

# **CIRCLES AUSTRALIA PTY LTD'S FAIR USE POLICY**

## **1. OVERVIEW OF THE FAIR USE POLICY**

- 1.1. This is the Fair Use Policy of Circles Australia Pty Limited ("Circles Australia") and has been created to enable Circles Australia to continue to provide both quality and low cost mobile services to all of our customers. It forms part of our Standard Form of Agreement, which sets out the terms under which we provide Services. Circles Australia reserves the right to amend or change this Fair Use Policy at any time to better reflect the legal regulatory framework and organisational and service objectives and will notify you of any such changes by posting an updated version of the Policy on our website. Your continued use of the Services indicates your agreement with this Fair Use Policy as amended.
- 1.2. In this document, the following words have these meanings: "Customer" or "You" means a customer who has created an account to use the Services or purchased Sim card, or any person who accesses the Services using the customer's access details or SIM card; "Policy" means this Fair Use Policy, as may be amended by us from time to time with notification to you by posting an updated version on our website; "Service" means any service provided by us, including mobile telecommunications services, together with associated services and software such as email facilities, web space and customer support; "Standard Form of Agreement" or "SFOA" means our Standard Form of Agreement, which sets out the standard terms under which we provide Services and which can be accessed from the Circles Australia website; "Us" or "We" means Circles Australia Pty Limited.
- 1.3. We highly encourage all our customers to review this Policy periodically, because it may be subjected to change from time to time to better reflect the legal regulatory framework and organizational and service objectives.
- 1.4. As part of Circle Australia's aim to provide quality services at a reasonable price to all our customers, the Fair Use Policy has been implemented to ensure that each customer's use of the Service:
- a. meets all legal regulatory requirements;
  - b. does not unreasonably interfere with other customers; and
  - c. does not unreasonably impact on our ability to provide the Services;
  - d. adheres to and complies with agreed contractual terms.

This is achieved by setting out your responsibilities when using the Services and the steps that we may take to ensure customers are compliant with this Policy. The Fair Use Policy applies to all our Services.

## **2. EFFECTIVE DATE OF POLICY**

- 2.1. This Policy is applicable to all Services that are activated or recharged (in accordance with our Standard Form of Agreement) on or after 29/07/2019.

## **3. DATA SECURITY ISSUES**

- 3.1. You must ensure confidentiality of the password you use to create your account to access and activate the Services. You will remain responsible for any use of your account or Service made using your password or any use of the Service using your SIM card.
- 3.2. You must not attempt to gain unauthorized access to any computer system, including unauthorized access to our system (for instance, by attempting to use the account of another user without authorizations).
- 3.3. You must not participate in any attempt to cause any computer system (including our system) to malfunction, whether by way of viruses, worms, trojan horses, denial of service attacks or otherwise.

## 4. LEGAL AND INFRINGEMENT ISSUES

You must not use the Service to breach or violate any applicable laws or to infringe on the rights of a third party. This includes, without limitation:

- a. fraudulent, deceptive or illegal activity;
- b. infringement of copyright, trademarks or other intellectual property rights;
- c. infringement of laws relating to censorship and classification of material;
- d. using the Service to create, forward or distribute defamatory statements; and
- e. using the Services in a way that contravenes the Spam Act 2003.

## 5. INAPPROPRIATE, UNREASONABLE & UNACCEPTABLE USE OF SERVICES & RESOURCES

5.1. The Service is provided for residential users for personal and domestic use only. The Service is not intended for commercial use or business use unless you are a corporate customer who has entered into an agreement with us which specifically allows the use of the Service for commercial or business purposes.

5.2. You must not use the Service in a manner that is 'inappropriate', 'unreasonable', or 'unacceptable'.

5.3. Inappropriate uses of the Service include, but are not limited to:

- a. using software (such as automated agents) to maintain a connection or to reconnect when you are not personally using such connection;
- b. downloading software or other material for sale, distribution or other non-personal use;
- c. attempting to make more than one simultaneous connection to the Service;
- d. staying connected to a Service continuously for an unreasonable amount of time;
- e. using our service to provide call centre services, to carry out telemarketing, for back to base services, wholesaling any service, SIM boxing, arbitrage or for other commercial use, re-supply or resell the service;
- f. using the service for machine to machine or IoT (Internet of Things) use;
- g. generating mobile calls and SMS messages for the purpose of deriving terminating access payments;
- h. generating voice and SMS traffic using SIM boxing or any automated generation arrangement;
- i. generating voice calls and SMS traffic for purposes other than for use as a communications service;
- j. leaving a call connection open for purposes unrelated to making a call, or while in an unattended state for a prolonged period of time eg. as a baby monitor;
- k. using our service for mass distribution to a large number of recipients;
- l. using the Service to access, monitor or use any data or traffic on any systems or networks without authorization or consent; or using the Service to exploit any network and/or protocol misconfiguration or weakness that may cause a data charging gateway to avoid triggering a credit or policy control request to the intelligent network (IN) element, therefore allowing customer traffic to proceed without checking of balance, time/volume limits, speed tier changes, deduction of funds or monthly charges for use of the Service.
- m. using the Service for re-supply to another person or in a way that an ordinary person would reasonably regard as commercial use, unless you are a corporate customer who has entered into an agreement with us which specifically allows such use of the Service for commercial or business purposes;
- n. using the Service in a way that an ordinary person would reasonably regard as business purpose, unless you are a corporate customer who has entered into an agreement with us which specifically allows the use of the Service for commercial or business purposes.;
- o. placing calls to 18xx or 13xx numbers to make indirect calls through other providers (including to calling card providers);
- p. engaging the Service to make international calls without paying long-distance charges by dialing certain access numbers, or using the Service for the purposes of arbitrage;

