

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

In the Matter of	)	
	)	
AT&T Corporation	)	IC No. 02-S67911
	)	02-S77277
Complaints Regarding	)	02-S79116
Unauthorized Change of	)	02-S79411
Subscriber's Telecommunications Carrier	)	02-S79776
	)	02-S81874
	)	02-B0010748
		03-S83133
		03-S83157
		03-S83319
		03-S83374
		03-S83400
		03-S83757
		03-S83795
		03-S83822
		03-S84038
		03-S84178
		03-I0044098S

**ORDER**

**Adopted: December 15, 2003**

**Released: December 17, 2003**

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

1. In this Order, we consider the complaint<sup>1</sup> alleging that AT&T Corporation (AT&T) changed Complainants' telecommunications service provider(s) without obtaining authorization and verification from each Complainant in violation of the Commission's rules.<sup>2</sup> 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

---

<sup>1</sup> See Appendix A.

<sup>2</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

by the Telecommunications Act of 1996 (1996 Act).<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> Where the subscriber has paid charges to the unauthorized

---

<sup>3</sup> 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); *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).

<sup>4</sup> 47 U.S.C. § 258(a).

<sup>5</sup> *See* 47 C.F.R. § 64.1120.

<sup>6</sup> 47 U.S.C. § 258(a).

<sup>7</sup> *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.

<sup>8</sup> *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.*

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.<sup>9</sup> 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.<sup>10</sup>

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,<sup>11</sup> we notified AT&T of the complaints and AT&T responded.<sup>12</sup> Based on information provided by AT&T and by Complainants' local exchange carriers, we find that AT&T has not violated our carrier change rules.<sup>13</sup>

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.

FEDERAL COMMUNICATIONS COMMISSION

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

---

<sup>9</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>10</sup> See 47 U.S.C. § 503.

<sup>11</sup> 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).

<sup>12</sup> See Appendix A.

<sup>13</sup> 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.

## APPENDIX A

INFORMAL COMPLAINT	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
02-S67911	February 21, 2002	April 8, 2002
02-S77277	May 23, 2002	August 9, 2002
02-S79116	June 18, 2002	September 18, 2002
02-S79411	July 17, 2002	September 19, 2002
02-S79776	July 16, 2002	October 7, 2002
02-S81874	December 5, 2002	January 28, 2003
02-B0010748	October 7, 2002	February 4, 2003
03-S82271	December 16, 2002	March 3, 2003
03-S83133	March 11, 2003	May 13, 2003
03-S83157	June 3, 2002	May 15, 2003
03-S83319	March 10, 2003	May 7, 2003
03-S83374	March 31, 2003	May 5, 2003
03-S83400	April 2, 2003	May 13, 2003
03-S83757	April 21, 2003	May 23, 2003
03-S83795	April 4, 2003	June 12, 2003
03-S83822	May 5, 2003	June 9, 2003
03-S84013	May 12, 2003	June 13, 2003
03-S84038	May 23, 2003	June 25, 2003
03-S84178	June 10, 2003	August 1, 2003

03-I0044098S

May 28, 2003

June 21, 2003