

Premium SMS Service Provider Conduct Policy



IMPORTANT NOTICE

When providing Premium SMS Services to Telstra's Customers, you must comply with:

- your obligations under applicable laws, regulations, industry codes (voluntary and involuntary) and standards including without limitation the *Australian eMarketing Code of Practice*, the *Spam Act* and the *Trade Practices Act* ("Laws");
- your obligations under your Premium SMS Service Provider Agreement with Telstra ("the Agreement"); and this Policy.

It is your sole responsibility to comply with all Laws in respect of the provision of marketing messages and the advertising and provision of your Premium SMS Services. Compliance with this Policy may not always ensure compliance with all Laws. Telstra's rights under the Agreement may not be limited or excluded in any circumstances, including for example by the content of this Policy and your use or interpretation of this Policy.

1 COMPLIANCE WITH INDUSTRY STANDARDS

- 1.1 You must comply with the Industry Code Mobile Premium Services C637:2009 registered by the Communications Alliance on 14 May 2009 ("Code"), as amended from time to time and with any document that supersedes that Code. Any breach of the Code is a breach of this Policy and the Agreement.
- 1.2 Notwithstanding clause 1.3.3 of the Code, and subject to clause 1.3 below, if you provide an "Exempt Service" (as defined in the Code) you must comply with clauses 3 (Advertising), 4 (Providing Information), 5 (Supplying a Mobile Premium Service) and 6 (Complaint Handling) of the Code (including any replacements, amendments or successors to those provisions) as if that service were a "Mobile Premium Service" (as defined in the Code).
- 1.3 Telstra may, in its sole discretion, notify you in writing that you are not required to comply with a particular clause (or part of a clause) of the Code in respect of a particular "Exempt Service". Telstra may make such notice conditional and may vary or revoke such notice at any time in its sole discretion.

2 CUSTOMER CONSENT FOR PREMIUM SMS SERVICES

- 2.1 You must not provide any Premium SMS Service to a customer unless you obtain the customer's prior consent to receiving that service. Consent will be deemed **not** to have been obtained if the customer was not clearly informed in advance of the nature, content and cost of that Premium SMS Service.

Subscription verification messages

- 2.2 Before commencing any subscription service:

- (a) you must send a subscription verification message to the customer as a free standard, dedicated SMS which includes the following information; and

[FreeMsg] Our records indicate you wish to subscribe to [name of service]. Cost = [cost of service in \$] per [message/time period as appropriate]. To subscribe, SMS YES to 19xxxx. Helpline 1800 xxx.

- (b) in response to the subscription verification message, the customer must confirm, in the way set out in the Code, that they wish to opt-in to the subscription service by sending an MO SMS.

Nominal charges for all MO SMS Messages sent by a customer must appear on the customer's account records.

Subscription confirmation messages

- 2.3 Once the customer has confirmed that they wish to opt-in to the subscription service in accordance with paragraph 2.2, and before commencing the subscription service, you must send a subscription confirmation message to the customer which includes the following information.

[FreeMsg] Thank U for subscribing to [name of service] cost = [cost of service in \$] per [message/time period as appropriate] until u SMS STOP to 19xxxx. Helpline 1800 xxx [provider name]

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2.4 Subscription verification and subscription confirmation messages must not contain any marketing information.

Withdrawal of consent

- 2.5 You must implement procedures to enable the customer to easily, conveniently and without cost opt out of receiving any Premium SMS Service or marketing message.
- 2.6 Where a customer notifies you of their wish to opt out of any Premium SMS Service or opt out of receiving marketing messages, the request must be complied with immediately and you must confirm by return message, at no charge to the customer, that the customer's request has been acted upon.
- 2.7 In the case of any message containing the word "stop", without case sensitivity, anywhere within the message body, or any message containing words that a reasonable person would interpret as a request to cease receiving a Premium SMS Service or any marketing message ("STOP Request"), the message must be treated as a STOP request. Examples of such words may include 'cancel', 'please don't send anymore', 'who are you', 'no more texts', 'fxxx off' or substantially similar wording (note that these are intended as examples only, and not as an exhaustive list).
- 2.8 A STOP Request sent to a short-code should terminate **all** Premium SMS Services and/or any marketing message from that short-code as quickly as possible following receipt of the STOP Request, but in any event within one business day of the customer sending the STOP Request. If the requesting customer is subscribed to multiple Premium SMS Services on one short-code and clearly and unambiguously identifies the Premium SMS Service to be terminated by name in the STOP Request (for example, by sending "stop [Premium SMS Service name]"), then only the identified Premium SMS Service must be terminated.
- 2.9 If a message is received which gives any reason for doubt as to whether the customer wants to continue to receive the Premium SMS Service or marketing message, you must send a verification message in accordance with paragraph 2.2, which is relevant to the Premium SMS Service or marketing messages the customer is receiving.
- 2.10 Customers must not incur any charges beyond a standard text message charge for unsubscribing using a STOP Request, or a request that a reasonable person would interpret as being a STOP Request.

