



## SMS / MMS COMPLIANCE & BEST PRACTICES

A key ingredient to a successful text campaign is compliance with federal and industry regulations. As a trusted user of 3Seventy's platform, you must implement text message marketing best practices in accordance with CTIA-Wireless, Federal Trade Commission, Mobile Marketing Association, Federal Communications Association, as well as wireless carrier guidelines. We make it easy for brands to launch campaigns that meet text message marketing compliance guidelines.

### THE BASICS

#### Opt-In Process

**SMS is 100% Opt-In.**

##### Consent

You must have written consent from your customer in order to send them text messages. Always be clear and concise about what the customer can expect from your text program.

What qualifies as written consent?

- When a customer text a **keyword** "MYDISCOUNT" to a **short code** "04444"
- When a customer signs up to receive text messages on a print or web form that includes all required disclosures

What does NOT qualify as written consent?

- Purchased lists: You cannot send texts to customers that did not give written consent. You could be fined \$500-\$1,500 per text!
- Non-Compliant Advertisement: Your advertisement for the text campaign must include required disclosures.

##### Double Opt-In

Our platform sends a double opt-in message when a customer opts in to receive text messages from you, if the customer didn't opt-in via keyword. When a customer signs up (opts-in) using a website or form to receive text, you are required to confirm that he or she has that mobile phone in possession by sending a confirmation message - this is called a *double opt-in*.

##### The Confirmation Message

Our platform sends a confirmation message when the customer opts-in to receive text messages, which includes the program name, description and required compliance language. The customer replies YES, and is confirmed as a subscriber to your text messaging program.

#### Stop / Opt-Out Process

When a subscriber texts, "STOP", "END", "CANCEL", "UNSUBSCRIBE" OR "QUIT", the 3seventy platform opts the customer out of the program, and sends a text to confirm they don't want to receive any further messages.

## Help / Customer Care

When a subscriber texts “HELP” or “INFO” to one of our short codes, then the 3seventy platform sends the customer a message with customer support information including a support email and phone number.

## Message Content

The content of your messages must always include opt-out instructions, which are automatically appended with the 3seventy platform. And you must make it clear to the subscriber who you are and what you are offering. Read the detailed best practices below.

## Calls-To-Action in Marketing

Any calls-to-action in your marketing materials must be clearly stated and accurate. The marketing channels used to promote text marketing campaigns including print advertisements, television commercials, online advertisements, and radio must have clear and conspicuous disclosure of the following information:

- ❑ Program Name and Description: Identify the company/brand name and a brief description of the content “[Joe’s Bakery News Alerts](#)”
- ❑ Message Frequency: How often will you send text messages? Include a phrase such as “[Up to 8 messages per month](#)”
- ❑ Opt-Out Instructions: How can the user opt-out of the program? Include the phrase “[Text STOP to End](#)” or “Text STOP to cancel any time”. The word “**STOP**” must be in caps and bold on the advertisement.
- ❑ Help Instructions: How can the customer get more information about the program? Include the phrase “[Text HELP for more information](#)”. “**HELP**” must be in caps and bold.
- ❑ Additional Carrier Costs: Make it clear that while the program does not cost money, wireless carrier costs apply. Include the phrase “[Message and Data Rates May Apply](#)”
- ❑ Terms & Conditions Link: The advertisement must include customer care information e.g. “Text HELP for help” and you must include a link to the comprehensive Terms & Conditions (hosted on a static website) for print, television and radio advertisements.
- ❑ Privacy Policy: Include a link to a separate webpage outlining the program’s privacy policy, or notate if it’s included in the Terms & Conditions.
- ❑ No Purchase Necessary: Clearly state that the customer is not obligated to make a purchase in order to participate in the text program. Include the statement “[You are not required to provide your mobile number as a requirement for purchasing property, goods, or services.](#)”
- ❑ Authorization: When a customer texts the keyword to the short code listed in your ad, he/she is agreeing to receive text messages from your company. “[You consent to receive messages from ‘Brand’ using automated technology at the mobile number you provide.](#)”

## Terms and Conditions

In all of your marketing materials, you will be including Terms & Conditions around your texting program. Those terms must include the following information:

