

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

In the Matter of)
VarTec Telecom) Complaint No. 4465889
Complaint Regarding)
Unauthorized Change of)
Subscriber's Telecommunications Carrier)

ORDER

Adopted: February 22, 2021

Released: February 23, 2021

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

1. In this Order, we consider a complaint alleging that VarTec Telecom (VarTec) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules. We find that VarTec's actions did not result in an unauthorized change in Complainant's telecommunications service provider, and we deny 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 an unauthorized 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. 4465889 (filed Jan. 4, 2021); 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 without Complainant's authorization.⁶ Pursuant to our rules, we notified VarTec of the complaint.⁷ VarTec responded to the complaint asserting that VarTec did not submit a request to switch Complainant's service provider, but that calls were made from Complainant's telephone number using VarTec's "dial around" access code.⁸ Thus, based on the evidence in the record, we conclude that VarTec's actions did not result in an "unauthorized change" in Complainant's telecommunications service provider, as defined in the rules.⁹

4. 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 VarTec Telecom IS DENIED.

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

FEDERAL COMMUNICATIONS COMMISSION

Kurt A. Schroeder
Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

⁶ See Informal Complaint No. 4465889.

⁷ 47 CFR § 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).

⁸ See VarTec's Response to Informal Complaint No. 4465889 (filed Jan. 18, 2021).

⁹ See 47 CFR § 64.1100(e). If Complainant is unsatisfied with the resolution of its complaint, 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.