

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

In the Matter of)	
)	
WorldCom, Inc.)	IC Nos. 01-S59615
)	01-S55709
Complaints Regarding)	01-S64419
Unauthorized Change of)	02-S70724
Subscriber's Telecommunications Carrier)	02-S71359
		02-S74937
		02-S76232
		02-S77058
		02-S77161
		02-S77366
		02-S79049
		02-S79501
		02-S80039
		02-S80488
		02-S80812
		02-S80923
		02-S81869

ORDER

Adopted: September 29, 2003

Released: September 30, 2003

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

1. In this Order, we consider complaints¹ alleging that WorldCom, Inc., (WorldCom) changed Complainants' telecommunications service providers without obtaining authorization and verification from each Complainant in violation of the Commission's rules.² 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 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* (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

(Continued from previous page)

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 Rulemaking, CC Docket No. 94-129, FCC 03-42, 68 FR 19152 and 19176 (rel. March 17, 2003); Order, CC Docket No. 94-129, 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.*

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' authorizations. Pursuant to Sections 1.719 and 64.1150 of our rules,¹¹ we notified WorldCom of the complaints and WorldCom responded.¹² Upon review of WorldCom's responses, we find that WorldCom has complied with the verification requirements of Section 64.1120 of the Commission's rules.¹³ The fact that the person on each third party verification recording gave an incorrect name to the third party verifier was beyond the control of WorldCom.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 WorldCom ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Acting Deputy Chief
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 See 47 C.F.R. § 64.1120.

¹⁴ See *AT&T Corp. v. FCC*, 323 F.3d 1081, 1086 (DC Cir. 2003).

APPENDIX A

<u>INFORMAL COMPLAINT NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF CARRIER RESPONSE</u>
01-S59615	June 25, 2001	September 25, 2001
01-S55709	May 18, 2001	August 6, 2001
01-S64419	September 10, 2001	June 4, 2003
02-S70724	February 26, 2002	May 23, 2002
02-S71359	March 25, 2002	July 1, 2002
02-S 74937	May 2, 2002	July 17, 2002
02-S76232	June 10, 2002	December 13, 2002
02-S77058	June 11, 2002	December 10, 2002
02-S77161	May 15, 2002	December 10, 2002
02-S77366	May 10, 2002	December 4, 2002
02-S79049	July 14, 2002	January 7, 2003
02-S79501	July 12, 2002	January 7, 2003
02-S80488	September 23, 2002	January 7, 2003
02-S80812	October 7, 2002	December 4, 2002
02-S80923	October 14, 2002	January 28, 2003
02-S81869	December 10, 2002	February 13, 2002