

Premium SMS (PSMS) Donations Pilot Program

Code of Conduct for use of donor information

INTRODUCTION

As participants in the Premium SMS (PSMS) Donations Pilot Program (the Pilot), selected charities will have access to donors' mobile phone numbers derived from donations made through approved campaigns.

This Code of Conduct is designed to give assurances to donors under the Pilot that their information will not be used for marketing 'bombardment' or unrestricted, unsolicited marketing approaches. Consistent with standard Premium SMS services, donors under the Pilot are considered to have given implicit consent to charities to contact them at a later time to further discuss their donation or the charity's activities in general.

Access and use of donor information by Pilot charities is to be controlled through this Code and must further adhere to any relevant requirements of the Mobile Premium Services (MPS) Code, Spam Act 2003, Telemarketing and Research Calls Industry Standard 2007, ADMA Code of Practice and the Privacy Act 1988.

This Code applies to registered charities selected to participate in the pilot and their subcontractors. It is to be viewed in conjunction with relevant legislation and standards as listed in Appendix 1 and any legal agreement relating to the provision of Premium SMS services for the purposes of receiving donations. In the instance where one of the below documents contradicts this Code, the other legislation, standard or legal agreement will take precedence.

WHAT DONOR INFORMATION WILL BE PROVIDED THROUGH THE PILOT?

Approved charities taking part in the Pilot will be given secure access to an online portal operated by the program aggregator, OpenMarket.

The portal will provide:

- Donor's mobile telephone number
- Donation date
- Donation amount (\$)
- Detail of the keyword the donation linked to

In adherence to the Privacy Act, the carriers (Optus, Vodafone, Telstra) cannot disclose customer details to third parties. As such, approved participant charitable organisations will not have access to donor names, addresses, email addresses or any customer information other than that listed above.

CODE OF CONDUCT REQUIREMENTS

In addition to the relevant legislation and standards (Appendix 1), Pilot charities must adhere to the following requirements:

1. General requirements

- 1.1. Potential donors must be informed via terms and conditions on any marketing material where the PSMS short code is advertised that a follow-up communication may be made after the donation. The charity must also provide a URL link to full terms and conditions including its privacy policy, opt out methodology and help information.
- 1.2. Charities must adhere to the marketing opt out requirements set out below to ensure donors who have opted out do not receive further communications

- 1.3. It is the responsibility of the charity to ensure that any subcontracted entity providing SMS marketing or telemarketing services working on behalf of the charity adheres to all relevant codes and this Code of Conduct.
 - 1.4. Charities must ensure the sender of an MPS message on behalf of a charity is listed on the Communications Alliance Mobile Premium Services Register.
 - 1.5. Charities must adhere to the more detailed requirements set out below for following up with donors via telemarketing and SMS marketing. These are the only follow-up methods available, as charities will be able to access donors' mobile phone numbers but no other contact details.
2. Marketing opt-out requirements
- 2.1. Where a charity can match donor mobile service number to an existing donor record the following applies: If a donor has previously opted-out from receiving marketing from the participating charity, the donation via PSMS is not considered to be an implicit opt-in to further communication – the original opt-out request takes precedence.
 - 2.2. Donors must be informed of the mechanism to cancel/opt out every time a new series of communications starts and not less than every five communications or quarterly. Reference to a website is sufficient provided an explanation of how to cancel/opt out is provided on that website.
 - 2.3. Approved charities or their subcontractors sending any telemarketing or SMS marketing communications must operate and maintain a suppression file, listing recipients who have indicated they do not wish to receive further marketing communications.
 - 2.4. Where a supporter/donor requests not to receive marketing communications, charities must as soon as possible, suppress the recipient's data from their marketing database. In all cases, the request must be complied with within:
 - 2.4.1. 45 days of receipt of a request to cease using data for direct mail, telephone marketing or fax marketing
 - 2.4.2. Five days from the individual sending the request to cease using the data for email and SMS marketing.
 - 2.5. Where a suppression cannot take immediate effect, charities should inform recipients of this fact and explain they may receive further marketing communications for a maximum additional period of 45 days whilst the request is processed.

