

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

In the Matter of)	
)	
Alliance Group Services)	IC No. 08-S0291729
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER

Adopted: August 27, 2008

Released: August 29, 2008

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

1. In this Order, we consider the complaint filed by Complainant¹ alleging that Alliance Group Services, Inc. (Alliance) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant in violation of the Commission's rules.² We conclude that Alliance's actions did result in an unauthorized change in Complainant's telecommunications service provider and we grant Complainant's 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 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

¹ Informal Complaint No. IC 08-S0291729, filed February 25, 2008.

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, *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, 18 FCC Rcd 10997 (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).

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; (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% 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 Complainant's complaint on February 25, 2008, alleging that Complainant's telecommunications service provider had been changed from Verizon to AT&T without Complainant's authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,¹¹ we notified AT&T of the complaint and AT&T responded on April 3, 2008.¹² AT&T states that

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.*

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 AT&T Corporation's Response to Informal Complaint No. 08-S0291729, received April 3, 2008.

calls are defaulting to the AT&T network by a routing or switch error from the Complainant's local phone company, Verizon. Pursuant to Sections 1.719 and 64.1150 of our rules,¹³ we notified Verizon of the complaint and Verizon responded on June 12, 2008.¹⁴ The Complainant had requested a switch in long distance service from Alliance¹⁵ to Verizon Long Distance. Verizon issued an order per the Complainant's request, however, the order failed to provision in the switch and the Complainant remained with Alliance. Pursuant to Sections 1.719 and 64.1150 of our rules,¹⁶ we notified Alliance of the complaint and Alliance responded on July 18, 2008.¹⁷ Alliance states that authorization was received and confirmed through independent third party verification (TPV). It is unclear from the verification, however, if the verifier obtained a confirmation whether the person on the call was authorized to make the carrier change. The verifier asked "are you 18 years of age and duly authorized by the account holder to make changes to and/or incur charges on the telephone account..." The person on the call responded "yes." Because the verifier used the term "and/or," the person on the call could have been responding "yes" to the question of being authorized to "incur charges," or to the question of being authorized to "make changes," or both. It is unclear, therefore, to which of these three options the response was made. We, therefore, find did not provide clear and convincing evidence that the verifier confirmed that the person on the call was authorized to make the carrier change.¹⁸ Therefore, we find that Alliance's actions did result in an unauthorized change in Complainant's telecommunications service and we discuss Alliance's liability below.¹⁹

5. Alliance must remove all charges incurred for service provided to Complainant for the first thirty days after the alleged unauthorized change in accordance with the Commission's liability rules.²⁰ We have determined that Complainant is entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and Verizon Long Distance nor Alliance may pursue any collection against Complainant for those

¹³ 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).

¹⁴ Verizon's Informal Complaint IC Number 08-S0291729, received June 12, 2008.

¹⁵ Alliance Group is a reseller of AT&T services.

¹⁶ 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).

¹⁷ Alliance Group's Informal Complaint IC Number 08-S0291729, received July 18, 2008. Alliance is a reseller of Nationwide Long Distance. Nationwide is the carrier responsible for the changing of this Complainant's service. Alliance is responding on behalf of Nationwide Long Distance.

¹⁸ See 47 C.F.R. § 64.1120(c)(3)(iii)

¹⁹ 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 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 Complainant. See 47 C.F.R. § 1.719.

²⁰ See 47 C.F.R. § 64.1160(b).

charges.²¹ Any charges imposed by Alliance on the subscriber for service provided after this 30-day period shall be paid by the subscriber at the rates the subscriber was paying to AT&T, Inc. at the time of the unauthorized change.²²

6. 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 Complainant against Alliance Group IS GRANTED.

7. IT IS FURTHER ORDERED that, pursuant to Section 64.1170(d) of the Commission's rules, 47 C.F.R. § 64.1170(d), Complainant is entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and neither Verizon Long Distance nor Alliance Group may pursue any collection against Complainant for those charges.

8. IT IS FURTHERED ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

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

²¹ See 47 C.F.R. § 64.1160(d).

²² See 47 C.F.R. §§ 64.1140, 64.1160.