

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

In the Matter of
Tele Circuit Network Corporation
Complaint Regarding
Unauthorized Change of
Subscriber's Telecommunications Carrier
Complaint No. 3162301

ORDER

Adopted: August 8, 2019

Released: August 8, 2019

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

1. In this Order, we consider a complaint alleging that Tele Circuit Network Corporation (Tele Circuit) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules. We find that Tele Circuit's actions violated the Commission's slamming rules, and we therefore grant Complainant's complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), 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. The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur. Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order. The Commission has also adopted rules to limit the liability of subscribers when a carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.

1 See Informal Complaint No. 3162301 (filed Apr. 1, 2019); see also 47 CFR §§ 64.1100 – 64.1190.

2 47 U.S.C. § 258(a).

3 See 47 CFR § 64.1120.

4 See id. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. Id. § 64.1130.

5 These rules require the unauthorized carrier to absolve the subscriber where the subscriber has not paid his or her bill. 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. See id. §§ 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. Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. See id. §§ 64.1140, 64.1170.

3. We received Complainant's complaint alleging that Complainant's telecommunications service provider had been changed to Tele Circuit without Complainant's authorization. Pursuant to our rules, we notified Tele Circuit of the complaint.⁶ Tele Circuit responded to the complaint, stating that it obtained authorization from Complainant through a third-party verification recording (TPV).⁷

4. In the TPV, Tele Circuit's verifier does not confirm that the person is authorized to make a *carrier change*. Instead, the verifier asks the person on the call, "are you the authorized person who can make decisions for this telephone line?" An affirmative response to this question does not establish whether the person is authorized to make a carrier change. Section 64.1120(c)(3) of the rules sets forth detailed procedures that carriers using a TPV to verify consumer authorization must follow.⁸ The procedures specifically require that the carrier's third-party verifier "elicit, at a minimum the identity of the subscriber; [and] confirmation that the person on the call is authorized to make the *carrier change*" Confirming that a person can make decisions for a telephone line differs from confirming that the person is authorized to make a switch from one carrier to another carrier. We therefore find that Tele Circuit's actions were in violation of our slamming rules, and we discuss Tele Circuit's liability below.¹⁰

5. Tele Circuit 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.¹¹ We have determined that Complainant is entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and that neither the Complainant's authorized carrier nor Tele Circuit may pursue any collection against Complainant for those charges.¹² Any charges imposed by Tele Circuit 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 the authorized carrier at the time of the unauthorized change.¹³

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 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Tele Circuit Network Corporation IS GRANTED.

7. IT IS FURTHER ORDERED that, pursuant to section 64.1170(d) of the Commission's rules, 47 CFR § 64.1170(d), the Complainant is entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and that Tele Circuit Network Corporation may not pursue any collection against Complainant for those charges.

⁶ *Id.* § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

⁷ See Tele Circuit's Response to Informal Complaint No. 3162301 (filed July 24, 2019).

⁸ 47 CFR § 64.1120(c)(3).

⁹ *Id.* § 64.1120(c)(3)(iii) (emphasis added).

¹⁰ If Complainant is unsatisfied with the resolution of the complaint, the Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules. *Id.* § 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 Complainant. See *id.* § 1.719.

¹¹ See *id.* § 64.1160(b).

¹² See *id.* § 64.1160(d).

¹³ See *id.* §§ 64.1140, 64.1160.

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

FEDERAL COMMUNICATIONS COMMISSION



Nancy Stevenson
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Consumer Policy Division
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