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

In the Matter of	)	
	)	
Lingo Telecom, LLC	)	Complaint No. 6068525
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopted: April 4, 2023 **Released: April 4, 2023**

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

1. In this Order, we consider a complaint alleging that Lingo Telecom, LLC (Lingo) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.[1] We conclude that Lingo'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.[2] The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.[3] 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.[4] 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.[5]

3. The Commission's slamming rules prohibit misrepresentations on sales calls to further reduce the incidence of slamming.[6] Under the rules, upon a finding of material misrepresentation during

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[1] *See* Informal Complaint No. 6068525 (filed Mar. 2, 2023); *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.

[6] *Id*. § 64.1120(a)(1)(i)(A).

the sales call, the consumer's authorization to change carriers will be deemed invalid even if the carrier has some evidence of consumer authorization of a carrier switch, e.g., a third-party verification (TPV) recording. Sales misrepresentations may not be cured by a facially valid TPV.[7] The rule provides that a consumer's credible allegation of misrepresentation shifts the burden of proof to the carrier to provide evidence to rebut the consumer's claim regarding misrepresentation. The Commission made clear that an accurate and complete recording of the sales call may be the carrier's best persuasive evidence to rebut the consumer's claim that a misrepresentation was made on the sales call.[8]

4. We received Complainant's complaint alleging that Complainant's telecommunications service provider had been changed without Complainant's authorization.[9] In the complaint, Complainant also states that she received a call from a Lingo representative, who told her "they were only taking over Verizon's billing and that we would see a new bill coming from Lingo instead of Verizon. . . nothing else would change [and] all numbers and service would still be provided by Verizon."[10] Complainant further states that she specifically asked whether her service would stay with Verizon, and the Lingo representative replied yes.[11]

5. Pursuant to our rules, we notified Lingo of the complaint.[12] Lingo responded, stating that its records show that Complainant signed a three-year contract, indicating that she understood that Lingo and Verizon are not affiliated.[13] Lingo also provided two audio recordings—a TPV recording and a recording Lingo characterized as a "quality assurance call." Lingo did not, however, address Complainant's misrepresentation allegation and did not provide a recording of the sales call or any other evidence related to the sales call.

6. The Division thoroughly reviewed all the evidence provided by both the Complainant and Lingo. Based on the evidence in the record, we find Complainant's allegation of a sales call misrepresentation to be credible. We further find that Lingo has failed to provide persuasive evidence to rebut Complainant's misrepresentation claim and therefore that Complainant's authorization to change carriers is invalid.[14] As the Commission stated in the *2018 Slamming Order*, "[w]hen a consumer's decision to switch carriers is predicated on false information provided in a sales call, that consumer's authorization to switch carriers can no longer be considered binding."[15] We therefore find that Lingo's

[7] *See Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, 33 FCC Rcd 5773, 5778-80, paras. 17-19 (2018) (*2018 Slamming Order*); 47 CFR § 64.1120(a)(1)(i)(A).

[8] *See 2018 Slamming Order*, 33 FCC Rcd at 5781, para. 23. The Commission also stated that a carrier is uniquely positioned via its access to sales scripts, recordings, training, and other relevant materials relating to sales calls to proffer evidence to rebut a consumer's claims. *Id.*

[9] *See* Informal Complaint No. 6068525.

[10] *Id.*

[11] *Id.*

[12] 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). In the notification, we directed Lingo to respond to the specific misrepresentation allegation and to provide any evidence to rebut it.

[13] *See* Lingo Response to Informal Complaint No. 6068525 at 1 (filed Mar. 31, 2023).

[14] We also note that on the TPV recording, the Lingo representative refers to a "billing conversion" and states that "Lingo leases the lines; we handle the billing and customer service." At no time does the representative confirm that the Complainant is authorized to make a carrier change and understands that she is authorizing a carrier change. *See* 47 CFR § 64.1120(c)(3)(iii).

[15] *2018 Slamming Order*, 33 FCC Rcd at 5779, para. 18 (citing *Advantage Forfeiture Order*, 32 FCC Rcd 3723, 3725-30, paras. 7-13 (2017) (finding that the carrier's TPV recordings did not disprove that unlawful misrepresentations were made during the telemarketing calls and further, that questions posed during the separate TPV calls did not cure those misrepresentations)).

actions resulted in an unauthorized change in Complainant's telecommunications service provider, as defined by the rules, and we discuss Lingo's liability below.[16]

7. Lingo 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.[17] 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 Lingo may pursue any collection against Complainant for those charges.[18] Any charges imposed by Lingo on the Complainant for service provided after this 30-day period shall be paid by the Complainant to the authorized carrier at the rates the Complainant was paying the authorized carrier at the time of the unauthorized change of their telecommunications service provider.[19]

8. 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 Lingo Telecom, LLC IS GRANTED.

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

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

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Acting Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

[16] 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, 47 CFR § 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.

[17] *See id.* § 64.1160(b).

[18] *See id.* § 64.1160(d).

[19] *See id.* § 64.1140, 64.1160.