

SMS Messaging and Consent

How Airship Supports
Compliance Best Practices



Airship assists our customers in building strong, successful SMS marketing programs by supporting compliance with laws and industry best practices as summarized in this document.

Meeting regulatory requirements and maintaining best practices to support customer relationships are critical for brands that use SMS in their marketing mix. Regulations such as the U.S. Telephone Consumer Protection Act of 1991 (TCPA), the Canadian Anti-Spam Law (CASL), and the EU Directive on Privacy and Electronic Communications (the ePrivacy Directive), include strict requirements for sending SMS marketing messages. Additionally, industry guidelines, such as the Mobile Marketing Association's Consumer Best Practices for Messaging and the wireless industry association CTIA's Short Code Monitoring Program should be carefully considered when implementing SMS campaigns and activities.

GENERAL REQUIREMENTS

Prior Express Written Consent

Under the TCPA, and other laws, a business must provide clear and conspicuous information about its practices and get the recipient's express written consent to receive text messages before sending an automated message. Businesses should check for the legal age of consent based on where the recipient is located. If a business is using a purchased phone list, consent and opt out requirements still apply.

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 message frequency. Best practice to use "message frequency varies"
- Disclose that message and data rates may apply
- Provide a link to applicable terms and privacy policy (terms should include a section that details the SMS program including description; opt-in, opt-out and help information)
- Provide a way to opt-out (e.g. reply STOP to end) and how to 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 NAME}** Terms and Privacy Policy at [\[brand.com/sms-terms\]](#). Message frequency varies with use. 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 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 and data rates may apply
 - How to opt out
 - How to get help
 - Provide links to terms and privacy policy

EXAMPLE OF CONFIRMATION MESSAGE

{BAND NAME}: You've subscribed to receive recurring promotional msgs. Msg&data rates may apply. Msg frequency varies. Reply HELP for help, STOP to cancel.

AIRSHIP SMS SUPPORTS TWO OPT-IN METHODS

Double Opt-in

In response to a call to action from the brand, a consumer texts "JOIN" from their mobile device or responds through another form — i.e., a website, app, or any means other than sending a text with an opt-in keyword. This triggers the Airship SMS channel to send a double opt-in request (example message below, customizable for your brand):

{BRAND NAME}: Reply Y to agree to receive recurring autodialed **{type of messages/alerts}** and to our Terms of Service [\[insert TOS hyperlink\]](#) and Privacy Policy [\[insert PP hyperlink\]](#). No purchase reqd. Msg&data rates may apply. Message frequency varies. Reply HELP for help, STOP to cancel.

In the Airship SMS channel, the consumer will not get added to the opt-in list until they respond with a "Y." Once added to the list, 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 varies. Reply HELP for help, STOP to cancel.

Brand-Managed Opt-In

Opt-in owned by the brand and uploaded to Airship SMS via API or CSV file:

The consumer uses the brand's website, app, paper form or other means to opt-in to receiving SMS messages. The phone number and opt-in date/time are then passed to Airship by the brand via the Airship API or uploaded via the Airship platform, and Airship SMS tracks the opt-in date/time in our database along with the phone number.

If the number is not already in the Airship opt-in database for that brand, the number is automatically



added to that opt-in database. If uploading via CSV, any number on the uploaded list that does not include an opt-in date/time 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 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 the sending of the transactional message by providing the phone number and opt-in date to Airship SMS via our API as described above. It is important to note that consent to receive a transactional SMS notification cannot be used for sending any marketing SMS messages. 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 or, in the context of text messaging with keyword such as “STOP.” The business should confirm that it is able to process requests received (1) via text, using words other than STOP (i.e., unsubscribe, cancel, etc.), and (2) via other channels, for example if a customer contacts customer support and asks to be opted-out of text messages. The business should unsubscribe that consumer out of

all recurring text messaging programs and cease text messaging to that consumer, unless that consumer subsequently opts-in.

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 of the other opt-out keywords specified by law or best practices), Airship SMS automatically responds with a confirmation and adds an opt-out date/time to our database (example message below, marketers can tailor the content of this opt-out confirmation message to fit their workflow and brand requirements):

{BRAND NAME}: You have opted-out and will no longer receive messages. Reply HELP for help

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 described 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 Airship platform using the Airship API. Airship then adds the opt-out date/time to our database.

Carrier deactivation handling:

Mobile network operators in the USA (like AT&T, Verizon, etc.) provide Airship with a list of deactivated phone numbers on a daily basis (i.e., consumers who have disconnected service with that operator). 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.



AIRSHIP OPT-IN AND OPT-OUT RECORDS AND REPORTING

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

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 Airship Real-Time Data Streaming API.

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

Please note that the above content is provided for information purposes only and is not intended to and should not be relied on as legal or compliance advice. Please consult with your organization's legal counsel or regulatory compliance team for compliance with all applicable laws and regulations.

