

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

In the Matter of)		
)		
MCI, Inc.)	IC Nos.	02-S71653 03-I0054181S
)		02-S79512 03-S82505
Complaints Regarding)		02-S80176 03-S82598
Unauthorized Change of)		02-S80872 03-S82838
Subscriber's Telecommunications Carrier)		02-S81058 03-S83330
			02-S81193 03-S83627
			02-S81308 03-S83673
			02-S81330 03-S83997
			02-S81509 03-S84580
			02-S82018 03-S85075
			03-000303S
			03-I0028886

ORDER

Adopted: June 8, 2004

Released: June 10, 2004

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

1. In this Order, we consider the complaints¹ 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 (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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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 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.¹¹ Pursuant to Sections 1.719 and 64.1150 of our rules,¹² we notified MCI of the complaints and MCI responded.¹³ We find that MCI did not violate our carrier change rules.¹⁴

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 See Appendix A.

¹² 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).

¹³ See Appendix A.

¹⁴ 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-S71653	March 19, 2002	December 4, 2002
02-S79512	July 21, 2002	December 13, 2002
02-S80176	July 30, 2002	December 4, 2002
02-S80872	October 1, 2002	December 13, 2002
02-S81058	October 18, 2002	January 28, 2003
02-S81193	October 17, 2002	January 24, 2003
02-S81308	July 30, 2002	January 7, 2003
02-S81330	November 1, 2002	January 16, 2003
02-S81509	September 6, 2002	January 16, 2003
02-S82018	March 31, 2002	February 27, 2003
03-S000303S	September 23, 2003	November 20, 2003
03-I0028886	February 12, 2003	June 6, 2003
03-I0054181S	August 12, 2003	October 28, 2003
03-S82505	January 22, 2003	April 4, 2003
03-S82598	January 31, 2003	May 21, 2003
03-S82838	February 25, 2003	May 1, 2003
03-S83330	March 17, 2003	November 19, 2003
03-S83627	August 19, 2003	June 23, 2003
03-S83673	August 16, 2003	June 17, 2003
03-S83997	May 29, 2003	August 1, 2003
03-S84580	June 3, 2003	September 29, 2003
03-S85075	September 13, 2003	November 22, 2003