

# Messaging about Deals, Sales or Curbside Pickup? What to Consider Before Texting Customers

*Amundsen Davis Data Privacy & Security Alert*  
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Businesses continuing to operate with shelter in place directives due to the COVID-19 pandemic may be contemplating adjusting their consumer and client outreach. Companies accustomed to interpersonal interactions may be thinking about staying connected with consumers via text messages.

Before a business embarks on a new informational initiative or sales outreach by text, consider the permissions and consent you need to have in place **first**. Indeed, the Telephone Consumer Protection Act (TCPA) protects against invading consumers' privacy with certain kinds of mass communication. Implementing innovative sales techniques may not be as easy as utilizing contact information you have accumulated over time if you don't have the right permission.

**If you want to engage with customers via text message, consider the following before you press send:**

- **Evaluate what kind of permission you have:** Depending upon the content of your messaging, you may need signed, written consent or you may need verbal but express consent.
- **Ensure the customers knew why they were providing the phone number:** If you obtained cell phone numbers for texting about wait times at a restaurant, for example, and now want to use the numbers to advertise curbside deals, that may be an issue for showing the right transparency—and level of consent.
- **Make sure you have a way for customers to stop receiving messages:** You will want to maintain a record of who is still 'in' and who is opting 'out' of receiving future messages.
- **Update your internal policies and train employees:** This will ensure proper protocols are in place.
- **Review contracts with service providers:** You may have found a great leads-generator that will provide lists of people looking to hear from you about your services or goods. But this could be the biggest issue for your outreach as the third-party provider may not have the right permission for *you* to reach out.

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Right now, your focus on communication to existing and potential customers likely consists of considering what can be done from afar, quickly and with the touch of a button. Text messages can be a great option to “spread the word.” But, before you launch that outreach, you first need to consider the import of privacy rights protecting against unsolicited text communications. You need certain permissions prior to reaching out to customers. A misstep may invite unexpected or unintended legal liabilities.

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