SMS MESSAGING AND CONSENT:
How Urban Airship Supports Compliance Best Practices

Regulatory compliance is a critical issue for brands that use SMS in their marketing mix. Regulations such as the U.S. Telephone Consumer Protection Act of 1991 (TCPA), Canadian Anti Spam Law (CASL), the EU Privacy and Electronic Communications Directive 2002, (soon to be replaced by the ePrivacy Regulation) and similar laws in other countries provide strict requirements for sending SMS marketing messages.

A key requirement for SMS marketing messages in many countries, including under the TCPA in the US and the ePrivacy Regulation in the EU, is that it is permission-based. This means that a business must have the consumer's permission, which in the US must be express written consent for marketing messages before sending a SMS message and must provide reasonable methods for the consumer to revoke consent.

Urban Airship assists our customers in building a strong, successful SMS marketing program by supporting compliance best practices.

PRIOR EXPRESS WRITTEN CONSENT

Under the TCPA, a consumer must provide express written consent after receiving clear and conspicuous disclosure before a business can send marketing text messages.

Clear and Conspicuous Disclosure

Brands must be clear, concise and upfront in the call to action that prompts the consumer to opt in to receive SMS messages:

- Identify the business to whom consent is being provided
- Identify the consumer's phone number
- Include a description of the recurring text messaging program (e.g. account alerts, news alerts, promotional alerts, coupons, reminders, etc.)
- Disclose that texts will be sent using automated technology
- Disclose that the consumer is not required to provide consent as a condition of purchasing products or services
- Include an approximate message frequency (e.g. you may receive up to 4 msgs/month or you may receive up to 2 msgs/transaction)

- Disclose that message and data rates may apply
- Provide a link to applicable terms and privacy policy
- Provide a way to opt out (e.g. reply STOP to end) and get support (e.g. reply HELP for support)

> *Example of a call to action*
> *(e.g. on a website, store display, etc.)*
>
> *Text JOIN to 22255 to receive recurring autodialed offers and information from* **[BRAND]** *Terms and Privacy Policy at* **[brand.com/sms-terms]**. *You may receive up to [6msgs/month]. No purchase required. Msg & data rates may apply. Reply STOP to cancel or HELP for help.*

Written Consent (Opt-In)
Brands may obtain digital consent via text message, email, website form, voice recording, etc. with the following requirements:

- Cannot use a pre-checked box
- Cannot require consent to receive SMS messages as a condition of sale or providing services
- Should keep records of consent for at least four years (the statute of limitation for TCPA claims is four years)
- Double opt-in, while not strictly required, is supported by Urban Airship as a best practice
- With single or double opt-in, the first text message should be a compliance message confirming opt-in and reiterating important information:
  - Identifying the brand
  - Message frequency
  - What types of messages
  - Message rates may apply
  - How to opt out

> *Example of a confirmation*
>
> **[Brand Name]:** *You've subscribed to receive recurring promotional msgs. Msg&data rates may apply. 1msg/wk. Reply HELP for help, STOP to cancel.*

URBAN AIRSHIP SMS SUPPORTS SEVERAL OPT-IN METHODS
Double Opt-In for Mobile Phone Opt-In
In response to a call to action from the brand, a consumer texts "JOIN" from their mobile device. This triggers the Urban Airship SMS to send a double opt-in request (with adjustments made if requested by the brand):

> **{Brand Name}:** *Reply Y for recurring autodialed {type of messages/alerts}. No purchase rqd. Msg&data rates may apply. {Message Frequency}. Reply HELP for help, STOP to cancel.*

The consumer doesn't get added to the opted-in list until they respond with a "Y." Once added to the list, Urban Airship SMS sends an automatic confirmation alert:

> **{Brand Name}:** *You've subscribed to receive recurring {type of messages/alerts}. Msg&data rates may apply. {Message Frequency}. Reply HELP for help, STOP to cancel.*

Double Opt-In for Non-Mobile Phone Opt-In
To initiate a double opt-in when a consumer opts in to receive SMS messages via a website, app, paper form or any means other than sending a text from the mobile phone, the brand uploads that opted-in phone number and the date/time of the opt-in to the Urban Airship platform. This triggers Urban Airship SMS to send a double opt-in request (with adjustments made if requested by the brand):

> **{Brand Name}:** *Reply Y for recurring autodialed {type of messages/alerts}. No purchase rqd. Msg&data rates may apply. {Message Frequency}. Reply HELP for help, STOP to cancel.*

