003
03-I0045385S	June 10, 2003	September 23, 2003
03-S82789	February 10, 2003	April 24, 2003
03-S82842	February 25, 2003	May 1, 2003
03-S82974	February 20, 2003	April 24, 2003
03-S83814	May 5, 2003	August 22, 2003
03-S84480	July 17, 2003	September 5, 2003
03-S84584	July 3, 2003	September 29, 2003
03-S84588	April 29, 2003	September 29, 2003
03-S84840	August 2, 2003	October 14, 2003
03-S84979	September 18, 2003	November 11, 2003
03-S85086	September 22, 2003	November 20, 2003
03-S85188	September 23, 2003	December 4, 2003