3. Telemarketing requirements

In addition to all requirements outlined in the Telemarketing and Research Calls Industry Standard 2007, charities should adhere to the following requirements in utilising telemarketing services to communicate with donors derived from the Pilot:

- 3.1. On the first contact after the donation is made the charity is required to get explicit consent from the donor for any future correspondence to occur. If this explicit consent is not gained the charity does not have the right to contact the donor in the future.
- 3.2. It is the responsibility of the charity to ensure that any subcontracted telemarketing entity working on behalf of the charity adheres to all relevant codes and this Code of Conduct.
- 3.3. During telemarketing calls the charity must include accurate information about how the recipient can contact the charity.
- 3.4. Under the Telemarketing and Research Calls Industry Standard, the following requirements are of particular relevance:
 - 3.4.1. Contact information and the purpose of the call must be provided by the person making a telemarketing call as well as revealing, on request, the source from which the caller obtained the telephone number.

- 3.4.2. The charity must terminate the call where the call recipient asks for the call to be terminated or otherwise indicates that he or she does not want the call to continue.
- 3.4.3. The charity must ensure that any telemarketing resource ensures that calling line identification is enabled at the time that the caller makes or attempts to make a call.
- 3.4.4. The caller must make reasonable efforts to ensure that when calls are made, the number displayed on the recipient’s phone is suitable for return telephone contact, i.e. not a blocked number.
- 3.4.5. A charity must not make or attempt to make a call on the days and times listed below, except where the call recipient has given consent to be called in the prohibited hours.

	Research calls prohibited	Telemarketing calls prohibited
Weekdays	Before 9.00 am or after 8.30 pm	Before 9.00 am or after 8.00 pm
Saturday	Before 9.00 am or after 5.00 pm	Before 9.00 am or after 5.00 pm
Sunday	Before 9.00 am or after 5.00 pm	Calls prohibited
National public holidays	Calls prohibited	Calls prohibited

- 3.5. Charities making telemarketing calls must not contact a donor/supporter more than once in any 30-day period for the same or similar campaign without that donor/supporter’s prior consent. This clause does not apply to unanswered calls.

4. SMS marketing requirements

- 4.1. The charity must clearly and accurately identify the individual or organisation who authorised the sending of the message. For example, if the charity asks a third party to send out messages on its behalf, the message must clearly identify the organisation on whose behalf the message is being sent.
- 4.2. Each outbound message must provide a clear opportunity for the donor to opt out from further communication. For example, a STOP reply text must cancel all future texts from the charity.
- 4.3. All SMS marketing messages must include accurate information about how the recipient can contact the charity or individual sender.
- 4.4. If a charity asks the donor by text if they may call within a defined period for a defined purpose and that donor declines permission to be called then the donor can be assumed to be not cancelling all future calls.
- 4.5. Permission to contact for a specific purpose within a specific period defined in a text message sent from the charity expires at the end of that period.
- 4.6. Message frequency – no more than 1 outbound message per week unless the donor provides express consent to receive more or less. The prescribed number of outbound messages excludes those required for providing a donation receipt.
- 4.7. Outbound SMS marketing is prohibited during the following dedicated times:

	SMS marketing prohibited
Weekdays	Before 9.00 am or after 8.00 pm
Saturday	Before 9.00 am or after 5.00 pm
Sunday	SMS prohibited
National public holidays	SMS prohibited

5. Code of Conduct enforcement

For the period of the PSMS Mobile Giving Pilot Program, a committee made up of representatives from the program aggregator, the carriers and Telco Together Foundation will be the enforcement agency for this Code of Conduct.

If a charity is deemed to have breached the minimum standard as outlined in this document, the following actions in order of escalation (first a, then b, then c) may be taken by the committee to remedy the breach:

- a) Issue a formal reprimand and/or warning as to future conduct;
- b) Require that access is barred to some or all of the relevant party's premium services or numbers for a defined period, or until compliance advice has been implemented to the satisfaction of the enforcement agency and direct any carrier operator accordingly; or
- c) Prohibit a relevant party and/or an associated individual found to have been knowingly involved in a serious breach or series of breaches of this Code from being provided access to or having any involvement in, any premium rate service or promotion for a defined period.

Appendix 1: Relevant legislation and standards

- Spam Act 2003
 - Available at <https://www.comlaw.gov.au/Details/C2013C00021>
- Telemarketing and Research Calls Industry Standard 2007
 - Available at <https://www.comlaw.gov.au/Series/F2007L00815>
- Mobile Premium Services (MPS) Code
 - Available at <http://www.commsalliance.com.au/Documents/all/codes/c637>
- Privacy Act
 - Available at <http://www.oaic.gov.au/privacy/privacy-act/the-privacy-act>
- ADMA Code of Practice
 - Available at <http://www.adma.com.au/comply/code-of-practice/>