Direct Marketing Association

KNOW THE RULES FOR CONTACTING WIRELESS DEVICES

By Telephone, Text Message, or E-Mail

STEP 1: Determine If You Are About to Contact a Wireless Device

Using Telephone

Using Text/SMS Message
(uses phone number – 'xxx-xxxx')

Using E-Mail
(uses domain – 'joe@nnnnn.net')

ARE YOU CONTACTING A WIRELESS TELEPHONE NUMBER?

The following services, provided by DMA's affiliate,Interactive Marketing Solutions (IMS), can be used to help identify & remove wireless numbers from contact lists. The files serve different purposes, so be sure to use both.

1) Wireless Block Identifier - Identifies wireless numbers and is updated monthly
http://preference.the-dma.org/products/wireless.shtml

AND

2) Wireless-Ported Number File - Identifies recently ported numbers and is updated daily
http://preference.the-dma.org/products/WirelessPortedNumbers.shtml

YES, IT'S A WIRELESS NUMBER

OOOPS, MADE A MISTAKE!

15-Day Safe Harbor: Marketers are not liable for calls made in error if:

(1) The call is made within 15 days of number port/change to wireless;
(2) They are not *knowingly* making calls to wireless devices; and
(3) They are placing voice calls (not recordings).

NO, IT'S NOT A WIRELESS NUMBER

ARE YOU CONTACTING A WIRELESS E-MAIL DOMAIN?

Use the FCC's Wireless Domain List – Identifies e-mail domain addresses used only by wireless devices
www.fcc.gov/cgb/policy/DomainNameDownload.html

NO, IT'S NOT A WIRELESS DOMAIN

Okay to contact following applicable CAN-SPAM Act rules & DMA Guidelines. Use in-house and E-MPS suppression data as appropriate. For help, refer to DMA's CAN-SPAM Flowchart: http://www.the-dma.org/antispam.E-mail_Chart.pdf

YES, IT'S A WIRELESS DOMAIN

Okay to contact following applicable FTC, FCC/TCPA, and state rules, and DMA Guidelines. Use in-house, National & state do-not-call, and TPS suppression data as appropriate. For help, refer to DMA's Ethical Guidelines & Business Tools for Direct Marketers: http://www.the-dma.org/guidelines/quickreference.shtml

STEP 2: Obtain the Recipient's Prior Express Permission

Using Telephone

Using Text/SMS Message
(uses phone number – 'xxx-xxxx')

Using E-Mail
(uses domain – 'joe@nnnnn.net')

DID YOU OBTAIN EXPRESS PRIOR CONSENT FOR ALL NON-EMERGENCY CALLS?

This includes:
- Calls to Residential & Business Lines
- B-to-B & B-to-C Calls
- For-Profit & Nonprofit Calls
- Calls for ANY Purpose – Survey, Non-sales Are Covered
- ❖Consent may be oral, written or electronic, but marketer has burden to demonstrate consent.
- ❖NO Established Business Relationship (EBR) exception.
- ❖Asking for a cell phone number as part of a sales transaction without requesting permission to call that number does NOT constitute consent to call for future solicitations.

NO, I DIDN'T DO THAT

YES, I DID THAT

Okay to contact consumer following applicable FTC, FCC/TCPA, state rules, and DMA Guidelines.
Refer to: http://www.the- dma.org/ guidelines/WirelessAlert_MarketingMistakes_Aug05.pdf

STOP

DMA Guidelines prohibit calls to wireless devices & TCPA prohibits autodialer calls to wireless devices unless the called party provided his/her number for the purpose of being contacted by the marketer.

DID YOU OBTAIN EXPRESS PRIOR AUTHORIZATION TO SEND 'MOBILE SERVICE COMMERCIAL MESSAGES' (MSCMs)*?

- MSCMs include any messages that have the primary purpose of promoting commercial availability of property, goods, or services, including content on a website
- Consent may be oral, written or electronic; and when obtained must disclose that subscriber:
  1. Is agreeing to get MSCMs sent to device by particular sender;
  2. May be charged for receiving them; and
  3. May revoke consent at any time.
- Consent Must Also:
  1. Include e-mail address where messages may be sent; and
  2. Be signed. (Electronic signature that complies with the E-sign Act and state laws is permitted.)

*MSCMs are commercial e-mails sent to wireless domains of wireless providers.

NO, I DIDN'T DO THAT

YES, I DID THAT

Okay to contact following other applicable provisions of CAN-SPAM Act and DMA Guidelines. Refer to: http://www.the-dma.org/cgi/member/spamfaq.shtml

STOP

CAN-SPAM requires consent for commercial MSCMs.