



SMS MARKETING & GDPR

Everything you need to make your data compliant and your SMS campaigns a success.

Hello...

Marketing and communication have moved along rapidly in the last 20 years, but unfortunately the data protection act which protects us and our customers right to privacy hasn't moved with it, until now.

New data protection laws came into force in May 2018 and have changed the way businesses like you collect and manage your customer data. The General Data Protection Regulation (or GDPR) will apply to everyone processing personal data and will have implications on all aspects of your marketing, including SMS.

As the ICO explain here, "you must have a valid lawful basis in order to process personal data. There are six available lawful bases for processing. No single basis is 'better' or more important than the others – which basis is most appropriate to use will depend on your purpose and relationship with the individual."

Whether you are brand new to SMS or have been acing text marketing campaigns for years, this guide will get you up to speed with sending awesome campaigns post GDPR.

Read on for:

- What do SMS marketers need to know?
- Be clear with your opt-ins and keep proof
- Your GDPR consent tool kit
- Wise up on managing unsubscribes

What do SMS marketers need to know?

Although things are changing, it's pretty-simple in terms of what you need to do to ensure you are managing your SMS contact data in compliance with the new GDPR.

Making a couple of tweaks to your data collection process now could save you a lot of time and ensure you're prepared for the changes in May.

Your mobile numbers must be obtained in line with new regulations

There are two ways you can collect numbers for SMS marketing:

1. Positive Opt-in

If your customers have positively opted in to receiving marketing communications by SMS from you then you can send them text messages. They can opt-in on data collection; perhaps by ticking a box to confirm they would like you to contact them in this way or, opting in via a text keyword which is advertised with clear information on what they are opting in to. Whichever way they opt-in, it must be clear and concise on how you will contact them and with what information to ensure there's transparency.

2. Legitimate Interests

You can contact recipients who have provided you with their mobile number perhaps during a transaction or on sign-up on the basis of legitimate interests, as long as you also offer an opt-out to SMS marketing at the time of collecting the mobile number. You can continue to send SMS marketing messages provided you provide them with an easy way to opt-out on every message.

To find out more about legitimate interests, the ICO have detailed information [here](#).

You must always provide an opt-out

Under PECR law, you must include an opt-out function in your SMS campaigns to give customers the option to stop receiving communication from you if they wish to.

See page six for more information and tips on managing unsubscribes by SMS.



Thanks for opting in to receiving exciting SMS from us! You can opt out at any time by texting PIZZA STOP to 82228 :)

Be clear with your opt-ins and keep proof.

The new data privacy laws regulate how your customers opt-in to receiving information from you and there are lots of discussion on what counts as consent.

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Making it really clear from the outset exactly what customers are opting in to means that not only will they be giving consent to hearing your exciting updates, but they'll also know exactly what they signed-up for. After all, the new rules are about transparency and who doesn't want to be told the truth?

Yes, there may be some customers who decide not to give their consent, so you cannot send them marketing messages by SMS. However, this isn't a bad thing – if you're only reaching out to customers who want to hear from you, engagement will be much higher.

To be sure that you're collecting consent in a way that is compliant with the new data regulations, you must ensure:

- ▶ It is clear exactly what is being opted in to
- ▶ Consent can be documented and evidenced if challenged
- ▶ It is easy for customers to withdraw consent at any time

The ICO have specified that, for organisations relying on consent you "cannot rely on silence, inactivity, pre-ticked boxes, opt-out boxes, default settings or blanket acceptance of your terms and conditions" as proof of consent, so make sure it is NOT:

- ▶ Collected using a pre-ticked box
- ▶ Bundled in to other offerings
- ▶ Assumed or defaulted

Not only must the consent given conform to the new regulations, but there also must be proof and data controllers "must have an effective audit trail of how and when consent was given, so organisations can provide evidence if challenged" this applies to anyone managing data, regardless of how that consent was obtained.



Your GDPR consent toolkit.

You have two options for your data, legitimate interest, or consent. Lots of businesses have obtained their data through some kind of transaction and have therefore collected the mobile number legitimately, as long as they can evidence that particular transaction when the data was given.

If you're going down the consent route, you need to ensure you can answer yes to the below questions when considering how consent is obtained and managed:

- ▶ Is it clear exactly what is being opted in to?
- ▶ Can consent can be documented and evidenced if challenged?
- ▶ Is it easy for customers to withdraw consent at any time?

We've got a couple of tools in place to help you tick these boxes and ensure you have lots of happy customers waiting to hear from you.

Text to Opt-in

If you have a reply number set-up, you can create a new keyword e.g. CONFIRM or YES, which can be specifically used for collecting consent. With this keyword, try sending out a campaign with a consent call to action which asks recipients to simply reply back with this keyword confirming their consent to continue receiving your messages. These contacts are then saved into a contact group which will collect new and upgraded consented contacts.

