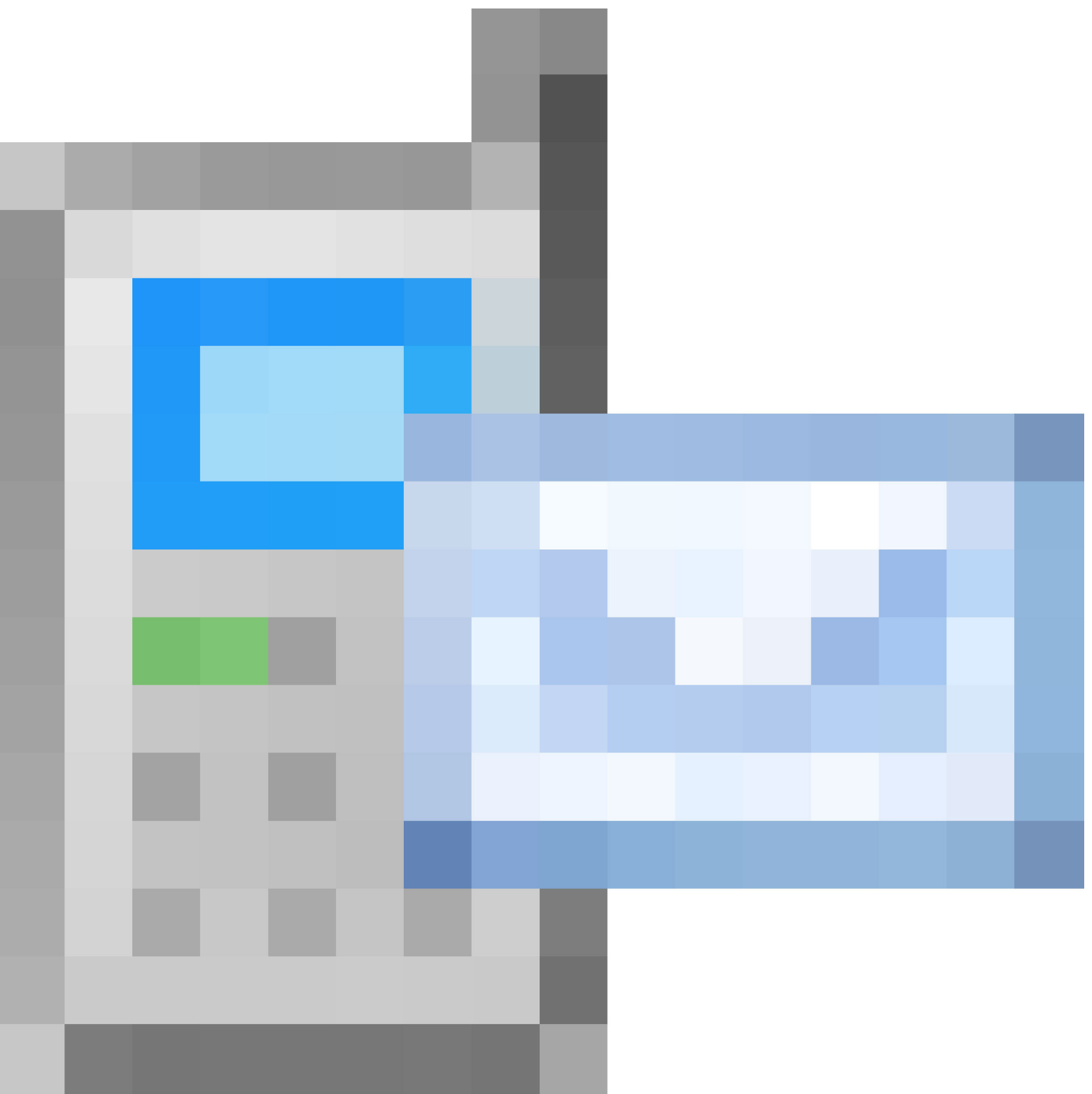


AUSTRALIAN SMS SPAM COMPLIANCE

A SIMPLE GUIDE



What is SMS?

SMS IS THE MOST PERSONAL AND IMMEDIATE COMMUNICATION METHOD AVAILABLE. THIS MEANS SPAM COMPLIANCE IS OF THE UTMOST IMPORTANCE.

- 95% of text messages are opened within 4 mins compared to 48hrs for email.
- SMS messages are capped at 160 characters in length although in many countries multiple messages can be combined into one with a process called concatenation.
- SMS can be used to deliver text, but also links to the mobile web which can enable video, images and applications.
- With the forethought, planning and best practices in mind, your organisation can benefit hugely with this channel.
- If strict guidelines are not followed you can have extremely negative impact on your brand.

