

Investigation Report

Entity	Circles Australia Pty Limited
ACN	630 647 264
Type of entity	Mobile Carriage Service Provider
Relevant Legislation	<i>Telecommunications Act 1997</i> Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020

Findings

The Australian Communications and Media Authority (the **ACMA**) finds that Circles Australia Pty Limited (ACN 630 647 264) (**Circles**) contravened:

- a. subsection 8(2) of the Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020 (the **Standard**)
- b. subsection 8(5) of the Standard, and, because of the above contraventions,
- c. subsection 128(1) of the *Telecommunications Act 1997* (the **Act**).

Table 1: Table of contraventions

Legislation	Provision(s)	Number of contraventions	Relevant period
The Standard	Subsection 8(2)	At least 1,787 contraventions	26 October 2020 to 20 December 2021
	Subsection 8(5)		
The Act	Subsection 128(1)		

Reasons

1. The ACMA's findings, including the key elements which establish the contraventions, are based on:
 - a. information obtained by the ACMA from the Australian Cyber Security Centre identifying Circles as the gaining mobile Carriage Service Provider (**CSP**) in 12 alleged unauthorised ports of mobile service numbers (commonly known as mobile phone numbers) as reported by victims of fraud between 15 August 2021 and 25 November 2021
 - b. information provided by Circles on 4 February 2022 in response to a statutory notice given to it under section 521 of the Act, and
 - c. additional information requested by the ACMA and provided by Circles on 14 February and on 7 March 2022.

Background

2. 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.
3. The Standard is an industry standard registered under Part 6 of the Act. It commenced on 30 April 2020 and applies to:

- a. mobile CSPs who supply or arrange for the supply of public mobile telecommunications services, and
 - b. every port of a mobile service number.
4. Subsection 128(1) of the Act requires CSPs to comply with standards registered under Part 6 of the Act. Accordingly, CSPs which are mobile CSPs must comply with the Standard.
 5. 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:
 - a. is the rights of use holder¹ (or their authorised representative) for the mobile service number to be ported, and
 - b. has access to a mobile device associated with that mobile service number.

Respondent submissions

6. Circles has stated it:

“[A]ccepts the findings including that Circles contravened the Standard (and, as a consequence, the Telecommunications Act (1997)). We regret the contravention, as we are aware of its serious nature and the potential impacts on telecommunications customers.”

Compliance with the Standard

Subsection 8(2) – requirement to use an additional identity verification requirement

7. Subsection 8(2) requires that a gaining CSP must use at least one additional identity verification process, specified under paragraphs 8(2)(a)—(d) of the Standard, to confirm that the person requesting a port is the rights of use holder of the mobile service number to be ported.
8. The ACMA has considered whether Circles complied with subsection 8(2) of the Standard as set out in Table 2 below.

Table 2: Assessment of compliance with subsection 8(2) of the Standard

Is Circles a mobile CSP?	<p>Circles is a mobile CSP as defined in the Standard as it:</p> <ul style="list-style-type: none"> > is a CSP as defined at section 87 of the Act, and > supplies mobile carriage services to the public. <p>Accordingly, Circles must comply with the Standard.</p>
Was Circles the gaining CSP?	<p>The Standard defines a gaining CSP as the mobile CSP to which a mobile service number has been or is to be ported.</p> <p>Circles was the gaining CSP for at least 1,787 ports between 26 October 2020² and 2 December 2021 through its retail channel³, including for:</p> <ul style="list-style-type: none"> > an unknown number of ports between 26 October 2020 and 31 July 2021, and > 1,787 ports between 1 August and 2 December 2021.
Did Circles use one of the additional identify verification	<p>Circles did not use any of the additional identity verification processes under subsection 8(2) for at least 1,787 mobile service</p>

¹ When a customer is issued with a number in association with a telecommunications service, the customer gains the rights of use of that number.

² Circles commenced supplying mobile carriage services via a retail channel to the public on this date.

³ Circles’ retail channel is when a customer buys a Circles SIM card through a 3rd-party physical store and then requests a mobile service number to be ported into Circles.

processes under subsection 8(2) prior to initiating a port?	<p>numbers ported to Circles between 26 October 2020 and 2 December 2021 through its retail channel, specifically:</p> <ul style="list-style-type: none"> > No ports made via Circles' retail channel from 26 October 2020 to 2 December 2021 underwent an additional verification process, including: <ul style="list-style-type: none"> > an unknown number of ports between 26 October 2020 and 31 July 2021, and > 1,787 ports between 1 August and 2 December 2021. > During the period 26 October 2020 to 2 December 2021, Circles did not use any of the additional identity verification processes specified under subsection 8(2).
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9. Accordingly, the ACMA finds that Circles contravened subsection 8(2) of the Standard on at least 1,787 occasions.

Subsection 8(5) – requirement to not proceed with a port without verification

10. Subsection 8(5) of the Standard requires that a mobile CSP must not proceed with a mobile service number port unless one of the additional identity verification processes set out under subsection 8(2) or 8(3) of the Standard has been used by the gaining mobile CSP.

11. The ACMA has considered whether Circles complied with subsection 8(5) of the Standard as set out in Table 3 below.

Table 3: Assessment of compliance with subsection 8(5) of the Standard

Is Circles a mobile CSP?	Yes – refer to Table 1 above.
Did Circles use one of the additional identify verification processes under subsection 8(2) prior to initiating a port?	Circles did not use any of the identity verification checks under subsection 8(2) for at least 1,787 mobile service numbers ported to Circles between 26 October 2020 and 2 December 2021 through its retail channel – refer to Table 1 above.
Did Circles use one of the additional identify verification processes under subsection 8(3)?	<p>Circles was not entitled to use one of the identity verification processes under subsection 8(3) as it did not satisfy the precondition that it first attempted to verify the requesting person's identity under subsection 8(2).</p> <p>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 mobile service number to be ported, the gaining CSP may undertake an identity verification using specified documents via the process described in Schedule 1 to the Standard or use a government online verification service.</p> <p>The ACMA notes for completeness that Circles did not use any of the additional verification processes under subsection 8(3) for any ports made via Circles' retail channel between 26 October 2020 and 20 December 2021.</p>
Did Circles proceed with a port without using one of the additional verification processes at 8(2) or 8(3)?	Circles proceeded with at least 1,787 ports between 26 October 2020 and 2 December 2021 without using any of the identity verification processes at subsections 8(2) or 8(3).

12. Accordingly, the ACMA finds that Circles contravened subsection 8(5) of the Standard on at least 1,787 occasions.

Compliance with the Act

13. By contravening subsection 8(2) and 8(5) of the Standard as set out above, the ACMA also finds that Circles contravened subsection 128(1)⁴ of the Act on at least 1,787 occasions.

⁴ Section 128(3) of the Act provides that subsection 128(1) of the Act is a civil penalty provision.