- q. using the Service with a device that automatically dials numbers that are either generated randomly or from a list;
- r. using the SIM card sold for a single purpose for a different purpose, for instance using a 'mobile voice' SIM card in a non 'mobile voice' device or using a SIM card sold for machine-to-machine use in a device not used for machine-to-machine communications;
- s. using the Service for multiple simultaneous calling, except where using standard conference call features;
- t. using the Service for bulk messaging;
- u. using the Service for auto-dialing or continuously call forwarding;
- v. making calls or sending texts which aren't standard person-to-person communications;
- w. using the Service for application-to-person communication; and
- x. using the Service to disguise the origin of a use or communication.
- y. using the service in a way that exploits any pricing promotions, add-ons or discounts from Circles.

The above examples are not an exhaustive list of use(s) which we would consider inappropriate.

5.4. Unacceptable use means using the Service in a manner that may pose risks to the lawful use, performance, security or integrity of any telecommunications network or other network or system (including our own), and includes, but is not limited to, using the Service:

- a. in a way that adversely affects any telecommunications network or other system or network, for instance, by: (i) causing interference, disruption, congestion or, more generally, sub-optimal performance of a telecommunications network or other system or network; (ii) or exploiting any misconfiguration or weakness of a telecommunications network or other system or network;
- b. in a way that creates a risk to the security or integrity of any telecommunications network or other system or network, for instance by: (i) overloading, or otherwise flooding a telecommunications network or other system or network; and (ii) probing, scanning or testing the vulnerability of a telecommunications network or other system or network;
- c. without authorization, to: (i) access, monitor or use any data or traffic on any telecommunications network or other system or network; or (ii) adversely affect any person's use of, or access to any telecommunications network or other system or network;
- d. to engage in unlawful purposes, for instance by using the telecommunications network or other system or network to conduct money laundering activities, online fraud cheating, or any other unlawful acts that violates criminal laws;
- e. to provide Circles Australia with false user information;
- f. to send unsolicited or unwanted commercial electronic messages in contravention of the Spam Act 2003 (Cth);
- g. to gain improper access to another person's private or personal information;
- h. to distribute, create or make available indecent, obscene, offensive, pornographic, illegal or confidential material that contravenes any law;
- i. to defame, harass or abuse anyone or violate their privacy;
- j. to contravene any applicable law;
- k. to communicate with emergency service organizations without an emergency intention;
- l. to distribute or make available material that is misleading or deceptive as to your original identity;
- m. to infringe any person's intellectual property rights, including copyright;
- n. to monitor data or traffic on any network or system without the authorization of the owner of the network or system to do so;
- o. to obtain or attempt to obtain unauthorized access to any computer, system or network; and
- p. to seek to compromise the security or interfere with the operation of our Service or any other computer, system or network.

The above examples are not an exhaustive list of use(s) which we consider unacceptable.

## **6. BREACH OF THE FAIR USE POLICY**

6.1. Circles Australia reserves all rights to enforce this Fair Use Policy. If we reasonably consider the conduct of any user to be inappropriate, unreasonable and or unacceptable or in contravention of this Fair Use Policy, we may take one or more of the following course of action:

- a. temporarily/permanently suspend your access to the Service;
- b. place time or download limitations on your use of the Service;
- c. terminate access to the Service and refuse to provide the Service to you or your associates in the future without prior consent.

6.2. If your Service is suspended in accordance with 6.1 you will forfeit any remaining credit at the time when your service is suspended. Once a service is suspended or terminated, Circles Australia can review the case (upon request) and may offer to provide a refund or re-enable the service depending on the circumstances of the case.

6.3. If we reasonably consider that you are in breach or violation of Section 5 of this Policy (Inappropriate, Unreasonable & Unacceptable Use of Services and Resources), we may, in addition to other course of action outlined above, place you in a separate pool of users with similar usage patterns in order to free up resources for other users; inform appropriate government and regulatory authorities of suspected illegal or infringing conduct; and, where permissible at law, delete or edit any of your data (including webpage content) stored on our database systems.

6.4. If your Service is suspended due to a breach or violation of this Policy you will not be able to make or receive calls or texts or use data and you will only be able to dial 000 or 112 to contact emergency services. You will be able to port (transfer) your number to a different provider.

6.5. We will handle any complaints or disputes relating to this Fair Use Policy in accordance with the terms in our Standard Form.