Confirmation of cancellation

- 2.11 Regardless of the method used by a customer to opt out of a Premium SMS Service or marketing message, a free standard text message must be sent to the customer's handset as soon as possible but in any event within 1 business day after the STOP Request is received, to confirm cancellation of the Premium SMS Service or marketing message. The confirmation message in relation to subscription services must include the following:

[FreeMsg] U are now unsubscribed from [service name]. To re-subscribe, SMS [trigger word, eg "TONES"] to 19xxxx. Cost = [cost in \$] per [message/time period as appropriate].[if applicable – You will still receive [details of service] that you have been charged for already] Helpline 1800 xxx.

3 NOTIFICATION OF CUSTOMER EXPENDITURE AND ONGOING SUBSCRIPTION

- 3.1 Notification messages must be sent from the advertised service number for that Premium SMS Service as a standard SMS message to all active customers at least once every calendar month, as follows:

\$30 expenditure notification	30-day subscription reminder notification
Immediately a customer has incurred a \$30 expenditure on a Premium SMS Service in a single calendar month and each time the customer has incurred an additional incremental \$30 expenditure in that calendar month, a free \$30 expenditure notification SMS which includes the following information must be sent to the customer.	If a subscription service customer has not received a free \$30 expenditure notification for that service within a given calendar month, then a 30-day subscription reminder notification including the following information must be sent to the customer at the end of the calendar month.

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Example \$30 expenditure notification – non-subscription service	Example 30-day subscription reminder notification
[FreeMsg] Courtesy message from [name of service]. U have reached or passed \$30 on short-code [short-code] this month. For your info only, no action required.	[Free Reminder] U are subscribed to [name of service/optional description]. Cost = [cost of service in \$] per [billing frequency], until you SMS STOP to [originating service short-code]. Helpline 1800 xxx.
Example \$30 expenditure notification – subscription service	
[FreeMsg] U are subscribed to [name of service]. U have reached or passed \$30 spend. To cancel SMS STOP to [short-code]. Helpline 1800 xxx.	

3.2 Notification messages must not contain any marketing information.

4 CUSTOMER CONSENT - MARKETING MESSAGES

Non-subscription Premium SMS services

- 4.1 Marketing messages may only be sent to a customer in respect of a non-subscription Premium SMS service for a period of 30 days from the time the customer received that service, unless the customer has consented to opt in to receive such messages. After this period, the customer must be removed from all current marketing databases. If a customer sends a STOP Request in respect of a non-subscription Premium SMS service the customer must no longer be sent any marketing messages in accordance with clause 2.8.
- 4.2 Consent to opt in to receive marketing messages may be express consent or implied consent. Consent will only be implied where the customer has clearly and prominently been informed that marketing messages may be sent to them when requesting the Premium SMS Service (and the condition that marketing messages may be sent to them is not merely included in the terms and conditions).

Subscription Premium SMS services

- 4.3 You must not provide any marketing messages to a customer who is currently subscribed to a Premium SMS Service if that customer has opted out of receiving marketing messages.

Generally

- 4.4 Any marketing message sent to a customer must be a free standard SMS containing no content other than the marketing information.

5 WAP PUSH MESSAGES

- 5.1 WAP push messages may be used for content delivery, but must not be used for marketing messages, notification messages, subscription verification messages or subscription confirmation messages.
- 5.2 WAP push messages must identify, prior to the WAP link, the short-code number used for the Premium SMS Service and a help line number.

