

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

In the Matter of)	
)	
MCI, Inc.)	IC Nos. 02-B0011297
)	02-S71573
Complaints Regarding)	02-S71673
Unauthorized Change of)	02-S72033
Subscriber's Telecommunications Carrier)	02-S72816
		02-S73362
		02-S73466
		02-S76607
		02-S77172
		02-S80195
		02-S80732
		02-S81045
		02-S81244
		02-S81331
		02-S81776
		02-S81923
		03-S82195
		03-S82200
		03-S83136
		03-S83291
		03-S83525
		03-S83640
		03-S83907

ORDER

Adopted: June 23, 2004

Released: June 29, 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.

¹ See Appendix A.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

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 “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) obtains 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

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 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); 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.

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 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 had been changed 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

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.*

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 its 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 such Complainant's 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.

<u>INFORMAL COMPLAINT NUMBER</u>	<u>APPENDIX A DATE OF COMPLAINT</u>	<u>DATE OF CARRIER RESPONSE</u>
02-B0011297	October 8, 2002	May 16, 2003
02-S71573	April 4, 2002	December 10, 2002
02-S71673	January 22, 2002	July 23, 2002
02-S72033	April 9, 2002	June 11, 2002
02-S72816	April 22, 2002	July 22, 2002
02-S73362	April 26, 2002	July 22, 2002
02-S73466	February 20, 2002	December 4, 2002
02-S76607	April 28, 2002	March 5, 2003
02-S77172	May 1, 2002	December 4, 2002
02-S80195	August 14, 2002	January 7, 2003
02-S80732	October 1, 2002	December 10, 2002
02-S81244	October 29, 2002	January 7, 2003
02-S81331	December 6, 2002	January 16, 2003
02-S81776	November 27, 2002	February 4, 2003
02-S81923	December 11, 2002	March 4, 2003
03-S82195	December 27, 2002	March 19, 2003
03-S82200	December 24, 2002	March 5, 2003
03-S83136	March 10, 2003	June 6, 2003
03-S83291	March 13, 2003	May 16, 2003
03-S83525	April 20, 2003	June 10, 2003
03-S83640	April 15, 2003	June 23, 2003
03-S83907	May 12, 2003	August 1, 2003