Click to Consent

You can utilise our handy URL tracker to gain consent as each recipient gets a unique code in their message meaning you can see who has clicked on the link. Send a campaign to your contacts with a super-clear call to action asking your customers to confirm their consent to receiving SMS from you by clicking the link. As all clicks are tracked within FireText when using the URL tracker, these contacts can be downloaded and added to a new upgraded consent group in your FireText account. The link you include can either forward to your own marketing preferences page or, if you don't have one, we can set-up a thank you page on this side which thanks them for their opt-in.

Opt-out Keyword

If you're using a reply number, great stuff, you already have STOP set-up automatically to manage unsubscribes. Make sure you include clear instructions in your campaigns on how your customers can use this to remove themselves from your list at any time. If you're not using replies, we'll get you up and running with an opt-out keyword so you can handle unsubscribes clearly and instantly on every campaign.

Wise up on managing SMS unsubscribes.

Under PECR law, you must include an opt-out function in your SMS campaigns to give customers the option to stop receiving communication from you if they wish to.

If a customer decides they no longer want to hear from you, it's OK – it happens. You want to ensure your campaigns are only being sent to those customers who are going to really appreciate and action them meaning you'll get a much better response than if you were sending them to lots of un-engaged customers.

So, what does it mean when someone 'unsubscribes'?

- ▶ The number will be removed from your account permanently
- ▶ You will be unable to send the number any SMS from your account
- ▶ You will be unable to upload the number into any group on your account

There are several ways you can enable recipients to opt out of your SMS campaigns, here we'll explain each one, so you can decide which one works best for you and for your customers.

SMS Reply Number

FireText reply numbers already have STOP set-up as the unsubscribe keyword. Anyone texting STOP to your dedicated reply number will be automatically unsubscribed from your account, meaning you won't be able to upload their number, or send them any messages.

Opt-out Keyword on 82228

An opt-out keyword will work in the same way as the above STOP option does on your dedicated reply number, however this is for those without a reply number. An opt-out keyword is personalised and

relevant to your brand name, for example FireText might have FTSTOP or SMSSTOP. Users will be able to text that specific keyword in to our shared shortcode (82228) and we'll hook everything up so unsubscribes are handled automatically on your account.

Opt-out URL Link

You might want to use an option that doesn't require the customer to send a text, for example an opt-out link. In this instance we create a bespoke link and landing page for you, which requires the contact to click the link and confirm the mobile number they wish to unsubscribe. Once submitted, this customer will be automatically unsubscribed from your account.

Manual Unsubscribe

In some cases, you might get a customer asking you to unsubscribe them without using one of the above. For example, they may give you a call or ask you in person; in this case you'll need to head into your account and manually unsubscribe them. This is super-easy to do and we have a handy guide just here which will show you how.

All options will essentially work in the same way once actioned, so it is worth taking a moment to think about your customer and which one they will find easiest to action as this will leave you in a positive light when they unsubscribe; meaning there is no reason why they won't use or purchase your services in the future just because they've chosen to stop receiving updates.

GDPR checklist for SMS marketers

Prepare your data before your next campaign so you know it's GDPR compliant

- Review and update your current customer 'opt-in' process, ensuring it's GDPR compliant
- Create clear data collection content & 'opt-in' call to action to gain consent to contact your customers via SMS
- Update your privacy policy and T&Cs where necessary in-line with your new GDPR consent procedures
- Consider how you'll record and evidence the consent you obtain to use customers mobile numbers
- Ensure you have an opt-out mechanism in place, so customers can easily withdraw consent at any time
- Audit your existing data and how you obtained it
- Create a strategy to gain upgraded consent from existing contacts, to continue to contact them via SMS if previous consent was not GDPR compliant
- Continue to build your database with lots of new and excited customers keen to hear from you by SMS



Where next?

We're SMS experts here at FireText and have all the tools and resources in place to help you with your campaigns, but we're not legal professionals.

Any information we provide is not legal advice and we always recommend speaking with a legal expert about your GDPR requirements.

There's lots of handy information and resources on both the DMA and ICO websites if you need help preparing for GDPR.

DMA:

<https://dma.org.uk/gdpr>

ICO:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr>

When it comes to your SMS data, we've been working closely with the DMA in collating the most useful news and updates on the FireText blog.

Let's chat.

Don't worry if you still have some questions; at FireText we're always talking SMS.

We'd love to talk to you. You can get in touch on:

Text us

HELLO to 82228

Visit us

firetext.co.uk

Talk to us

0800 038 55 22

Write to us

hello@firetext.co.uk

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