

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

In the Matter of)		
)		
WorldCom, Inc.)	IC Nos.	03-S82824
)		03-S82861
Complaint Regarding)		03-S83368
Unauthorized Change of)		03-S83543
Subscriber's Telecommunications Carrier)		03-S83625
			03-S83722
			03-S83728
			03-S83805
			03-S83821
			03-S83835
			03-S83879
			03-S84299
			03-S84396
			03-S84427
			03-S84493
			03-S84565
			03-S84569

ORDER

Adopted: November 25, 2003

Released: November 28, 2003

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

1. In this Order, we consider the complaints¹ alleging that WorldCom, Inc., (WorldCom) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants 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 to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50%

(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); *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.

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.*

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 to WorldCom 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 We find that WorldCom did not violate our carrier change rules.

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.

APPENDIX A

INFORMAL COMPLAINT NUMBER	COMPLAINANT(S)	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
03-S82824	Donita Wilson	February 20, 2003	October 28, 2003
03-S82861	Nicolle Washington	February 25, 2003	October 28, 2003
03-S83368	Janice Dudley	March 31, 2003	June 6, 2003
03-S83543	Maria Tapia	March 24, 2003	June 10, 2003
03-S83625	Wilbur Back	April 14, 2003	June 23, 2003
03-S83722	Mary Rusk	April 23, 2003	June 30, 2003
03-S83728	Marya Fry o/b/o Annemarie Nirk	April 28, 2003	July 1, 2003
03-S83805	Spencer and Gail King	April 29, 2003	August 1, 2003
03-S83821	James McGreevy	April 17, 2003	August 1, 2003
03-S83835	Douglas Montgomery	April 8, 2003	July 1, 2003
03-S83879	Gary Engler	May 6, 2003	August 1, 2003
03-S84299	Dorothy Ray o/b/o Norine Eddy	June 23, 2003	August 25, 2003
03-S84396	Larae Schauer	June 25, 2003	September 8, 2003
03-S84427	Bizelli Heating & Cooling Company	June 23, 2003	September 11, 2003
03-S84493	Creative Builders	July 18, 2003	September 11, 2003
03-S84565	Brian Keiper	July 22, 2003	September 22, 2003
03-S84569	Emily Pryor o/b/o Guy Pryor	July 21, 2003	September 22, 2003