

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

In the Matter of)	
)	
AT&T Corporation	)	IC Nos. 01-S51998
	)	01-S55430
Complaints Regarding	)	01-S58214
Unauthorized Change of	)	01-S58578
Subscriber's Telecommunications Carrier	)	01-S59594
	)	01-S61438
	)	01-S61699
	)	01-S66019
	)	02-S67931
	)	02-S68034
	)	02-S69154
	)	02-S71747
	)	02-S73371
	)	02-S73691
	)	02-S76213
	)	02-S76266
	)	02-S77059
	)	02-S79090
	)	02-S80611
	)	02-S81207
	)	03-S83789
)	

ORDER

Adopted: October 9, 2003

Released: October 10, 2003

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

1. In this Order, we consider the complaints filed by Complainants¹ alleging that AT&T Corporation (AT&T) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants' in violation of the Commission's rules.² We conclude that AT&T's actions did not result in an unauthorized

¹ See Appendix A, 01-S61699 and 02-S73691 are duplicates of 01-S58214 and 02-S73371, respectively.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

change in Complainants' telecommunications service providers 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) 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

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

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' telecommunications service providers had been changed without Complainants' authorization.¹¹ Pursuant to Sections 1.719 and 64.1150 of our rules,¹² we notified AT&T of the complaints and AT&T responded.¹³ Upon review of AT&T's responses, we find that AT&T has complied with the verification requirements of Section 64.1120 of the Commission's rules.¹⁴ 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 AT&T.¹⁵

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 AT&T Corporation ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Acting Deputy Chief
Policy Division

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 See 47 C.F.R. § 64.1120.

¹⁵ See *AT&T Corp. v. FCC*, 323 F.3d 1081,1086 (DC Cir.2003).

Consumer & Governmental Affairs Bureau

APPENDIX A

<u>INFORMAL COMPLAINT NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF CARRIER RESPONSE</u>
01-S51998	May 14, 2001	June 18, 2001
01-S55430	May 21, 2001	July 27, 2001
01-S58214	July 24, 2001	August 30, 2001
01-S58578	July 16, 2001	August 24, 2001
01-S59594	July 16, 2001	September 14, 2001
01-S61438	August 7, 2001	October 2, 2001
01-S66019	September 14, 2001	January 16, 2002
02-S67931	January 19, 2002	April 11, 2002
02-S68034	February 25, 2002	April 22, 2002
02-S69154	March 15, 2002	April 18, 2002
02-S71747	March 29, 2002	June 6, 2002
02-S73371	May 7, 2002	July 9, 2002
02-S73691	March 28, 2002	June 26, 2002
02-S76213	March 12, 2002	July 29, 2002
02-S76266	June 5, 2002	July 17, 2002
02-S77059	June 11, 2002	August 21, 2002
02-S79090	July 11, 2002	September 26, 2002
02-S80611	September 19, 2002	November 13, 2002
02-S81207	October 23, 2002	December 10, 2002
03-S83789	April 8, 2003	May 20, 2003

