

Everything You Need To Know (But Were Afraid To Ask) About Mobile Marketing

by Rob Tate, PossibleNOW

Back in 2013, marketing to cell phones changed forever. That's because new Federal Communications Commission (FCC) rules went into effect requiring marketers to obtain "prior express written consent" to call or text consumer mobile devices for solicitation purposes. Unsurprisingly, the rule change was a challenge for a variety of companies: cable providers informing subscribers about upcoming pay-per-view events, banks texting customers about lower mortgage rates, vacation rental groups advertising new availabilities to members and more.



How important was this change?

According to the Pew Internet and American Life project, almost 90 percent of Americans use a cell phone. Meanwhile, the Centers for Disease Control and Prevention (CDC) estimate that more than a third of U.S. households are completely without landlines. According to the same survey, an additional 15.9 percent own a landline but never use it. Taken together, that means that more than half of all U.S. households are effectively wireless-only.

As the shift continues towards cell phones and away from landlines, marketers must pivot to permission-based strategies based on self-reported preference data. They must proactively collect consumer preferences — including consent to call or text — and manage those preferences with a secure, efficient and centralized database.

With that in mind, here are answers to the top five questions every marketer should be able to answer about the prior express written consent rules:

1. What changed?

The FCC issued a rule that changed the way the Federal government regulates autodialed calls, pre-recorded messages and text messages to mobile devices. In the past, companies could call consumer cell phones through simple "implied consent," which meant if a customer provided their mobile number they've implied that it was "OK" to contact them on that phone number.

In other words, the burden of objection was on the consumer. Now, the burden of proof lies with the company seeking to interact with the consumer. They need to collect "prior express written consent" from a consumer in order to contact them for solicitation purposes on their mobile phone.

2. What is express written consent?

It's an agreement between company and consumer that includes the identity of the company seeking consent, the telephone number to be used, affirmative action on the part of the consumer to confirm consent (signature, e-signature, submit button, click a box), disclosures that an automated dialer will be used for solicitations and that agreement is not required in order to make a purchase.

3. How do I obtain it?

Ask nicely in writing, over the phone, via email or through an online form. Companies have employed a combination of these methods as they sought to on-board large numbers of customers in short time.

However, online consent in the context of broader preference management is the most efficient and sustainable method.

For example, a financial services firm can obtain consent to call or text through a website preference center that also collects data on billing date preferences, preferred marketing information channels, and so forth. The interaction would take place in a trusted, opt-in environment and would reflect the authentic preferences of the consumer.

Keep in mind, many consent collection efforts can result in a consumer “no,” while asking for “preferences” instead can result in targeted “yes.” Moreover, the consent data is collected in a manner that is verified, recorded and safely stored.

4. What happens if I contact a consumer who hasn't provided express written consent?

Bad things. You'll be in violation of FCC rules and could be fined or subjected to a Civil Investigative Demand. In addition — and perhaps much worse — you would be vulnerable to consumer and class action lawsuits allowed under the Telephone Consumer Protection Act for private rights of action. Yikes.

5. How can I convert my customers to express written consent?

Consumers are far more likely to provide consent for cell phone communication when the request is made through a trusted channel, inbound calls, a service inquiry, a sales process or as part of a broader effort to listen to and learn from their unique preferences.

To some, enhanced consumer protection rules for cell phone users are a bad thing that hampers marketing efforts and leads to increased overhead, liability and hassle. To others, it is merely further confirmation of a broad and positive trend towards permission-based marketing and opt-in relationships between companies and consumers.

Put me squarely in the latter category.

Mountains of research confirm that relationship marketing informed by consumer preferences is exponentially more effective than the spray-and-pray model of the interruption marketing past. I know this from my work and I certainly feel it as a consumer when I'm at home or out with my family. When marketers respect permission and privacy rules, they don't just avoid penalties — they create loyal customers.



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