

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

In the Matter of)	
)	
LCR Telecommunications	)	IC Nos. 03-I0036138S
	)	03-I0046885S
Complaints Regarding	)	03-I0058221S
Unauthorized Change of	)	03-I0071902S
Subscriber's Telecommunications Carrier	)	03-I0072545S
	)	03-S000257S
	)	03-S85562
	)	03-S85563
	)	03-S85592
	)	03-S85671
	)	03-S85709
	)	03-S85711
	)	03-S85716
	)	03-S85728
	)	03-S85844
	)	03-S85850
	)	04-S86116
	)	04-S86328
	)	04-S86541
	)	04-S86545
	)	04-S86564
	)	04-S86706
	)	04-S86779
	)	04-S87087
	)	04-S87105

ORDER

Adopted: December 17, 2004

Released: December 20, 2004

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

1. In this Order, we consider the complaints¹ alleging that LCR Telecommunications (LCR) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants in violation of the Commission's rules.² We conclude that LCR has responded fully to the Complainants' complaints and has taken action to resolve the complaints.

¹ See Appendix A.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

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

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

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

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.*

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 were changed to LCR without Complainants' authorization. Pursuant to Section 1.719 and 64.1150 of our rules,¹¹ we notified LCR of the complaints and LCR responded.¹² LCR has fully absolved Complainants of all charges assessed by LCR in a manner consistent with the Commission's liability rules.¹³ Based on the information before us, we therefore find that the complaints referenced herein have been resolved.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 LCR are RESOLVED.

6. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Deputy Chief
Consumer 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. § 64.1160.

¹⁴ If a Complainant is unsatisfied with the resolution of this complaint, such Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of such 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 such Complainant. See 47 C.F.R. § 1.719.

APPENDIX A

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
03-I0036138S	03/26/03	07/02/03
03-I0046885S	06/17/03	09/12/03
03-I0058221S	09/04/03	11/28/03
03-I0071902S	10/23/03	02/10/04
03-I0072545S	10/17/03	02/10/04
03-S000257S	08/28/03	10/14/03
04-S85562	11/17/03	01/22/03
03-S85563	11/10/03	01/22/04
03-S85592	11/14/03	01/05/04
03-S85671	11/24/03	02/04/04
03-S85709	11/06/03	01/27/04
03-S85711	11/05/03	01/27/04
03-S85716	10/09/03	01/27/04
03-S85728	12/04/03	05/12/04
03-S85844	12/16/03	02/22/04
03-S85850	12/11/03	03/13/04
04-S86116	01/29/04	04/07/04
04-S86328	01/30/04	05/10/04
04-S86541	02/09/04	05/17/04
04-S86545	02/04/04	07/07/04
04-S86564	03/03/04	07/13/04
04-S86706	03/23/04	07/22/04
04-S86779	02/23/04	07/01/04

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
04-S87087	03/10/04	07/07/04
04-S87105	04/07/04	07/07/04