



Texting Compliance Guide

Updated April 24, 2020

Table of Contents

Overview	3
Compliance Basics.....	3
Don't Be a Spammer	3
Frequency Blocks	3
Content Blocks	4
Implement Permission Marketing	4
Obtaining Consent	4
Double Opt-In Explained	5
We at Bolder CRM do not recommend a double opt-in.....	5
Advertising Use Cases	5
Handling Opt-Outs	6
Soft Opt-Out vs. Hard Opt-Out	6
Bulk SMS and General Best Practices	7
Message Recommendations.....	7
Short Codes vs. Long Codes	9
Speed of sending/receiving text messages.....	10
Deliverability	10
Inbound to Outbound text ratio	10
Common Use Cases.....	10
About the Author	12

Overview

Conversational and bulk text messaging is a powerful communications channel. Text messaging has rules and regulations across the globe. Any company that uses text messaging needs to understand and follow the rules surrounding its use. Businesses that use proven best practices in conversational text messaging get better results across the board. This Guide shares a basic overview of key compliance requirements. We also share some of the basic best practices for users of text messaging, proven by our thousands of global customers.

Compliance Basics

Compliance refers to the rules that guide conversational text messaging, what you can do, how you can do it, and things you want to avoid. This guide focuses on the US regulations. Text messaging is governed by The Federal Communications Commission (FCC). The FCC is the primary body in the USA for regulating communication by satellite, wire, radio, television, and cable, so text marketing also falls under its domain.

Text messaging compliance follows the specific rules of the Telephone Consumer Protection Act (TCPA) and/or the European Union's General Data Protection Requirements (GDPR). The TCPA is the main anti-telemarketing law in the USA. It also applies to text messaging, since texting is viewed as a transaction similar to a phone call. Here are some simple rules to follow to be sure your organization stays in compliance with the TCPA regulations.

Don't Be a Spammer

One of the major focus areas of the FCC is in controlling SPAM. Just like email and robo-calls, text messages may also be considered as SPAM. Unlike email though the carriers have figured out how to monetize text-based marketing by throttling the throughput on long codes (normal looking phone numbers) and offering faster throughput and white-listing for short codes (short 5 to 6-character numbers). They also have implemented algorithms to detect spam and may temporarily block a number when flagged.

More on **Long Codes** and **Short Codes** in the following sections but for now let's talk about how to avoid being tagged as SPAM. You can expect two types of blocks by the carriers:

Frequency Blocks

If a long code (regular looking phone number) is sending more than 2-3 messages every second continuously, the number may get flagged for a frequency block. Every 160 characters is considered as one(1) SMS transaction.

In a scenario where the customer is running a campaign with a message body exceeding 160 characters, each set of 160 characters in the message body is considered as one message. Thus, a message going out with 200 characters is actually two messages.

Read the document named [Batch Texting w/ 360SMS](#) to learn techniques for dispersing your large batch across multiple relatively inexpensive Sender Numbers automatically. Imagine a list of 1000 contacts that will surely be flagged for a frequency block if batch texting from one Sender Number. Now, if you

use the 360SMS features for designating business logic such as Contact.Owner.SMS_Number that traffic could be dispersed randomly across all the Sales peoples numbers. Other common use cases are to use matching area codes per customer to both give a local presence but also to disperse batch SMS traffic among multiple sender numbers.

Content Blocks

When a long code is sending the same SMS Template to multiple mobile numbers. The best way to take care of this by merging at least one field such as Hello {!Contact.firstname}. While not always practical, if the message is more than 160 characters, then consider using a merge field at the start and at the bottom of the message body (every 160 characters). This will make the message look unique to the Carrier's anti-spam detection filters. The whole idea is the make sure your traffic looks human-like and not system generated.

One easy idea is that if your message uses a hyperlink at the bottom of your message. Only with 360SMS does the link get automatically Bitly Shortened into a unique link for each outbound SMS. Thereby, tricking the anti-spam algorithms to think that this segment is different for each message.

Implement Permission Marketing

Permission marketing is the process used to collect permission from your individual contacts to communicate with them. In the case of texting, permission marketing means that:

- All contact consent should be in writing.
- You need to disclose that you will contact them in the future by text message, before they consent.
- You must keep this consent form for 4 years (minimum statute of limitations, TCPA)

Obtaining Consent

Consent can be in either a digitally signed form or in an actual signature form. Digital forms can include a website form, email, text message, check-box form, application or other digital document.