The consumer doesn't get added to the opted-in list until they respond with a "Y." Once added to the list, Urban Airship SMS sends an automatic confirmation alert:

> **{Brand Name}:** *You've subscribed to receive recurring {type of messages/alerts}. Msg&data rates may apply. {Message Frequency}. Reply HELP for help, STOP to cancel.*

BRAND MANAGED OPT-IN
Opt-In Owned by the Brand and Uploaded to Urban Airship SMS via API
The consumer uses the brand's website, app, paper form or other means to opt into receiving SMS messages. The phone number and opt-in date/time are then passed to Urban Airship by the brand via the Urban Airship API, and Urban Airship SMS tracks the opt-in date/time in our

database along with the phone number. If the number is not already in the Urban Airship opt-in database for that brand, the number is automatically added to that opt-in database. Brands must make sure that the call to action for the opt-in clearly provides all necessary information under applicable law and that the consent meets applicable legal requirements.

Opt-In Owned by the Brand and Uploaded to Urban Airship via CSV File

The consumer uses the brand's website, app, paper form or other means to opt into receiving SMS messages. The phone number and opt-in date/time are then passed to Urban Airship by the brand via the Urban Airship Message Composer, and Urban Airship SMS tracks the opt-in date/time in our database along with the phone number. If the number is not already in the Urban Airship opt-in database for that brand, the number is automatically added to that opt-in database. If any number on the uploaded list does not include an opt-in date/time, that number is not added to the opt-in database and no message is sent to that number. Brands must make sure that the call to action for the opt-in clearly provides all necessary information under applicable law and that the consent meets applicable legal requirements.

Transactional Messages

Transactional messages are messages that are closely related to the service being provided, such as delivery updates for a package or appointment reminders. Once the consumer provides the brand with legally appropriate consent to receive transactional messages, the brand triggers sending the transactional message by providing the phone number and opt-in date to Urban Airship SMS via our API. Prior express consent to receive transactional SMS notification cannot be used for sending marketing SMS messages that require prior written consent.

Each opt-in database for a brand will have the same scope of messages, such as promotional alerts or account update alerts. A separate code will be required to add another type of campaign. Brands should make sure that written consents from legacy or existing customers include all legally required elements of a consent, and if in doubt, obtain new consents from existing consumers covering any missing requirements.

RIGHT TO OPT OUT

Under the TCPA, a consumer may revoke consent through any reasonable method, including verbal communication. In the context of text messaging, a consumer may opt out with the keyword "STOP," and the business should unsubscribe that consumer out of all recurring SMS messaging programs and cease SMS messaging to that consumer, unless that consumer subsequently opts in.

URBAN AIRSHIP SMS SUPPORTS THREE OPT-OUT METHODS

Mobile Device Originated Opt-Out Request

When a consumer texts the brand with a keyword like STOP (or any opt-out keyword as specified by TCPA – there are five such keywords in the United States), Urban Airship SMS automatically responds with a confirmation and adds an opt-out date/time to our database:

> *{Brand Name}: You have opted out and will receive no further messages. Reply HELP for help.*

