FACT SHEET

Telephone Slamming: The Illegal Practice of Changing Consumers' Phone Companies Without Their Knowledge or Permission

Background

- Section 258 of the Telecommunications Act of 1996 makes it unlawful for any telecommunications carrier to change a consumer's telephone carrier except in accordance with the Commission's verification procedures. Any carrier that violates these procedures is liable to the subscriber's authorized carrier for all charges collected.

- The Electronic Signatures in Global and National Commerce Act (E-Sign Act), which was signed into law on June 30th of this year, promotes the use of electronic signatures and records in interstate and foreign commerce. The E-Sign Act provides a specific framework for the use of electronic records and signatures, including a set of required consumer disclosures.

FCC's Actions to Combat Slamming

- To strengthen its anti-slamming rules, the Commission released in December 1998 the Second Report and Order and Second Further Notice of Proposed Rulemaking (FNPRM). The Order:

  1. adopted aggressive new liability rules designed to take the profit out of slamming;
  2. broadened the scope of the slamming rules to encompass all telephone carriers; and,
  3. imposed more rigorous verification measures.

- Many of the rules adopted in the Second Report and Order released in December 1998 took effect, but the slamming liability rules were stayed by the D.C. Circuit court. To address the issues relating to the court stay, the Commission released the First Order on Reconsideration in May 2000. This Order modified the slamming liability rules and also modified the procedures for administering them, allowing the state commissions to act as the primary administrators of slamming complaints.

- On June 27, 2000, the D.C. Circuit court granted the FCC's motion to dissolve the stay the court had imposed on the slamming liability rules. The revised slamming liability rules will take effect 30 days after publication in the Federal Register and after the Office of Management and Budget approves information collection requirements. The Commission will publish a notification of the effective date of these rules in the Federal Register.

Timeline of Events

Following are key dates relevant to the Commission's anti-slamming rulemaking proceeding:

- ***December 23, 1998*** **–** The Commission adopts the Second Report and Order to take the profit out of slamming.

- ***April 27, 1999*** **–** The majority of the Commission's slamming rules go into effect.

- ***May 10, 1999*** **-** MCI WorldCom files a Motion for Stay Pending Judicial Review in the D.C. Circuit asking the court to stay the slamming liability rules.

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- ***May 18, 1999* –** The slamming liability rules are stayed by the U.S. Court of Appeals for the District of Columbia Circuit.

- ***April 13, 2000* –** The Commission, to address issues raised by the court stay, revises its slamming liability rules. Among other things, the Commission rules that state regulatory commissions, rather than the industry, may resolve slamming disputes.

- ***June 27, 2000* –** The D.C. Circuit Court grants the FCC's motion to dissolve the stay of the slamming liability rules. The Commission will publish a notification in the Federal Register of the effective date of these rules.

- ***June 30, 2000* –** The President signs the E-Sign Act, which promotes the use of electronic signatures by mandating that contracts or business transactions that are conducted electronically, and meet certain specifications, will be as enforceable and valid as written contracts and transactions. The E-Sign Act provides a specific framework for the use of electronic records and signatures, including a set of required consumer disclosures, and also places limits on the interpretation authority of federal and state regulatory agencies. Section 104(e) of the E-Sign Act specifically addresses the FCC's slamming rules by providing that the Commission "shall not hold any contract for telecommunications or letter of agency for a preferred carrier change, that otherwise complies with the Commission's rules, to be legally ineffective, invalid, or unenforceable solely because an electronic record or signature was used in its formation or authorization."