Permission is for a person, though legally it's for the mobile number. What needs to be in the consent form? Here's a template that you can adapt for your industry and business.

"By checking this box and submitting this form, I agree to receive phone calls and/or text messages from or on behalf of [XYZ Company], regarding their products and services, at the phone number(s) provided on this form, including my wireless number (if applicable). I understand that these calls may be generated using an automated technology. I understand that consent is not a condition of purchase."

As you adapt this statement for your own use, be sure that you:

- Give an overview of the full range of all potential messages contacts should expect to receive.
- State terms & conditions prominently & clearly.
- Make signing the agreement optional.

Double Opt-In Explained

You also need to understand the concept of a double opt-in, and when you need to use it in conversational text messaging. Here's what you need to know:

- If you get written consent via an SMS from a mobile device itself (a "device opt-in"), you have the written consent of the mobile device owner.
- In case you get the written consent through another method, such as a paper or web form (a "non-device opt-in"), it's not clear that the person giving consent is the mobile device owner. That's where a second opt-in comes in.

The GDPR (Global Data Protection Requirements for EU Countries), U.S. wireless association, CTIA and the Mobile Marketing Association (MMA) rules require that, a marketer must:

- Send a single text message to the mobile device owner
- Request a text response (e.g., "text 'Y' to start receiving text messages.) The device owner must respond positively for consent to be completed.

We at Bolder CRM do not recommend a double opt-in

Most of our customers begin messaging prospects and customers who are familiar with the company and have already given consent through a web form or other mechanism. We **do** recommend sending a notification message upon registration with details of the program and describing the types of messages they are going to receive. However, we do not feel that a double-opt-in is necessary for most businesses that have already obtained the first consent via web registration.

Advertising Use Cases

If you're running advertisements or social media campaigns to capture leads, you need to follow these rules for compliance.

First, be sure you include the following in your ad:

- Name of the program they are joining
- Description of the program or campaign
- Message frequency which they can expect
- Provide a URL to the complete terms & conditions, including privacy policy, help, opt out information, etc.

When you receive their opt-in, message back and ask contacts to text a keyword such as CONFIRM.

After they confirm, send a legally compliant message back to them that states the following:

- Company name
- Value proposition
- Frequency of messages that will be sent monthly
- Possible carrier costs & fees
- Option to ask for help/ opt-out of future texts

Here are a couple of additional tips:

- If you don't send a message to a contact within 18 months of his/her opting in to your text messaging, their original consent is considered inactive.
- Always be sure to match your content to the content the prospect signed up for

Handling Opt-Outs

Handling opt-outs correctly is one of the most important aspects of compliance and best practices for text messaging. When someone chooses to opt-out of your messages, you must comply, or risk penalties for spamming. 360 SMS has automatic Opt-Out and Opt-In features that handle all aspects of the opt-out and opt-in experience. Rest assured that when Single Texting, Bulk Texting or Triggered Texting, if the contact's phone number has been marked SMS Opt-Out = True then all of these processes will fail in an elegant way with either a warning (when single texting) or by simply skipping the contact in the case of bulk or triggered texting.

Below is a set of best practices for managing opt-outs that will keep you compliant:

- Offer an easy way for the receiver to opt-out, e.g., "Reply STOP to opt-out"
- Be sure that you mention options for opting-out in at least one message per month
- When a contact requests an opt-out, be sure to acknowledge that request with a message so that the contact knows that you've received their opt-out request and have acted on it. **This is automatic with 360 SMS.**
- Implement an auditing process to monitor the opt-out's. Be sure to review your process monthly to ensure it is effective and that you don't have any opt-out errors
- Training your team to manage opt-outs is critical. They need to understand and follow the opt-out processes in order to meet compliance requirements
- In the case of an emergency, certain entities are allowed to send one message to opt-outs
 - For example, a university or first-responder network

Soft Opt-Out vs. Hard Opt-Out

There are two opt-out scenarios to consider, the soft opt-out and the hard opt-out.

