



## **PUSH Mobile Marketing SMS/Texting Guide**

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Federal law strictly prohibits an entity from sending marketing text messages to individuals who have not consented to receive those messages. In addition, the Mobile Marketing Association ("MMA") and The Wireless Association ("CTIA") have established best practices (which are often required by contract) governing the collection of mobile phone numbers and the distribution of text messages to those numbers. This guide describes best practices that an entity must follow when collecting cell phone numbers for SMS/texting activities using PUSH Mobile's SMS/texting services. **This guide should not be used as legal advice or as a substitute for legal advice. Please consult your attorney when conducting SMS campaigns.**

### **Definitions:**

*Short codes:* abbreviated mobile phone numbers, between 4 and 6 digits, which are used as a destination address for two way messaging programs. Short codes are widely used for enrollment in informational and marketing SMS subscription programs. Single short codes can be used to manage enrollment in multiple SMS subscription programs. The creation or modification of a short code program typically requires the approval of the aggregator or carrier that manages the short code. **Note: We use 12345 only as an example of a short code, you should use the short code we provide for your specific campaign.**

*One-time message program:* a SMS program where enrollment by a recipient results in only one or two messages being delivered to the user at the time of initiation.

*Program sponsor name:* The name of the texting program. This should include your company name. For example, "Acme Marketing Alerts."

*Recurring message program:* a SMS program that results in multiple messages being delivered to the user.

*Service description:* A statement of the SMS program's features. For example, "Info on upcoming events and promotions."

*Call-to-action:* A program where a user is invited to enroll by sending a message to the applicable short code.



**Collection of Cell Phone Numbers:** The following guidelines apply to collection of cell phone numbers for use in sending text messages:

1. The individual must affirmatively and explicitly agree to receive text messages. You must use the words "text" or "text messages." Any agreement must clearly and conspicuously disclose that enrollment will result in the delivery of text messages to the individuals phone.
2. If consent is received via an online form, (1) the user must manually enter their form number (i.e., it cannot be prepopulated based upon information already submitted by a user), (2) "mobile phone number" must be referenced next to the phone field, (3) user must affirmatively indicate agreement to receive texts, checkboxes agreeing to receive texts must not be prechecked (i.e., The individual must check an unchecked box to enroll).
3. Consent may also be indicated by an individual texting a short code to a number provided in a call-to-action.
4. The opt-in language must state:
  - (1) your company name,
  - (2) service description that covers all the types of messages you may send,
  - (3) message frequency information (e.g., Up to X messages/month)\*,
  - (4) "Msg&Data Rates May Apply" (Acceptable alternatives forms are Message and Data Rates May Apply, Msg&data rates may apply.),
  - (5) information on how to get help (Text HELP to 12345 for help),
  - (6) information on how to cancel enrollment (To cancel messages, text STOP to 12345 at any time)\*,
  - (7) state that agreement to receive an SMS message is not a condition of purchasing a good or service, and
  - (8) where to find terms and conditions (preferably a URL or link, e.g., Ts&Cs available at [www.example.com/mobileterms](http://www.example.com/mobileterms)).

\*One-time message programs do not need to include information message frequency or how to cancel enrollment.

See examples below.

5. Advertisements and solicitations for enrollment must be posted in a clear and conspicuous manner with proper emphasis on all of the relevant terms and conditions. [Company] should consider complying with the font size recommendations contained in the Federal Trade Commission's March 2013 publication "[.com Disclosures: How to Make Effective Disclosures in Digital Advertising](#)". The FTC suggests that disclosures be at least as large as the claim to which they relate. In the above example, the information related to the terms and conditions should be as large as the description of the program.
6. You must state that agreement to receive an SMS message is not a condition of purchasing a good or service.
7. You must record and store opt-ins you collect - one year following termination of the program is required but consult your attorney for your legal needs.
8. You must communicate to PUSH Mobile any opt-outs you may receive through means other than our receipt of STOP texts to your short code.
9. You must get separate express consent for your affiliates or marketing partners to send messages and those affiliates or marketing partners must be named in the consent.



## RECURRING MESSAGE OPT-IN EXAMPLES

### **Example of a call to action advertisement for recurring messages:**

**TXT ACME to 12345** to receive texts from Acme Mobile Alerts with updates about events, products, and offers.

Up to 4 messages/month.

Msg&Data Rates May Apply.

Text **HELP** to 12345 for help. To cancel messages, text **STOP** to 12345 at any time.

Ts&Cs available at [www.example.com/acmemobileterms](http://www.example.com/acmemobileterms). Agreement to receive a text message is not a condition of purchasing a good or service.

### **Example of online or registration form opt-in experience for recurring messages:**

Get links and information about upcoming events, products, and discounts from Acme Mobile Alerts. Up to 6 messages per month.

\_\_\_\_-\_\_\_\_-\_\_\_\_ Enter your mobile phone number to subscribe now.

I agree and consent to receiving text messages to this mobile phone number from Acme Mobile Alerts with updates about events and discounts. Msg&Data Rates May Apply. Text **HELP** to 12345 for help. Text **STOP** to 12345 at any time to cancel. Terms and Conditions available at [www.example.com/mobileterms](http://www.example.com/mobileterms). Agreement to receive an SMS message is not a condition of purchasing a good or service.

