

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

In the Matter of)	
)	
LCR Telecommunications	)	IC Nos. 02-S81520
	)	04-S86115
Complaints Regarding	)	04-S86121
Unauthorized Change of	)	04-S86343
Subscriber's Telecommunications Carrier	)	04-S86351
	)	04-S86367
	)	04-S86371
	)	04-S86477
	)	04-S86622
	)	04-S86652
	)	04-S86665
	)	04-S86667
	)	04-S86679
	)	04-S86749
	)	04-S86822
	)	04-S86840
	)	04-S86863
	)	04-S86872
	)	04-S87063
	)	04-S87160
	)	04-S87900
	)	04-I0080509S
	)	04-I0081021S
	)	04-I0082574S
	)	04-I0090891S
	)	04-I0099582S
	)	04-S000381S
	)	04-S000401S
	)	04-S000437S
	)	04-S000472S
	)	04-S000526S
	)	04-S000528S

ORDER

Adopted: January 14, 2005

Released: January 19, 2005

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

¹ See Appendix A.

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.

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

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 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.

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% 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 against LCR are RESOLVED.

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 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.

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

APPENDIX A

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
02-S81520	10/24/04	09/24/03
04-S86115	10/13/04	04/09/04
04-S86121	08/29/03	04/07/04
04-S86343	02/13/04	05/10/04
04-S86351	03/12/04	04/19/04
04-S86367	03/02/04	04/19/04
04-S86371	02/10/04	04/12/04
04-S86477	03/18/04	04/14/04
04-S86622	04/01/04	05/12/04
04-S86652	04/16/04	05/28/04
04-S86665	04/12/04	07/20/04
04-S86667	04/13/04	07/14/04
04-S86679	03/02/04	07/14/04
04-S86749	03/29/04	07/26/04
04-S86822	04/21/04	07/07/04
04-S86840	04/16/04	07/25/04
04-S86863	04/23/04	07/21/04
04-S86872	03/08/04	07/26/04
04-S87063	04/28/04	07/15/04
04-S87160	04/28/04	07/08/04
04-S87900	07/06/04	08/03/04
04-I0080509S	01/02/04	04/07/04
04-I0081021S	12/16/03	05/10/04

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
04-I0082574S	12/29/03	04/07/04
04-I0090891S	01/28/04	08/20/04
04-I0099582S	01/22/04	08/20/04
04-S000381S	01/06/04	04/09/04
04-S000401S	01/21/04	04/20/04
04-S000437S	02/04/04	05/10/04
04-S000472S	02/27/04	08/06/04
04-S000526S	03/15/04	07/26/04
04-S000528S	03/15/04	07/29/04