A **soft opt-out** is when a customer asks either by phone or in a lengthy sentence to "please stop sending me texts." In which case you are obligated by law to check the SMS Opt-Out checkbox on their record. This is called "soft" because, one could simply uncheck the box and the system would allow you to continue texting the user. Train your people accordingly though that by law you must honor their requests.

A **hard opt-out** on the other hand is when the customer replies with either of these two keywords that are written into USA law, namely **STOP** and **UNSUBSCRIBE**. By law, many of the upstream texting aggregators will blacklist the combination of the SMS_Number + Customer Number from ever getting text messages regardless of the value of your Salesforce opt-out checkbox. The aggregator also sends them an automated message saying "You have been successfully unsubscribed. Reply START to re-subscribe." If they have Hard unsubscribed the only way that 360SMS will allow you to text them again is with an incoming START keyword from customer. Note that the opt-out is on a per Sender Number basis not per company. The 360SMS platform interprets the STOP though to mean for all numbers and

will mark the SMS Opt-Out checkbox. 360 SMS allows you to define additional unsubscribe keywords and even phrases in addition to the STOP and UNSUBSCRIBE but those simply mark the SMS Opt-Out checkbox automatically for you but are still consider soft unsubscribes.

Bulk SMS and General Best Practices

The following best practices will increase the likelihood that your message is **delivered, read and acted** upon.

Message Recommendations

Just like email marketing these general “golden rules” apply to text-message marketing:

1. Personalize it
2. Identify who you are
3. Keep it short
4. Keep it relevant

The first thing to think about with any text messaging campaign is the overall content and the actual message. Please consider these best practices and recommendations:

- **Always use their name** — Just like email marketing, personalization and relevance matter!
- **Use Merge Tags** — The sure-fire way to be identified as a spammer is to not personalize the message. At a minimum you should always use the `{!Contact.firstname}` merge tag but as noted in the “long messages” recommendation below, you should consider using merge tags in each 160 character segment especially for big batch/bulk SMS where the risk of the Frequency + Content blocking is ever-present.
- **Introduce yourself** — Do not assume your contact knows who you are even if you have sent them previous messages. Usually, they have not saved you as a Contact on their phone and they have probably deleted your past messages. Remind them who you are EVERYTIME. e.g. ***Hello Joe - Steve here @ Bolder CRM/360SMS***
 - **UserName Merge tags** — use either the `{!$User.firstname}` (current user) or `{!Contact.Owner.firstname}` merge tags so your templates are generic.
 - Hi `{!Contact.firstname}` - `{!$User.firstname}` here @ 360SMS.
 - Hi `{!Contact.firstname}` - `{!Contact.owner.firstname}` here @ 360SMS.
- **Get to the point** — State why you are contacting them - remember it’s called “**Short Message Service**” for a reason.
- **Get to your Call-to-Action quickly** — The best messages are under 160 characters, so get to the point with your Call-to-Action as quickly as possible.
- **Give clear instructions** — Be sure that any instructions for replying or other actions are simple and clear, e.g. Reply YES or NO, Reply INTERESTED or NO, Reply 1, 2 or 3

- **Upper Case your keywords** — Many modern SmartPhones offer intelligent auto responses as buttons. These are features of the phone, you're just facilitating this functionality with clear uppercased keyword response options.
- **Don't be passive** - Avoid open-ended questions, like "Let me know when you're available." Instead, **drive the action** with "I'll be calling you in the next 5 minutes, reply OK or LATER." Most people will reply **LATER** but then you automate the response with the 360 SMS iText tool such as below. You'll be surprised at how often people reply. The key is that you are engaging them long enough to then come in after the chatbot and have a real conversation.
 - "Okay, here's a link to my calendar: <https://boldercrm.com/book-a-meeting/?v=Phone-Call>"
 - "Okay, reply with a date/time."
- **Don't obsess over length** — Choose clarity over obsessing about keeping the message short. At less than 2 cents per message segment (160 characters), choose a clear message rather than obsessing over keeping the message short. **Ultimately you want your message to be understood.**
 - No one wants your robot looking message. Here's a classic for the texting wall-of-shame: **TextSTOPopout** - did they really need to save those two space characters and the word "to"?
- **Use Line Breaks** — It is okay and most definitely adds clarity to define your templates with line breaks just like you would use paragraphs. **Choose clarity every time!**
- **Use Hyperlinks** — Remember that hyperlinks sent in an outbound message are automatically shortened and trackable with 360 SMS in a native Salesforce object. **Most importantly**, the link is Bitly shortened into a **UNIQUE** link for each contact, thereby tricking the content blocking algorithms into thinking that the content is different for each message. **This is a huge benefit over all other SMS platforms!**
 - When clicked, you will be notified via email (if enabled) and/or you can use process builders to capture the change in the Click Count field to:
 - Drive additional responses
 - Add contacts/leads to campaigns
 - Update fields – increase a lead score or change a status
 - Create follow-up calls/tasks
 - Alert additional key stakeholders via email alerts or SMS alerts
- **Long Messages** — Understand that the definition of the Global SMS standard splits all messages into 160-character chunks (90 characters when using emojis and other non-english characters). Thus, when sending longer messages in big batches, the carriers can flag the latter portions of your message as all being the same. While not always practical, try to work in some other merge tag into each 160-character segment of your message. Adding a hyperlink to the

