

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

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

ORDER ON RECONSIDERATION

Adopted: February 26, 2009

Released: February 26, 2009

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we grant a petition filed by Alliance Group Services, Inc. (Alliance) asking us to reverse a finding that Alliance changed the Complainant's telecommunications service provider in violation of the Commission's rules by failing to obtain proper authorization and verification.¹ On reconsideration, we find that Alliance's actions did not violate the Commission's carrier change rules.² We therefore grant Alliance's *Petition* in part, as described in more detail below.

I. BACKGROUND

2. In December 1998, the Commission adopted rules prohibiting 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.³ The rules were designed to take the profit out of slamming.⁴ The Commission applied the rules to all wireline carriers,⁵ and modified its existing requirements for the authorization and verification of preferred carrier changes.⁶

3. The rules require that a submitting carrier receive individual subscriber consent before a

¹ See *Petition for Reconsideration of Alliance Group Services, Inc.* (filed September 29, 2008) seeking reconsideration of *Alliance Group Services*, 23 FCC Rcd 12979 (2008) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See 47 C.F.R. §§ 64.1100 – 64.1190.

³ See *id.*; see also 47 U.S.C. § 258(a).

⁴ See *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 Rulemaking, 14 FCC Rcd 1508, 1512, para. 4 (1998) (*Section 258 Order*). See also *id.* at 1518-19, para. 13.

⁵ See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *Section 258 Order* at 1560-61, para. 85.

⁶ See *Section 258 Order*, 14 FCC Rcd at 1549, para. 66.

carrier change may occur.⁷ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed 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.⁸

4. The Commission also adopted liability rules for carriers that engage in slamming.⁹ 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.¹⁰ Where the subscriber has paid charges to the unauthorized carrier, the unauthorized carrier must pay 150% of those charges to the authorized carrier, and the authorized carrier must refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.¹¹

5. The Commission received a complaint on February 25, 2008, alleging that Complainant's telecommunications service provider had been changed from Verizon to AT&T without Complainant's authorization.¹² Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹³ the Division notified AT&T of the complaint,¹⁴ and AT&T responded stating that the Complainant's calls defaulted to the AT&T network due to a routing or switch error from the customer's local phone company, Verizon.¹⁵ Based on AT&T's response, the Division served the complaint on Verizon,¹⁶ and Verizon responded stating that Complainant's calls were "routed over Alliance's CIC."¹⁷ Based on Verizon's response, the Division notified Alliance (a reseller of AT&T services) of the complaint.¹⁸ Alliance submitted an

⁷ See 47 C.F.R. § 64.1120. See also 47 U.S.C. § 258(a) (barring carriers from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures).

⁸ 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.

⁹ See 47 C.F.R. §§ 64.1140, 64.1160-70.

¹⁰ 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).

¹¹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹² Informal Complaint No. IC 08-S0291729, filed February 25, 2008.

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 Notice of Informal Complaint No. IC-08-S0291729 to AT&T Corporation from the Deputy Chief, Division, dated March 3, 2008.

¹⁵ AT&T Corporation's Response to Informal Complaint No. IC-08-S0291729, received April 3, 2008.

¹⁶ Notice of Informal Complaint No. IC-08-S0291729 to Verizon from the Deputy Chief, Division, dated May 8, 2008.

¹⁷ Verizon's Response to Informal Complaint No. IC-08-S0291729, received June 12, 2008. CIC is an abbreviation for carrier identification code.

¹⁸ Notice of Informal Complaint No. IC-08-S0291729 to Alliance from the Deputy Chief, Division, dated June 20, 2008.

independent third party verification (TPV) on behalf of its reseller, Nationwide Long Distance (Nationwide), as evidence that Complainant authorized the carrier change.¹⁹ The Division reviewed the TPV and found there was no clear and convincing evidence that the verifier confirmed that the person on the call was authorized to make the carrier change, and therefore found that Alliance's actions resulted in an unauthorized change in Complainant's telecommunications service provider.²⁰

6. Alliance seeks reconsideration of the *Division Order*. In its *Petition*, Alliance asserts it operates exclusively as a wholesaler of telecommunications services, and that there is no evidence Alliance changed Complainant's preferred carrier to itself or any other carrier. Alliance further states that Nationwide is the carrier responsible for changing Complainant's long distance carrier.²¹ Alliance therefore requests reversal of the finding that Complainant's carrier was changed by Alliance without proper authorization.²²

II. DISCUSSION

7. Based on the record before us, we grant Alliance's *Petition* in part. As discussed below, we find that Alliance did not violate the Commission's carrier change rules.

8. Upon further review, we agree with Alliance that Alliance did not change Complainant's carrier without authorization. Alliance's original response to the complaint stated that Nationwide, a reseller of Alliance's service, was the carrier responsible for changing Complainant's service. Alliance also submitted with its original response a TPV that was procured by Nationwide in order for Nationwide to change Complainant's carrier.²³ However, the Division mistakenly identified Alliance as the unauthorized carrier in the *Division Order*. Therefore, we grant the *Petition* in part. We make no determination with respect to whether Nationwide – a party not affiliated with Alliance – separately violated the Commission's carrier change rules.²⁴

III. ORDERING CLAUSES

9. 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, 1.106 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.106, 1.719, the petition filed by Alliance Group Services, Inc. on

¹⁹ Alliance's Response to Informal Complaint No. IC-08-S0291729, received July 18, 2008 (*Alliance Response to Complaint*).

²⁰ See *Order*, 23 FCC Rcd 12979 (2008); see also 47 C.F.R. § 64.1150(d).

²¹ See *Petition* at 2.

²² See *id.*

²³ See *Alliance Response to Complaint* at 1. See also *Alliance Response to Complaint*, attaching a response from Nationwide to Alliance, dated July 17, 2008, which included a "request for customer information on [Complainant]." (*Nationwide Response*). The *Nationwide Response* also stated that a copy of the TPV voice recording was attached for review. See *id.*

²⁴ Alliance also requests that we overturn the Division's finding that no unauthorized carrier change occurred and deny the Complainant's complaint. See *Petition* at 2. Alliance does not have standing to ask the Bureau to make a finding as to whether Nationwide violated the Commission's rules. We have served the complaint and all other relevant documents on Nationwide in order to obtain a response directly. The issue of whether or not there was a violation by Nationwide of the Commission's carrier change rules will be addressed in a separate order based on Nationwide's response.

September 29, 2008, IS GRANTED to the extent indicated above.

10. IT IS FURTHER ORDERED that this Order is effective UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Catherine W. Seidel, Chief
Consumer & Governmental Affairs Bureau