

ICC GUIDE FOR RESPONSIBLE MOBILE MARKETING COMMUNICATIONS

GUIDELINE

Prepared by the ICC Commission on Marketing and Advertising

Summary and highlights

1. Introduction
2. Background and Scope: the ICC Code and existing coverage of mobile marketing
3. Existing self-regulation and recommended best practice for specific mobile issues
4. Conclusion

ICC Guide for Responsible Mobile Marketing Communications

1. Introduction

The International Chamber of Commerce (ICC) is uniquely positioned to provide guidance on marketing and advertising around the globe. As the world's foremost business organisation, whose membership is composed of thousands of enterprises from all sectors and regions, ICC has been a major rule-setter in marketing and advertising since 1937 when it issued the first ICC Code on Advertising Practice.

Over the years, the ICC Code has served as the foundation and building block for self-regulatory structures around the world. These self-regulatory systems have helped industry build trust with consumers by promoting advertising that is honest, legal, decent and truthful, while offering quick and easy redress when transgressions occur.

The Code has also served business and society by providing ethical guidelines that build on fundamental pillars, create a level playing field and harmonise approaches across markets, while minimising the need for legislative or regulatory restrictions that add inefficiency and cost. As new practices and technologies have evolved, ICC has revised and extended the scope of the Code to assure its usefulness and relevance. In this way, the Code also demonstrates that when effectively implemented, self-regulation has an ability to be more rapidly adaptable and responsive to market needs than most legislative alternatives.

In 2018, the tenth revision of the Advertising and Marketing Communications Code (ICC Code) was completed.

2. Background and Scope: The ICC Code and existing coverage of mobile marketing

The Code is to be applied against the background of whatever legislation may be applicable.

When applied in different countries or specific markets, ICC global codes enhance harmonisation and coherence, yet they are flexible enough to accommodate variations in culture and societal rules and norms.

The Code is media and technology neutral. It has general principles that apply to all marketing communications, *which includes advertising as well as other techniques, such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behaviour.* There are five chapters with more specific provisions relating to Sales Promotion, Sponsorship, Direct Marketing, Digital Interactive Media and Environmental Claims.

In the Code the term 'Digital Interactive Media' *refers to any media platform, service or application providing electronic communications, using the internet, online services, and/or electronic or communication networks, including mobile phone, personal digital assistant and interactive game consoles which allow the receiving party to interact with the platform, service or application.*

For purposes of this guidance, the term "mobile" refers to mobile phones and wireless devices (such as, but not limited to, portable game consoles, tablets, wrist watches, etc.) which a user can call from and interact with, which require a subscriber identity module card or personal identifier for the user.

All marketing communications content for mobile is covered by the Code, which is technology neutral, just as it would be for any other medium. Mobile web advertising and marketing is

expected to meet the same standards for ethical and responsible practice that are set out by the Code. However, how these principles are applied in practice may need to be adapted to the limitations of screen-size on mobile or to the uniquely personal nature of information stored on or obtained through these devices.

Age: Mobile marketing communications should not be aimed at children of 12 years and younger.

Anyone taking part in the planning, creation or execution of digital marketing communications including OBA, has a degree of responsibility, as defined in article 23 of the General Provisions, for ensuring the observance of the Code towards those affected, or likely to be affected. Whatever the nature of the activity, responsibility is shared by all the parties concerned, commensurate with their respective role in the process and within the limits of their respective functions.

3. Existing self-regulation and recommended best practice for specific mobile issues

All articles of the ICC Code should be respected when developing mobile marketing communications. Specific articles of the ICC Code to consider and take particular care to follow with regard to the issues addressed in this guidance include:

General principles

- Article 7 – Identification and transparency
- Article 8 – Identity
- Article 18 – Children and teens
- Article 19 – Data protection and privacy
- Article 20 – Cost of communication

Direct Marketing and Digital Marketing Communications

- Article C1 – Identification and transparency
- Article C2 – Identity
- Article C7 – Marketing communications and children
- Article C8 – Respecting consumer wishes
- Article C9 – Respecting consumer use of digital interactive media
- Article C21.2 – Reasonable hours
- Article C21.3 – Right to written confirmation
- Article C21.5 – Unlisted numbers
- Article C22 – Provisions for interest based advertising

Further ‘recommendations’ to consider as best practice for mobile marketing communications include:

A – Messaging / Short-media message service (SMS) /Multi-media messaging service (MMS)

SMS/MMS are communications that are sent to a recipient’s phone or device without further action required by the recipient and may incur costs to the recipient depending on their subscription plan. The same can be said for applications like Whatsapp or similar messaging services. For all communications of this nature the following guidelines should be applied:

Opt-in

- Marketers must obtain opt-in approval from recipients to receive messages on their phone number before sending any message such as an SMS or MMS.
- For recurring message programmes only, when opt-in occurs outside the mobile context (e.g. online), marketers should confirm that the recipient is in control of the mobile number through the use of a PIN code sent to the mobile number or a confirmatory message sent to the mobile number.
- After opt-in to a recurring messaging programme, a confirmation message must be sent to the recipient containing the programme, company or brand name; customer service information (e.g. Text HELP for help); opt-out information (e.g. Text STOP to stop); messaging frequency (e.g. 1 Message per Week), and a disclosure of potential costs (e.g. Msg&Data Rates May Apply).
- Customer Preference Register¹
 - Every telecommunications company should maintain a digital register of consumer messaging preference.
 - This could be to block all communication or to block communication from a particular telemarketer or a particular class of communication such as service or promotional communications – (eg. A customer should be able to choose to receive all banking alerts but block all banking promotional messages).
 - Every telecommunications company should use common nomenclature, shortcodes and keywords to maintain simplicity and transparency. (eg. In India all operators use the short code STOP and a common SMS number 1909 to block messaging).
 - Each country should create a National customer preference register that operators can read/write to.