bottom of your message will do the trick since it is automatically Bitly shortened to a unique link for each contact.

- **Keep it light** – Texting is inherently more casual than email. People will appreciate you being less formal. No *“Dear Joe, I am writing because I am an old fuddy duddy that doesn’t understand texting.”* Instead try: *“Hey Joe – Bob here @ Acme Widgets, following up on your interest...”*
- **Emoji’s are cool and fun** – In the vein of keeping it light, **DO** use emoji’s and even pictures. You’ll put a smile on someone’s face! Note, that emoji’s and pictures do increase your segment usage but **ALWAYS** choose impact over the relatively insignificant cost of the message.
- **Watch acronyms, abbreviations and slang** – Not everyone understands texting acronyms. Gauge your texting terms and slang based on your audience.
- **Anticipate a response** - Texting works! In fact, you can expect upwards of 40% response to many texting campaigns. Consequently, consider using the **360 SMS iText** tool every time instead of templates so that at least the initial response can be handled with automated responses.
 - Even if your message has no call-to-action you should still plan for responses.
 - Using the iText Default Answer path gives you a free “report” of the various ways people respond to you text by just going to the Question page layout and reviewing the Survey Response related list.
 - Designate the users that will handle the responses or warn your users if the responses will be using their numbers and owner Ids.
- **Standard Carrier Charges Apply** – Seriously? Do people still need to be told that “std carrier charges apply” – we don’t think so. Maybe do this for your first message and then drop it but in 2020 we think everyone knows that when they text from their phone, they are the payer.
- **Opt Out** – If it’s your first time texting this customer **do** give them a way to opt-out, “Reply STOP to opt-out.” We do not feel that it is necessary to add this language to every message. Most customers now understand that they can reply STOP to any message regardless of whether it has the language or not. 360 SMS **always** honors the **STOP** keyword regardless of whether it is in your outbound message.

Short Codes vs. Long Codes

To send or receive a message, you need to use a short or long code (normal phone number) to send messages, capture replies and create responses. This section gives you an overview of when to use which type of code. Short codes are fixed, easy-to-remember registered numbers that are five-to-six numeric digits in length. Think of a short code as your mobile marketing address. For example, text “Menu” to 246810 for Martha’s Stewarts Meal Delivery website.

Most companies create short codes to drive their text messaging strategy, with related Keywords and Automated responses to deliver specific content or answers to Keyword responses and questions. Short codes can only be used to send texts (no voice traffic). Short code delivery is considerably faster than long code delivery (40 to 100 messages per second vs. 1 message per second with a long code) and their

deliverability rates are considerably higher. Furthermore, since carriers vet and approve all short codes for their intended use, they are not subject to carrier filtering or suspension for heavy traffic. Therefore, carriers tend to mark messages using short codes as spam less frequently than they do with long codes. Short codes however are quite expensive, starting at \$15,000 per year and require considerably more time to obtain because of the application and vetting process.

Long codes (a.k.a normal phone numbers) use a longer set of digits compared to short codes. They look like a normal phone number and indeed often carry both voice traffic and SMS traffic. They can be used to send and receive texts, faxes and make voice calls. In fact, 360 SMS long codes now can be used for both Texting and our Salesforce Integrated Telephony application for click-to-dial and inbound screen pops and even for batch Ringless Voicemail sent to the mobile phones as a Missed Call + Voicemail.