If strict rules and guidelines are not followed you can have extremely negative impact on your brand.



What is the Spam Act 2003?

THE ACMA (AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY) PASSED THE SPAM ACT TO CRACKDOWN ON UNSOLICITED ELECTRONIC MARKETING AND SPAM

- Many businesses will be aware of the SPAM ACT 2003 in regard to email but the law applies to all electronic messages including SMS in exactly the same way.
- The consequences and fines that have been issued by the ACMA during Federal Court proceedings are significant. They have broad powers.
- SPAM is generally associated with sending thousands of messages however under the SPAM act just one message sent without consent can be considered SPAM.
- The SPAM ACT 2003 covers email, SMS, MMS and instant messaging, phone calls and facsimile are exempt.

Many businesses are not aware that the SPAM ACT applies to SMS as well as Email



For more information visit the acma website at www.acma.gov.au

What are the compliance rules?

THERE ARE THREE PRIMARY RULES THAT EVERY COMMERCIAL SMS MESSAGE MUST ADHERE TO IN ORDER TO NOT BE SPAM.

- **CONSENT** - You must have consent to send a commercial message, there are many ways to gain consent. Please see page X for consent guidelines.
- **SENDER IDENTIFICATION** - You must identify yourself when sending the message, either in a recognisable CallerID or within the message itself. Please see page x for sender identification guidelines.
- **FUNCTIONAL UNSUBSCRIBE FACILITY** - You must provide a unsubscribe method that is active for at least 30 days.

There are three main rules that must be adhered to when sending commercial SMS



How do I get consent?

THE IDEA BEHIND CONSENT IS THAT THE RECIPIENT SHOULD WANT TO RECEIVE YOUR MESSAGE AND FIND IT USEFUL WHEN THEY DO. SMS IS ESPECIALLY PERSONAL, NOBODY WANTS MESSAGES THAT ARE IRRELEVANT. THERE ARE TWO TYPES.

• EXPRESS CONSENT

- Filling in a form,
- ticking a box on a website
- over the phone
- face-to-face
- swapping business cards

The recipient must be clearly aware that he or she may receive commercial messages in the future. You cannot send an electronic message to seek consent: this is in itself a commercial message, because it seeks to establish a business relationship. Keep a record of consent, you may need to prove it later.

• INFERRED CONSENT

- Through an existing business relationship
- Through conspicuous publication of a work-related number

If an organisation has a strong relationship with the owner of the number such as a club member or service subscriber receiving messages may be implied.

Consent may also be implied by the publishing of numbers on websites, in magazines or other publications. The recipient must be identified as relevant to your message. eg if you want to send information about a technology product the recipient must be identified as the IT manager. If there is a statement that unsolicited commercial messages are not wanted you cannot infer consent.

How do I identify myself?

YOU MUST IDENTIFY YOURSELF WHEN SENDING COMMERCIAL MESSAGES. GENERALLY PEOPLE WILL NOT RECOGNISE YOUR NUMBER SO YOU MUST IDENTIFY YOURSELF IN THE MESSAGE.

- **CALLER ID**

Some systems allow you to edit the CallerID so that when a recipient receives the message a name appears instead of an unknown number. You can use this to identify yourself however be aware that you cannot receive replies using this method so you will need to provide some other type of opt-out method.

- **IDENTIFY YOURSELF IN THE MESSAGE**

The best way to identify yourself is within the message, this way you can use a special number to receive replies and process opt-out's. It is also a good idea to qualify the recipient as to why they are receiving the message. eg. Beauty Spa Members. This weeks specials are...

By identifying yourself you will lessen the risk of damaging your brand by annoying people. They will not always remember when or how they came to subscribe to your service.

*Identifying yourself
and noting why the person is
receiving the message will
generate the best experience.*



How do I allow users to opt-out?

AS PART OF YOUR RESPONSIBILITIES YOU MUST PROVIDE AN OPT-OUT METHOD THAT IS PART OF YOUR MESSAGE.

- **OPT-OUT LONG CODE**

The best way to manage opt-outs is to allow a recipient to reply to the message. This is usually with the word STOP. A campaign should be sent from an opt-out long code. The recipient can simply reply STOP to automatically remove themselves from lists.

- **REPLY STOP TO YOUR NUMBER**

If you send small campaigns you can also just instruct people to opt-out directly to your phone. If you do this by law you must remove the recipient from your list within 5 days.

- **OTHER INSTRUCTION**

You can also instruct people to email you or call you to opt-out, as long as the instruction is contained within your message and you action it within 5 days.

By law you must provide a functional opt-out method for 30 days.

