

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

In the Matter of )  
)  
LCR Telecommunications, LLC ) IC Nos. 04-S86573  
) 04-S86659  
Complaints Regarding ) 04-S86660  
Unauthorized Change of ) 04-S86696  
Subscriber's Telecommunications Carrier ) 04-S86701  
) 04-S86707  
) 04-S86740  
) 04-S86764  
) 04-S86800  
) 04-S86803  
) 04-S86827  
) 04-S86916  
) 04-S86919  
) 04-S86984  
) 04-S87007  
) 04-S87034  
) 04-S87322  
) 04-S87388  
) 04-S87397  
) 04-S87416  
) 04-S87417  
) 04-S87476  
) 04-S87495  
) 04-S87645  
) 04-S87695  
) 04-S87832  
) 04-S87850  
) 04-S87921  
) 04-S87947  
)

**ORDER**

**Adopted: March 3, 2005**

**Released: March 8, 2005**

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

1. In this Order, we consider the complaints filed by Complainants<sup>1</sup> alleging that LCR Telecommunications, LLC (LCR) changed Complainants' telecommunication service providers without obtaining authorization and verification from Complainants in violation of the Commission's rules.<sup>2</sup> 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).<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

---

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

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

<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); 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).

<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).

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 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>

4. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed without Complainants' authorization.<sup>10</sup> Pursuant to Section 1.719 and 64.1150 of our rules,<sup>11</sup> we notified LCR of the complaints and LCR responded.<sup>12</sup> LCR has fully absolved Complainants of all charges assessed by LCR in a manner consistent with the Commission's liability rules.<sup>13</sup> Based on the information before us, we therefore find that the complaints referenced herein have been resolved.<sup>14</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 complaints against LCR Telecommunications, LLC ARE RESOLVED.

---

<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.*

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

<sup>10</sup> See Appendix A.

<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> See 47 C.F.R. § 64.1160.

<sup>14</sup> 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 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

<u>IC NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF CARRIER RESPONSE</u>
04-S86573	February 11, 2004	July 7, 2004
04-S86659	April 12, 2004	July 20, 2004
04-S86660	February 17, 2004	July 20, 2004
04-S86696	April 12, 2004	July 14, 2004
04-S86701	February 17, 2004	May 28, 2004
04-S86707	February 17, 2004	July 20, 2004
04-S86740	February 20, 2004	July 6, 2004
04-S86764	March 29, 2004	July 7, 2004
04-S86800	March 26, 2004	June 8, 2004
04-S86803	April 2, 2004	July 1, 2004
04-S86827	February 25, 2004	July 7, 2004
04-S87007	April 6, 2004	July 7, 2004
04-S86916	April 13, 2004	September 16, 2004
04-S86919	March 29, 2004	May 26, 2004
04-S86984	April 16, 2004	July 7, 2004
04-S87034	April 27, 2004	July 1, 2004
04-S87322	April 5, 2004	July 21, 2004
04-S87388	April 30, 2004	July 22, 2004
04-S87397	May 11, 2004	July 22, 2004
04-S87416	April 28, 2004	July 23, 2004

04-S87417	April 6, 2004	July 23, 2004
04-S87476	April 19, 2004	July 29, 2004
04-S87495	July 6, 2004	August 3, 2004
04-S87645	May 14, 2004	July 29, 2004
04-S87695	May 17, 2004	July 29, 2004
04-S87832	July 7, 2004	August 3, 2004
04-S87850	July 12, 2004	August 2, 2004
04-S87921	July 15, 2004	August 11, 2004
04-S87947	July 12, 2004	August 18, 2004