The choice of short or long codes depends on a number of variables listed below.

Speed of sending/receiving text messages

SMS long codes have a limit of one message per second. Therefore, long codes are used primarily for person-to-person communication. Short codes can be used to send anywhere from 40 to 100 messages per second depending on the carrier. They are typically used for high volume messaging. Again, though 360SMS can automatically disperse a large batch across multiple long codes both to increase throughput as well as to avoid frequency blocks.

Deliverability

Since carriers vet and approve all short codes for their intended use, they are not subject to carrier filtering or suspension for heavy traffic. Therefore, carriers tend to mark messages using short codes as spam less frequently than they do with long codes. Unless you follow the best practice recommendations above sending batch SMS from a long code can have your messages temporarily blocked. Read the 360 SMS – Batch Texting with Co-Pilot guide to understand a clever tool we use to disperse large batches among multiple Long Codes.

Inbound to Outbound text ratio

Carrier regulations require that the ratio of inbound to outbound text traffic should be more than 1:3 when using long codes. There is no such restriction in place for short codes.

Common Use Cases

Typically, a long code is used by recruiters, college recruiting, delivery services, home service industries, law firms, mortgage brokers, real estate agents, courier companies, banks, airlines and other service sectors for customer service related communication. Here are a few use cases:

- Conversational Texting
- New leads being registered, and an introduction SMS being sent. Or better yet use a 360SMS iText ChatBot/Survey for lead qualification questions to auto-populate lead values.
- Happy Birthday reminders
- Service appointment reminders along with a picture of the Service Tech that is showing up

- Recruiting firms commonly send chatbot surveys to ask for interest in certain jobs
- Customer Satisfaction Surveys (Net Promoter Scores) – Although there are now numerous website applications that offer single click net promoter score type surveys, we guarantee that if you offer a 360 SMS iText chatbot (auto responder), the majority of customers will choose to answer via text because it's just lower tech and customers are becoming more and more afraid of opening hyperlinks from any device.
 - Additionally, many customers automate the Satisfaction such that low scores send email or SMS alerts to key managers.
- Call Centers automate time-based triggered messages asking if the case can be closed after a period of inactivity and they also trigger customer satisfaction surveys after it's been closed.
- Mortgage brokers commonly send automated SMS as the loan hits various milestones.
- Real Estate agents trigger texts or send Batch SMS when certain properties come onto the market.
- Very common in both Mortgage, Business Loans and Real Estate is the SMS Drip Campaign where a series of messages are defined to go out at different days offset from the original lead generation date with calls-to-action to engage. Then the drip stops once the prospect engages.
- Law Firms often automate court date notifications and intake surveys
- Small businesses automate declined payments or payment reminders
- A courier company could text to inform a customer that their package is scheduled for delivery
- A bank could text clients their account balance every month
- An airline can reply to a passenger's seat preference request
- Short codes are used by companies for marketing and security, or to disseminate urgent information. Short codes use cases include:
 - Marketing promotions:
 - Short Codes are all the rage on Radio advertisements and billboards as it's typically easier to remember the short code and keyword than a website call-to-action.
 - Use short codes to send coupons, sales alerts, and other promotional information. If your company is USA-based, you are really supposed to use a short code for all marketing texts.
 - Two-factor authentication used by banks and various websites to send a validation code such as what Salesforce uses when it detects you logging in from an unrecognized IP address. Since a text message sent via a short code are likely to be delivered quickly, it's a preferred channel for these type of applications
 - Forgot password applications

- Alert notifications, including hurricane warnings or flight delay because short codes insure much more reliable delivery

About the Author

Steve Roch, CEO of Bolder CRM is an SMS Industry expert having worked or consulted with the top three SMS Apps on the Salesforce AppExchange and also having built the popular Salesforce app [ActionGrid™](#), acquired by Conga in April-2016. Bolder CRM is the exclusive distributor of 360 SMS in the United States, Canada and the United Kingdom.

Learn more about Steve and Bolder CRM at <https://boldercrm.com/360SMS> and <https://www.linkedin.com/in/steveroch/>

Call or Text: 720.605.0632
WhatsApp: +1.303.800.3258
Email: steve@boldercrm.com