6 ADVERTISING AND PROMOTION OF PREMIUM SMS SERVICES

- 6.1 Premium SMS Service advertising must clearly and prominently set out the material terms, nature and cost of the Premium SMS Service.
- 6.2 All Premium SMS Service advertising for restricted services must notify the user that the service is a restricted service and only available to persons aged 18 or over. Restricted services must not be promoted in media targeted or primarily targeted at minors.

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- 6.3 Premium SMS Service advertising must not include any incentives for unrelated products, services or promotions. For example Premium SMS Service advertising which gives the subscriber the opportunity to win a product or service, if they subscribe to the Premium SMS Service is not permitted (“for a chance to win XXXX, subscribe to XXXX”).

Pricing information in Premium SMS Service advertising

- 6.4 Pricing information must include any sign-up cost, a per message price and, where applicable, an estimated total cost that an average customer might expect to incur in a stated time-frame. Pricing information must be provided in accordance with the Code and Annexure A to this Policy.
- 6.5 In all cases where the required information is displayed visually (television, print and online), the contrast between terms and conditions text and background must allow for the text to be clearly legible (including taking into account colour combinations).
- 6.6 Unless Telstra has given written permission to the contrary, the pricing information in television or other audio-visual promotional material must be spoken and visually displayed where the service costs \$2 or more.
- 6.7 Premium SMS Service advertisements in print publications with a shelf-life of 3 months or more must include a statement to the effect that the information given is correct as at the time of publication, and that time must also be stated.

7 SHORT-CODES

- 7.1 Where content is delivered or accessed using Premium SMS Service short-codes, it must be provided on short-codes consistent with your assessment of items of content and the *Numbering Plan*.

Changes to price points or content offered on short-codes

- 7.2 When a Premium SMS Service operating on a short-code is to be replaced with an alternative Premium SMS Service using the same short-code, there must be a delay of:
- (a) at least 3 months where the new Premium SMS Service is of a type that may cause offence or be inappropriate for some customers; and
 - (b) at least 1 month in all other circumstances.
- 7.3 Express consent must be obtained for inclusion of customers as subscribers to the alternative Premium SMS Service.
- 7.4 If you wish to increase the price points of any Premium SMS Service:
- (a) the Premium SMS Service must have been offered with a clear statement that the price may change;
 - (b) you must provide at least 1 month’s prior notice to all existing customers of the Premium SMS Service of the price change and effective date, at no cost to the customer; and
 - (c) after receiving notice in accordance with paragraph 7.4(b), customers must be able to elect to opt-out from using the Premium SMS Service without attracting any additional charge.

8 ERROR MESSAGES

- 8.1 If a customer sends an indecipherable or invalid content request to you, it must not be treated as a Premium SMS Service request and an error notification or clarification message must be sent, as a free-of-charge standard text message, to the customer, which includes the following information:

[FreeMsg] From [service name] – The requested item code xxxx does not exist. Please check code again and SMS to 19xxxx. Helpline 1800 xxx.

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9 CHAT SERVICES

- 9.1 Before supplying a chat service to a customer via your Premium SMS Service, you must send the customer a standard SMS at no charge which includes the following information:

[FreeMsg] Thank U for requesting/joining [name of service] cost = [joining fee/ongoing cost of service in \$] and [frequency of charging – message/time period as appropriate] until u SMS STOP to 19xxxx. Helpline 1800 xxx [provider name]

10 CUSTOMER CARE AND COMPLAINTS HANDLING

- 10.1 You must provide satisfactory customer complaint and inquiry processes and procedures to address any issues raised in relation to the supply of Premium SMS Services or marketing messages to customers.
- 10.2 You must train your staff who are involved in the marketing, sales, customer care and complaints handling of your Premium SMS Services in relation to the requirements of this Policy and ensure that consistent factual information is provided to customers by your staff.
- 10.3 Where a complaint is not resolved by you, Telstra may resolve the complaint in a manner it considers appropriate, based on available information, and you must cooperate with Telstra in doing so.