- ❑ Program Name & Description: Identify the company/brand name and a brief description of the type of content you will be sending, such as coupons or news alerts. “[John’s Bakery](#)” or “[The Gino’s Pizza txt club](#)”
- ❑ Message Frequency: How often will you be sending messages? Examples: “[Up to 8 messages per month](#)” or “[recurring](#)” or “[periodic](#)” if you cannot predetermine the message frequency.
- ❑ Customer Service Contact Information: Either toll-free number, web submission form, or an email address.
- ❑ Opt-Out Instructions: Include the phrase “[Text STOP to End](#)” or “Text STOP to opt out of the program”. The word “**STOP**” must be in bold.
- ❑ Help Instructions: Include the phrase “[Text HELP for more information.](#)” “**HELP**” must be in and bold.
- ❑ Additional Carrier Costs: Include the phrase “[Message and data rates may apply](#)”
- ❑ Checkbox can NOT be pre-checked. If a checkbox is used to indicate a customer’s acceptance of the Program Terms & Conditions, it is not permissible for the checkbox to be pre-checked.

## SMS BEST PRACTICES

### Program Message Content

Mobile phones are the most personal marketing device in the world. Acknowledge this by creating engaging conversations with prospective and existing customers. Don't be boring!! Regulations do *NOT* require you to include all of the compliance language in texts that you send after the confirmation message but here are best practices:

- ❑ Clear messages. Make sure your message content has clear concise information, and it's only about your texting program.
- ❑ Stick to your word. Only send what you said you would! If the user expects to receive 2 messages each month about special offers, then DON'T send unrelated content like trivia or twice as many messages.
- ❑ Respect your customers' time. Only send messages at reasonable hours of the day (between 8am and 8pm). Keep time zones in mind when scheduling your campaigns, and make sure to send reminders at least 24 hours in advance. It is also important avoid sending messages out during rush hour to avoid texting and driving.
- ❑ Opt-Out Instructions: Include the phrase "Text **STOP** to End" or "Text **STOP** to cancel".
- ❑ Careful about FREE: The use of the term "free" can only be used when you add "message and data rates may apply" in the text, unless the service is free-to-end-user. It's great to give away free stuff to your customers, but avoid confusion by making it very clear what is free. When you use the word **FREE** or similar words, make sure to include "Msg&DataRatesMayAply"
- ❑ Abbreviations in compliance language are prohibited. All compliance terms should be written out, rather than shortened with individual letters or numbers. "2" cannot be used for "to" (e.g. "Text STOP 2 End", "4" cannot be used for "for", or "Text HELP 4 HELP."

### Prohibited Text Message Content

- ❑ Profanity
- ❑ Promotion of illegal drugs or controlled substances
- ❑ Nudity
- ❑ Threats of violence or graphic violence content
- ❑ Hate/discriminatory speech
- ❑ Alcohol/tobacco marketing without strict age-verification
- ❑ Sexually explicit material
- ❑ Cannot target people under the age of 13 without parental consent

### Planning Your Text Program

**Set Objectives:** Define your objectives and anticipated outcomes for the mobile messaging campaign, in advance. If your campaign is designed to acquire new customers, then measure it against other customer acquisition campaigns and channels. If the campaign is designed to build long-term value by retaining customers, then benchmark the campaign against other retention campaigns.

**Integration:** Mobile marketing campaigns should be integrated with other marketing platforms, such as your Customer Relationship Management platform. This provides a better overview of the individual customers' wants and needs, and it leads to a better user experience for the subscriber as well as success metrics for the marketer.

**Relevance** is one of the most underestimated components of a text marketing campaign. Offers and messages must be relevant to them and their lifestyles. Communications that are not targeted can offend subscribers and lead to resentment.

**Test:** It is easy to change the content of text message in real time, so try different messages if the campaign is underperforming. Compare this to the challenges of changing a television commercial or even a digital ad. Mobile marketing is great for taking risks and trying different things because it's so flexible and easily changed.

**Personalize It:** Another advantage of mobile messaging channel is the ability to personalize messages based on existing customer data. Messages addressed to the individual recipient with a personalized offer will lead to far higher conversion rates than generic messages. This is where integration with your CRM platform can be essential for the creation of high performing mobile messaging campaigns. The 3seventy platform offers the ability to create a one-to-one dialog with individual consumers. Develop mobile campaigns that are focused and based on clearly defined profiles and customer segments.