## ONE TIME MESSAGE OPT-IN EXAMPLES

### **Example of a call to action advertisement for one time message programs:**

**TXT 12345** to receive a text from Acme Mobile Alerts with a coupon for 30% off sale prices.

Msg&Data Rates May Apply. Text **HELP** to 12345 for help.

Ts&Cs available at [www.example.com/mobileterms](http://www.example.com/mobileterms) Agreement to receive an SMS message is not a condition of receiving a good or service.

### **Example of online or registration form opt-in experience for one time message programs:**

\_\_\_\_-\_\_\_\_-\_\_\_\_ Enter your mobile phone number to receive a text from Acme Mobile Alerts for a coupon for 30% off sale prices.

I agree and consent to receiving a text message to this mobile phone number from Acme Mobile Alerts with this discount. Msg&Data Rates May Apply. Text **HELP** to 12345 for help. Terms and Conditions available at [www.example.com/mobileterms](http://www.example.com/mobileterms). Agreement to receive an SMS message is not a condition of purchasing a good or service.



**Terms and Conditions:** In addition to the disclosures described above that must be made conspicuously in the online form or call-to-action, terms and conditions associated with an SMS campaign must also be available and must include the following:

1. Name of organization responsible for the campaign.
2. A service description.
3. Message frequency.([i.e., number of messages per month]\*)
4. STOP instructions in bold lettering.\*
5. HELP instructions in bold lettering.
6. "Msg&Data Rates May Apply" (Acceptable alternatives forms are Message and Data Rates May Apply, Msg&data rates may apply.).

\*One-time message programs do not need to include information message frequency or how to cancel enrollment. Other provisions in your terms and conditions may be required or desirable, we recommend that you consult your attorney regarding additional provisions you may need or wish to include in your terms and conditions.

**Example of essential provisions for recurring message programs:**

The following terms apply to everyone who signs up to receive SMS or MMS messages from Acme Mobile Alerts ( us", "we" and "our"). Agreement to receive an SMS or MMS message is not a condition of purchasing a good or service.

**What We Will Send You When You Sign Up for [your company name's] Text Alert Program:** When you sign up for our text alert program you are expressly consenting to receive approximately 3 messages per month containing information about Acme and our products, promotions, events, news, and similar material.

**Stopping Our Messages: You may opt out of our texts at any time by texting the word STOP to 12345 from the enrolled mobile device.**

**Message and Data Rates May Apply - Your Carrier May Charge You For These Messages:** We do not charge a fee for our texts; however, depending on your messaging plan, your mobile carrier may charge you for each message we send you or that you send us. It is your responsibility to know whether your carrier will charge you per-message costs (for instance, if you do not have an unlimited texting plan, or have exceeded your monthly quota of free messages). We assume no responsibility for charges incurred by your using the Services.

**Help: Text HELP to 12345 or call 1-800-XXX-XXXX.**



**Example of essential provisions for one time message programs:**

The following terms apply to everyone who signs up to receive SMS or MMS messages from [your company name] ( us”, “we” and “our”). Agreement to receive an SMS or MMS message is not a condition of purchasing a good or service.

**What We Will Send You When You Sign Up for [your company name's] Text**

**Alert Program:** When you sign up for our text alert program you are expressly consenting to receive one message [describe type of message: e.g., to deliver your discount code].

**Message and Data Rates May Apply - Your Carrier May Charge You For These**

**Messages:** We do not charge a fee for our texts; however, depending on your messaging plan, your mobile carrier may charge you for each message we send you or that you send us. It is your responsibility to know whether your carrier will charge you per-message costs (for instance, if you do not have an unlimited texting plan, or have exceeded your monthly quota of free messages). We assume no responsibility for charges incurred by your using the Services.

**Help: Text HELP to 12345 or call 1-800-XXX-XXXX.**

If the full terms and conditions cannot be displayed online or in the call to action, state where the terms and conditions can be accessed without charge (e.g., website and/or toll free phone number).

**Confirmation for Messages:**

*Online Enrollment Double Opt-In*

If an individual provides his or her cell phone number and affirmatively agrees to receive text messages via an opt-in form on the web, you must confirm that the individual is in possession of the cell phone number that has opted-in to the service. This may be done in two ways: (1) a call-to-action is sent to the individual's phone and he or she must reply to the text message or (2) a PIN code is sent to the individual's phone that he or she must then enter into the opt-in web form.

**Example of call to action request text:**

Acme Mobile Alerts: Reply YES to get text messages about events, products, & discounts. Up to 5 msgs/mo. Text HELP 4 help. Msg&Data Rates May Apply. STOP to end.

Note: Double Opt-In is not required for individuals who confirm via a text in response to a call-to-action.



*Enrollment Confirmation Message*

After an individual confirms enrollment via a call-to-action or via the web, a confirmation text must be delivered to the individual that includes: Your company name, service description, applicable carrier costs, frequency of messaging, and information on how to receive help and cancel their enrollment.

**Example of confirmation message:**

Welcome to Acme Mobile Alerts: receive text messages about events, products & discounts. Msg&Data rates may apply. Up to 5 msgs/mo.Txt HELP 4 help. STOP to end

**The following texting activities are not permitted or supported by PUSH Mobile:**

- Messaging to non-U.S. Residents.
- Forward to Friend/Refer-A-Friend programs.
- Programs targeting or engaging children under 13.