Helpdesk requirements

- 10.4 Your helpdesk must:
- (a) comply with the complaint handling timeframe requirements set out in the Code and resolve customer complaints sourced from Telstra within 1 Business Day;
 - (b) on resolution of a customer complaint, send an email to Telstra's customer care email address (as notified to you by Telstra from time to time) advising how the issue has been resolved. The email must include at least the following information:
 - (i) in the email subject field – the short-code/MSISDN;
 - (ii) the time/date the customer made contact with your helpdesk;
 - (iii) the customer's name and a brief description of the customer's issue/complaint;
 - (iv) a description of the resolution reached with the customer, including the time/date the resolution was reached;
 - (c) retain all records relating to a complaint for a minimum of 7 years, and make these records available to Telstra upon request;
 - (d) where applicable, credit the customer by sending a cheque to the customer's address in a timely fashion; and
 - (e) cooperate with Telstra at all times, including responding promptly to any contact from Telstra, and providing details of a complaint and/or demonstrating how an issue has been resolved upon request.

Naming of services

- 10.5 You must, when setting up your Premium SMS Services on Telstra's content management website, include the short-code for the Premium SMS Service in the service name, to ensure that it appears on Telstra's customer account records.

11 DATABASE MANAGEMENT

- 11.1 You must maintain and keep current and accurate Premium SMS Service subscription service and/or marketing message that has been provided to customers. The customer contact data must include the customer's active mobile number. Without limiting your obligations under the Agreement in relation to records, you must retain your database records for Telstra to reconcile with its internal records if required.
- 11.2 You must ensure that customers who obtain a new mobile service do not receive Premium SMS Services subscribed to by any previous user of the mobile number.

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12 FAILED MT SMS AND TIMELINESS OF CONTENT DELIVERY

- 12.1 Where MT SMS messages fail due to end user unavailability (including out of credit) or due to operational delays, there are restrictions on the circumstances in which the content may be re-sent. Details of these restrictions are set out in the Code.

13 RETENTION OF RECORDS

- 13.1 Without limiting your obligations under the Agreement in relation to records, you must retain records of all customer consents required to be obtained, and all customer cancellations or STOP requests or requests that a reasonable person would interpret as being a STOP request in respect of your Premium SMS Services or marketing messages for Telstra to reconcile the transaction with its internal records if required.

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ANNEXURE A - PRICING INFORMATION IN PREMIUM SMS SERVICE ADVERTISING

Requirement	TV (visual material)	Voiceover material	Print	Online	Radio
Expressly use the noun 'subscription' or the verb 'subscribe' to convey the activation method	✓ Must be at least 50% of the size of the premium rate number and displayed for the same period as the premium rate number (but in any event for at least 10 seconds).	✓ The word 'club' may be used to describe the service provided that the word 'subscription' or 'subscribe' is used in relation to the pricing information.	✓ Must be contained in the main body text. If the size of the premium rate number is between 24 and 48 point font, must be at least 25% of the size of the premium number; if premium rate number over 48 point, must be at least 12 point.	✓ Must be at least 50% of the size of the premium rate number and contained in the main body text. Must be on the same page (ie above the fold).	✓
Include cost information	✓ Must be prominent and highly visible.	X	✓ Must be prominent and highly visible.	✓ Must be prominent and highly visible. Must be at least 50% of the size of the premium rate number and contained in the main body text. Must be on the same page (ie above the fold).	✓
Include frequency of billing information	✓ Must be prominent and highly visible.	X	✓ Must be prominent and highly visible.	✓ Must be prominent and highly visible.	✓
Additional requirements	Text must be held on screen long enough to be read by the average viewer (min. 0.2 seconds per word, and never less than 5 seconds).The short-code must be displayed for at least 10 seconds.	X	A minimum of 6 point font is required.	X	X

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Document Control

Draft No	Issue Date	Effective date of Policy or amended clauses	Comment
Draft 1	11/09/08	15/09/08	Initial Policy
Draft 2	1/06/09	1/07/09	Policy redrafted
Draft 3	19/10/09	22/10/09	Paragraphs 3.1 & 7.1
Draft 4	11/01/10	12/01/10	Paragraphs 1.2 & 1.3
Draft 5	20/02/14	24/03/14	Paragraph 6