## Promoting Your Text Program

**CTA:** Your call-to-action should be clear in your marketing materials and the text messages. And the process to redeem special offers must be easy to follow.

**Multi-Channel:** Mobile messaging is dependent on multi-channel marketing media including print, web, social, in-store, out of home, television, radio, and any other place the CTA is displayed and acted on. Try using different keywords to track each channel and test for success. The growth of your opt-in database is directly dependent on the effectiveness of this cross media integration.

## Marketing to Different Verticals

For each vertical, it's important to consider the unique context of your customers. Where will they be? What frame of mind will they be in? Will they be likely to download your app, subscribe to an SMS or text-to-get? What is the right cadence/volume of messaging that merits "shelf space" on the customer's home screen? What preferences, behavior and location information can you incorporate to make your messages relevant?

Here are ideas for serving customers in a variety of verticals, for each of the four mobile message categories: Deals, Service, Information and Convenience. They're not meant to be exhaustive, but rather thought starters for your team.

### TRAVEL, LEISURE AND HOSPITALITY

- Deals – Fare reductions and offers for different locations and destinations
- Service – Restaurant or shuttle wait times, check vacancy and or ticket availability
- Information – Links to area guides, taxi services, ticket brokers, check flight status/gate number
- Convenience – Geo-targeted app for check-in notification, text to check-out, get on the waiting list

### AUTOMOTIVE

- Deals – Special financing or discounts on a model of interest
- Service – Scheduled maintenance is due, service appointment reminder
- Information – The new model year now available online and or at your local dealer
- Convenience – Cost estimate for repairs, notification when service is completed

### FINANCIAL SERVICES

- Deals – Changes in interest rates, reward program notifications, new product launch
- Service – Request a higher credit limit, text-to-get balance
- Information – Suspicious activity, low/high balance, credit-limit exceeded, payment due
- Convenience – Closing appointment reminders, confirm unusual charges via text, bill pay, reward sign-up

### HEALTHCARE

- Deals – Reminder to use FSA funds before year-end
- Service – Prescription ready
- Information – Emergency room estimated wait times, friend/family member outpatient procedure updates

- Convenience – Appointment and scheduling reminders

### **QSR (QUICK SERVICE RESTAURANT)**

- Deals – Offers, sent at meal-time and/or geo targeted
- Service – Order ready for pick-up, delivery on way
- Information – Text-to-get nutrition information
- Convenience – Receipt via text, send-to-a-friend gift card

### **RETAIL**

- Deals – Coupons, offers, expiration reminders, geo-targeted in-store specials
- Service – In-store pick-up ready, price drop for product on watch/wish list, switch to store mode notification
- Information – Text-to-get recent product information, ratings & reviews
- Convenience – Text-to-get registry link, coupons that can be added to Passbook/Google wallet, loyalty number look-up, gift card balance

### **CONSUMER PACKAGED GOODS**

- Deals – Coupons
- Service – Request sample
- Information – Text-to-get recipe, how-to video links
- Convenience – Shopping list, text-to-enter sweepstakes

### **MEDIA**

- Deals – VIP offers, discounts
- Service – Pre-sale notification
- Information – New offering from favorite author/director/artist
- Convenience – Voting, contest entry, ticket purchase

### **PHARMACEUTICAL**

- Deals – Discounts
- Service – Medication reminder, pick up notice
- Information – Link to drug interaction tool, package inserts
- Convenience – Text-to-refill prescription

### **NON PROFIT ORGANIZATIONS**

- Deals – Matching gift opportunities
- Service – Donation pick-up reminder
- Information – Goals reached, event dates and reminders, links to success stories
- Convenience – Text to contribute

## **THE LEGAL DETAILS**

### **Unsolicited Messages**

- Unsolicited spam messages may not be transmitted using short codes. Unsolicited messages are defined as follows:
  - Messages delivered without prior express written consent from the user or account holder, and
  - Messages sent after a user has opted out

### **Marketing Context**

No component of program advertising or messaging may be deceptive about the underlying program's functionality, features, or content. All disclosures present in pre-purchase calls-to-actions, ads, terms and conditions, and messaging must remain clear and consistent throughout the user experience. Calls-to-action must be clear and accurate; consent must not be obtained through deceptive means. Enrolling a user into multiple programs based on a single opt-in is prohibited, even when all programs operate on the same short code.

