

INVESTIGATION REPORT

File no.	ACMA2020/482-3
Carriage Service Provider	Optus Mobile Pty Ltd ACN 054 365 696
Relevant legislation and standard	<i>Telecommunications Act 1997</i> Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020
Date	25 March 2021

Findings

- The Australian Communications and Media Authority (the ACMA) finds that Optus Mobile Pty Ltd ACN 054 365 696 (Optus) has contravened subsection 8(5) of the Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020 (the Standard) because:
 - > on 3 August 2020, as a mobile carriage service provider (CSP), it proceeded with a mobile service number port without first using one of the additional identity verification processes set out in subsection 8(2) or 8(3) of the Standard.
- As Optus has not complied with the obligation noted at paragraph 1 (above) it has also contravened subsection 128(1) of *the Telecommunications Act 1997* (the Act), which is a civil penalty provision, because it did not comply with the Standard which applies to it as a mobile CSP.

Background

- The purpose of the Standard is to prevent the unauthorised porting of mobile service numbers and reduce harm to customers arising from the unauthorised porting of mobile service numbers.
- The Standard was made by the ACMA on 27 February 2020 and came into effect on 30 April 2020.
- Section 4 of the Standard provides, for the purposes of subsection 125AA(1) of the Act, that the Standard applies to:
 - > the section of the telecommunications industry consisting of mobile CSPs who supply or arrange for the supply of public mobile telecommunications services; and
 - > every port of a mobile service number.
- Under subsection 128(1) of the Act, if an industry standard that applies to participants in a particular section of the telecommunications industry is registered under Part 6 of the Act, then each participant in that section of the industry must comply with the standard.
- Optus supplies mobile carriage services to the public and is therefore a mobile CSP for the purposes of the Standard.
- The Standard requires that the gaining CSP, prior to initiating a port of a mobile service number, use additional identity verification processes to confirm that the person requesting a port:
 - > is the rights of use holder (or an authorised representative) of the mobile service number to be ported; and
 - > has access to a mobile device associated with that mobile service number.
- The ACMA commenced an investigation into Optus's compliance with the Standard following it receiving information which led the ACMA to suspect Optus may have contravened its obligations under the Standard.

Contraventions of the Standard

Additional identity verification processes

10. Under subsection 8(5) of the Standard, a mobile CSP must not proceed with a mobile service number port unless one of the additional identity verification processes in subsection 8(2) or 8(3) has been used by the gaining carriage service provider.
11. Subsection 8(2) requires a gaining CSP to use at least one additional identity verification process specified in the Standard to confirm that the person requesting a port is the rights of use holder of the mobile service number to be ported.
12. Subsection 8(3) requires that where the gaining CSP is unable to confirm that the requesting person is the rights of use holder of the number to be ported through one of the processes set out in subsection 8(2), the gaining CSP may undertake an identity verification using specified documents via the process described in Schedule 1 to the Standard or using a government online verification service.
13. Optus advised it had rolled out its additional identity verification processes prior to 30 April 2020. The relevant period of the ACMA's investigation was 1 June 2020 to 6 October 2020.
14. Optus provided information that for one port request, related to mobile service number [REDACTED], it did not use any of the additional identity verification processes described in subsections 8(2) or (3) to confirm that the requesting person was the rights of use holder of the mobile service number prior to porting that number on 3 August 2020. This instance was identified because it was the subject of port reversal request following the port being made.
15. On this basis, the ACMA finds that Optus has contravened subsection 8(5) of the Standard on one occasion on 3 August.

Contraventions of the Act

16. Subsection 128(1) of the Act provides that, if an industry standard that applies to participants in a particular section of the telecommunications industry is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.
17. Optus supplies mobile carriage services to the public and is therefore a mobile CSP for the purposes of the Standard.
18. On this basis the ACMA finds Optus has contravened subsection 128(1) of the Act on one occasion.