

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

In the Matter of)	
)	
AT&T Corporation	)	IC Nos. 03-S82674
	)	03-S83309
Complaint Regarding	)	03-S85197
Unauthorized Change of	)	03-S85200
Subscriber's Telecommunications Carrier	)	03-S85205
	)	03-S85364
	)	03-S85386
	)	03-S85397
	)	03-S85399
	)	03-S85452
	)	03-S85454
	)	03-S85494
	)	03-S85502
	)	03-S85582
	)	03-S85664
	)	03-S85789
	)	03-S85792
	)	03-S85889
	)	03-I0053127S
	)	03-I0062350S
	)	03-I0068730S
	)	03-I0068770S
	)	03-S000337S
	)	04-S85911

ORDER

Adopted: February 25, 2004

Released: February 27, 2004

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

1. In this Order, we consider the complaint¹ alleging that AT&T Corporation (AT&T) changed Complainants' telecommunications service provider(s) without obtaining

¹ See Appendix A.

authorization and verification from each Complainant in violation of the Commission's rules.² We conclude that AT&T's actions did not result in an unauthorized change in Complainants' telecommunications service provider and we deny Complainants' 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).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) 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

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 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.

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 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' service providers had been changed without Complainants' authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,¹¹ we notified AT&T of the complaints and AT&T responded.¹² We find that AT&T has produced clear and convincing evidence of a valid authorized carrier change.¹³ Therefore, we find that AT&T's actions did not result in an unauthorized change in Complainants' telecommunications service.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 Complaint filed by Complainants ARE DENIED.

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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 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 See 47 C.F.R. § 64.1150(d).

¹⁴ 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 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 Complainant. See 47 C.F.R. § 1.719.

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

INFORMAL COMPLAINT	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
03-S82674	December 6, 2002	March 26, 2003
03-S83309	April 3, 2003	May 7, 2003
03-S85197	October 3, 2003	November 12, 2003
03-S85200	October 14, 2003	November 21, 2003
03-S85205	October 6, 2003	November 13, 2003
03-S85364	September 4, 2003	December 23, 2003
03-S85386	October 20, 2003	December 2, 2003
03-S85397	November 3, 2003	December 26, 2003
03-S85399	November 3, 2003	December 17, 2003
03-S85452	October 29, 2003	December 1, 2003
03-S85454	October 29, 2003	December 2, 2003
03-S85494	November 13, 2003	December 30, 2003
03-S85502	November 4, 2003	December 2, 2003
03-S85582	November 13, 2003	December 17, 2003
03-S85664	November 25, 2003	January 27, 2004
03-S85789	December 10, 2003	January 22, 2004
03-S85792	August 8, 2003	January 29, 2004
03-S85889	December 16, 2003	February 4, 2004
03-I0053127S	August 5, 2003	November 7, 2003

03-I0062350S

October 16, 2003

December 17, 2003

03-I0068730S

October 27, 2003

December 17, 2003

03-I0068770S

October 24, 2003

December 22, 2003

03-S000337S

October 22, 2003

December 17, 2003

04-S85911

January 8, 2004

February 3, 2004