### **Opt-In Process**

Messages must be delivered to a user's handset only after the user has opted in to receive them. A user might indicate interest in a program in several ways. For example, a user might

- Enter a phone number online
- Click a button on a mobile webpage
- Send a text message containing an advertising keyword, or
- Sign up at a point-of-sale location

The opt-in for all short code programs must comply with all legal and regulatory requirements, including the TCPA, 47 U.S.C. §227, and the FCC's rules under 47 C.F.R. §64.1200. For example, the express written consent obtained for any program that is "telemarketing" (as defined by 47 C.F.R. § 64.1200(f)(14)) must, unless exempt from the requirement, include the elements of "prior express written consent" set forth in 47 C.F.R. § 64.1200 (f)(8). That rule requires a clear and conspicuous disclosure informing the user that:

- By opting in, the user authorizes the seller to deliver or cause to be delivered to the user marketing messages using an automatic telephone dialing system; and
- The user is not required to opt in (directly or indirectly) as a condition of purchasing any property, goods, or services

### **Handset Confirmation**

Handset possession is confirmed implicitly when a user opts in from a mobile handset (e.g. keyword-based opt-ins, mobile Web opt-ins); all other opt-ins for recurring services must include an additional step to confirm handset possession. *\*Confirmation messages are built into the 3seventy portal*

### **Opt-Out**

Short code programs must respond to, at a minimum, the universal keywords STOP, END, CANCEL, UNSUBSCRIBE, and QUIT by sending an opt-out message and then opting the user out of a program. Subsequent text, punctuation, and capitalization must not interfere with opt-out keyword functionality.

Recurring programs must also promote opt-out instructions at when the subscriber opts-in and at regular intervals in content or service messages, at least once per month. Opt-out information must be displayed in bold type on the advertisement. A service may deliver one final message to confirm a user has opted out successfully, but no additional message may be sent after the user indicates a desire to cancel a service. *\*Opt-Out logic and messages are built into the 3seventy portal*

### **Customer Care**

Customer care contact information must be clear and readily available to help users understand program details as well as their status with a program. At a minimum, the HELP keyword must return the program name and further information about how to contact service providers. *\*HELP messages are built into the 3seventy portal*

## **Program Content**

All content associated with short code programs must promote a positive user experience. Carriers regulate certain types of content, including those listed below.

### **Unapproved or Illicit Content**

No program associated with carrier brands or operating on the carrier networks may promote unapproved or illicit content, including the following:

- Depictions or endorsements of violence
- Adult or otherwise inappropriate content
- Profanity or hate speech, and
- Endorsement of illegal or illicit drugs

Programs must operate according to all applicable federal and state laws and regulations. All content must be appropriate for the intended audience. Additional legal and ethical obligations apply when marketing to children under age 13 and such programs might be subject to additional review on a carrier by carrier basis.

### **Controlled Substances**

Promotions of controlled substances might be subject to additional review on a carrier by carrier basis. Service providers must receive explicit carrier approval before launching these types of programs. Marketing of hard alcohol and tobacco brands must either include robust age verification (e.g. electronic confirmation of age and identity) at opt-in or restrict promotions to age-verified locations (e.g., POS in bars). Mobile programs must not promote the use of controlled substances directly. Reference to the abuse of controlled substances is prohibited.

### **Sweepstakes and Contests**

Sweepstakes and contests might be subject to additional review on a carrier by carrier basis. Service providers must receive explicit approval before launching these types of programs. All sweepstakes must support a no-cost entry method. Service providers operating sweepstakes should seek legal guidance.

### **Privacy Policy and Terms of Use**

Service providers are responsible for protecting the privacy of user information and must comply with applicable privacy laws. Service providers should maintain a privacy policy for all programs and make it accessible from the initial call-to-action. When a privacy policy link is displayed, it should be labeled clearly.

Use cases might require different disclosures in the full terms and conditions. In all cases, terms and conditions and privacy policy disclosures must provide up-to-date, accurate information about program details and functionality.

Different rules apply if you are dealing with medical information, which is governed under HIPAA Regulations, <http://www.hhs.gov/ocr/privacy>