Recurrence

Message frequency is primarily an issue of efficacy. One SMS per week and per user is a good guide for striking a balance between staying connected with the customer and inconveniencing them, but this may vary in some situations. As noted above, messaging frequency should be addressed in the opt-in messaging to set consumer expectations.

Sender transparency

Marketers must respond to HELP and CONTACT messages with the programme, company or brand name; either a toll-free number, Web address, or e-mail address; opt-out information (e.g. Text STOP to stop); messaging frequency, and a disclosure of potential costs (e.g. Msg&Data Rates May Apply).

Time-Slot

Unless the Marketer has received express consent from the recipient to the contrary, messages such as SMS and MMS should be made only during hours which are generally regarded as reasonable for the recipient.

Opt-Out

Recipients should be able to opt-out of receiving further SMS and MMS messages from the marketer by replying with a simple keyword such as “STOP” or “DISCONTINUE” in English or the native language of the marketing message.

When such a keyword is received by a marketer, it should respond with a confirmation that no further messages will be sent regardless of whether the sender was previously opted-in to receive messages.

¹ as interpreted from the Telecom Commercial Communication Customer Preference Regulations of the Telecom Regulatory Authority of India (TRAI – TCCPR regulations)

Spam

In order to avoid spam abuse, recipients should be able to alert a competent authority about spam SMS or MMS.

Example in France: users dial a short number (33700) to alert the mobile association of spam SMS.
> Users are invited to forward their SMS to the 33700 short number (free of charge)

B – Push Notification (such as in Mobile & Tablet Application)

Push notifications are customised messages or alerts sent by software applications to a user's device that do not require specific applications on the device to be open or a specific request from the client in order for the message to be received.

The following guidelines should be applied in this case:



First Time Launch Consent / Opt-in

Push notifications should be opt-in.

Deployment of a push notification strategy through an application (app) should obtain user consent. When users download and install an application, an alert on first time launch has to clearly ask for user consent (ask if user agrees to receive push notifications from your app).



Push Notification Stop / Opt-out

Within an app's settings or at operating system level, it should be easy to turn off and turn on push notifications.

Every user should also have the possibility to stop receiving push notification through its application parameters.

Recurrence

In order to preserve user tolerance, the recommendation would be to send a maximum of 1 promotional push notification per week, per user.

If push notification is linked to a service (news, weather, etc.) it would be acceptable to send several push notifications a day.

If an application sends overly frequent notifications, platforms such as Apple, Android and Windows reserve the right to protect its users in blocking selected apps from using push notifications.

Time-Slot

The sender should only send a push notification during hours which are generally regarded as reasonable for the recipient.

C – Geo-Marketing Push Notification (such as Mobile & Tablet Application)

Geo-marketing is targeting audiences specifically based on their location and supplying them with relevant information. Apps that use geo-location must comply with the Data Protection and Privacy requirements of Article 19 of the 10th edition of the ICC Code.

Recurrence

The frequency of sending should be limited to once a week.

Opt-in / Opt-Out

Geolocalised push notifications should be controllable by the recipient and easy to turn off and on.

D – Geolocation Services (such as in Mobile & Tablet Site and Application)

Geo-marketing is targeting audiences specifically based on their location and supplying them with relevant information within the application (e.g. Find the nearest restaurant).

The sender should clearly explain the goal of the service and how the individual's data is being used.

Recipients should be given a genuine opt-out opportunity and/or instructions as to how to switch off the phone or other device's geolocation sensor.

Opt-in / Opt-out

Geolocation services should be controllable by the recipient and easy to turn off and on.

Every user should also have the possibility to stop geolocation through its application parameters.

E– Login & Share through Partner Account or Social Media Application Programming Interfaces (API)

To facilitate registration, a user can be invited to use its existing ID/Password of an external player such as Google, Yahoo, Facebook, Twitter, LinkedIn, Whatsapp, Snapchat etc. Similarly, a user can be invited to share information via social media platforms. Clear indication to the consumer about data sharing and the different privacy considerations of the other platform is recommended.

4. Conclusion

The role of advertising self-regulatory codes is to build trust and confidence in business. The ICC Code has served as the foundation and building block for self-regulatory structures around the world. Implementation is of paramount importance and in order for the system to be effective for businesses and consumers alike, the Code is to be interpreted in the spirit as well as to the letter. ICC therefore urges a firm commitment from business to ensure effective self-regulation to foster consumer trust and the economic development potential of mobile marketing.



The International Chamber of Commerce (ICC)

The International Chamber of Commerce (ICC) is the world's largest business organisation with a network of over 6 million members in more than 100 countries. We work to promote international trade, responsible business conduct and a global approach to regulation through a unique mix of advocacy and standard setting activities—together with market-leading dispute resolution services. Our members include many of the world's largest companies, SMEs, business associations and local chambers of commerce.

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