Marketers can tailor the content of this opt-out confirmation message to fit their workflow and brand requirements.
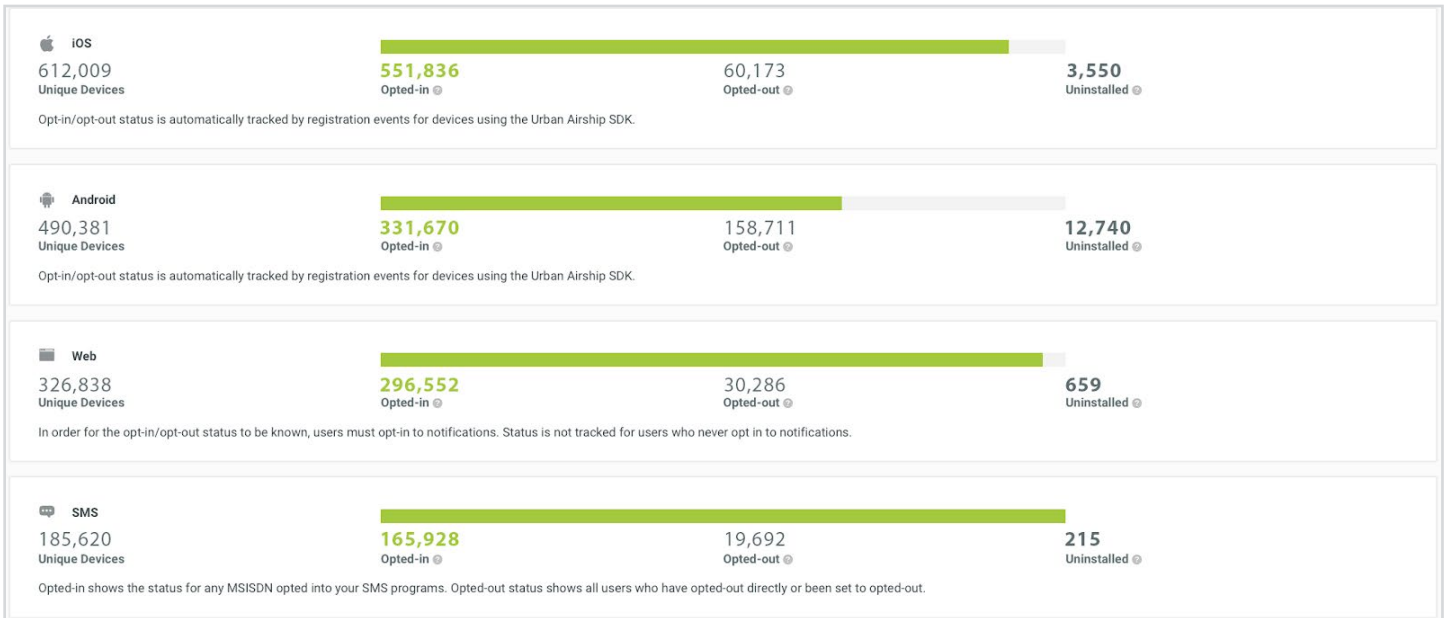
Urban Airship does not send messages to any numbers that have opt-out dates associated with them. If the consumer decides to opt in again, the Double Opt-In or Brand Managed Opt-In methods describe above will register a new opt-in date.

Opt-Out via Website or App

If a consumer changes their preferences in a Preference Center—or in some other way via the brand's website or app—the brand must pass the opt-out information to the Urban Airship platform using the Urban Airship API. Urban Airship then adds the opt-out date/time to our database.

Carrier Deactivation Handling

Mobile network operators (like AT&T, Verizon, etc.) provide Urban Airship with a list of deactivated phone numbers on a daily basis (i.e., consumers who have disconnected service with that operator). Urban Airship SMS automatically uninstalls these numbers (removes them from our database entirely) so that the brands don't inadvertently message the wrong person if that number gets reassigned.

iOS			
612,009 Unique Devices	**551,836** Opted-in ⓘ	60,173 Opted-out ⓘ	**3,550** Uninstalled ⓘ

Opt-in/opt-out status is automatically tracked by registration events for devices using the Urban Airship SDK.

Android			
490,381 Unique Devices	**331,670** Opted-in ⓘ	158,711 Opted-out ⓘ	**12,740** Uninstalled ⓘ

Opt-in/opt-out status is automatically tracked by registration events for devices using the Urban Airship SDK.

Web			
326,838 Unique Devices	**296,552** Opted-in ⓘ	30,286 Opted-out ⓘ	**659** Uninstalled ⓘ

In order for the opt-in/opt-out status to be known, users must opt-in to notifications. Status is not tracked for users who never opt in to notifications.

SMS			
185,620 Unique Devices	**165,928** Opted-in ⓘ	19,692 Opted-out ⓘ	**215** Uninstalled ⓘ

Opted-in shows the status for any MSISDN opted into your SMS programs. Opted-out status shows all users who have opted-out directly or been set to opted-out.

Urban Airship SMS offers opt-in and opt-out reports to help brands manage their SMS marketing programs.

URBAN AIRSHIP OPT-IN AND OPT-OUT RECORDS AND REPORTING

Brands should maintain all consent records that provides relevant details. Urban Airship retains opt-in date/time records and opt-out date/time records for a mobile phone number in our database for four years.

Urban Airship SMS reports give brands the ability to view opt-in and opt-out status for consumers who have provided consent to receive SMS messages from the brand. We also make it possible to drill down to see details — and/or stream opt-in and opt-out events into other business systems via Urban Airship Connect.

INDUSTRY BEST PRACTICE RESOURCES

In addition to country specific laws and regulations governing SMS messaging, industry groups have published best practice guidelines for companies engaged in text marketing. These include the Mobile Marketing Association's Consumer Best Practices for Messaging and the wireless industry association CTIA's Short Code Monitoring Program.

CHECK WITH YOUR LEGAL DEPARTMENT OR COMPLIANCE TEAM

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