Chapter 1: Getting Started with Mobile Marketing

In This Chapter

↙ **Discovering mobile marketing and its key elements**

↙ **Exploring the myriad mobile devices and networks**

↙ **Finding out about the two approaches to mobile marketing**

↙ **Complying with rules, regulations, and best practices**

*L*ife is mobile. People around the world are on the go, and nearly every-one has a mobile phone or a mobile device of some kind to help him or her get through the day. Users are connecting with other people, being entertained, gathering relevant information, and interacting with businesses anywhere, anytime, and for nearly any purpose. Today's mobile device has become an all-purpose utility. People are still making and receiving phone calls with their mobile device albeit maybe to a lesser degree. Today they're texting, searching the web, downloading applications, consuming and creating content (weather, radio, television, social media posts, deal of the day), interacting with and responding to advertisements, scanning codes, checking in with friends and at places via social media, finding stores, buying stuff, and so much more.

Today, mobile devices (phones, tablets, e-readers, game terminals) are increasingly becoming a cornerstone of society and indispensable to marketing. In fact, for many people around the globe, a mobile device has become their primary communication and commerce tool. The world has changed, and whenever the world changes, so must your practice of marketing.

This chapter is all about showing you how to embrace mobility, the impact it is having on marketing, and how you can integrate mobile elements into your own marketing efforts. You find out how to embrace mobile marketing and engage your customers through and with myriad mobile devices, networks, and mobile services. You also find all the rules and regulations that pertain to mobile marketing.

Understanding Mobile Marketing

Mobile marketing is simply using the capabilities of mobile (devices, networks, and channels) to market your business with your customers.

Mobile marketing, according to the Mobile Marketing Association (`www.mmaglobal.com`), is "a set of practices that enable organizations to communicate and engage with their audience in an interactive and relevant manner through any mobile device or network." This definition contains just 26 words, but it packs in a lot of meaningful terminology.

In the following sections, and through this entire minibook, you find out what these 26 words really mean and how they can be used to engage your customer in a manner that generates meaningful results that are mutually beneficial for you, your business, your customers, and potential customers — essentially, everyone!

REMEMBER

The days of mass-market marketing are waning. Today is an age of connectedness — an age of hyperfragmentation of communication/media channels and market segmentation down to individual members of the audience. With mobile marketing, you're not broadcasting messages to the masses. Rather, you use mass media and the mobile channel to engage individuals in a relevant, one-to-one, interactive exchange of value.

Mobile marketing has five key elements:

✦ **Organizations:** Organizations are commercial entities — brands, agencies, marketers, nonprofits, enterprises (including individuals), and so on — with products, services, and offerings they want to deliver to the market. In other words, organizations are you and your companies. Mobile marketing works for any type of business.

✦ **Practices:** Practices consist of the many faces and facets of marketing activities, institutional processes, industry player partnerships, standards making, advertising and media placing and buying, direct response managing, promotional engagements, relationship management, customer services, loyalty management, and social media stewardship. In other words, practices include all the things that you want to use to engage your customers. All types of marketing practices can be applied to mobile marketing.

✦ **Engagement:** This is the heart of marketing today, the process by which you and your customers interact with each other in a two-way (push-and-pull) dialogue to build awareness, conduct transactions, provide support, and nurture each other. Mobile marketing is one of the most

engaging forms of marketing because it's done through and with such a personal device.

✦ **Relevancy:** Mobile interactions can provide information (for example, a user's location, the time of day, activity, and so on). You can use this information to understand the context of your customer's current environment to tailor and to create an appropriate experience that is closely linked (even maybe relevant) to his current context. For example, if someone in New York is doing a search on the mobile Internet for pizza, you want to show him listings for pizza shops nearby and not send him to Lima, Ohio, to get his pizza. Mobile marketing is highly relevant.

✦ **Mobile devices and networks:** These terms refer to any wireless-enabled device, regardless of form factor or network. Although certain types of devices have their limitations, you can execute some type of marketing campaign on every type of mobile device.

The Two Approaches to Mobile Marketing

You should consider two approaches when integrating mobile marketing into your marketing strategy and mix (your marketing mix is all the activities you undertake to engage and deliver value to your customer):

✦ Direct mobile marketing

✦ Indirect or mobile-enabled traditional and digital media marketing

The next sections give you an overview of the two approaches so that you can decide how to use both approaches and when.

Direct mobile marketing

One of the really special things about mobile marketing is that it provides you with the opportunity to interact directly with a person — not a household address, a post office, or a television network — because mobile devices are personal and generally used by a specific individual.

Direct mobile marketing involves engaging an individual on a one-to-one level. The mobile channel provides you with three basic ways to practice direct mobile marketing:

✦ **Marketer-initiated communication:** This occurs when you start an engagement with the consumer — for example, you send a message, place a call, or push an application alert. It is sometimes referred to as *push marketing*.

✦ **Consumer-initiated communication:** This occurs when the consumer starts the engagement with you — for example, visits your mobile website, places a call, downloads an application, and so on. It is sometimes referred to as *pull marketing*.

✦ **Mobile advertising:** This occurs when you place advertising messages in one or more of the eight mobile media paths (see Chapter 4 in this minibook for an overview of mobile advertising).

Mobile marketing is an extremely effective direct marketing practice. Marketers consistently see response rates of 8–14 percent to their initiated communication (compared to less than 1 percent for most direct marketing channels), and mobile advertising consistently ranks higher in brand favorability, purchase intent, brand recall, and awareness versus other advertising media. Finally, in what is referred to as the cross-media effect, consumer engagement has been known to increase by as much as 21 times when mobile marketing is tightly integrated with traditional marketing like Internet, television, and print.

REMEMBER

Make sure that the customer contacts you first! With marketer-initiated direct mobile marketing, keep in mind that this is a personal medium. What that means is that you must first get a consumer's explicit permission prior to initiating communication, like sending her a text message, making a call, or pushing a download. Because you need permission, you can't engage in marketer-initiated direct mobile marketing without first using mobile advertising, by having the customer engage you and give you permission for ongoing communication, or by combining your mobile marketing programs with other forms of marketing to gain the permission in the first place.

Mobile-enabled traditional and digital media mobile marketing

Mobile-enabled traditional and digital media mobile marketing refers to the practice of mobile-enhancing your traditional and new-media programs (TV, radio, print, outdoor media, Internet, e-mail, voice, and so on) and inviting individual members of your audience to pull out a phone or connected device and respond to your mobile call to action.

For example, within your television advertising, you can have your viewers text a keyword to a Short Code to receive a coupon. Or, you can ask them to fill out a form on the web or mobile Internet, including their mobile phone number, to participate in the program. One of the most common places for mobile-enabled traditional media, however, is within retail. Figure 1-1 illustrates how a retailer may use signs in-store to invite people to participate in its promotional offerings.

Figure 1-1:
Integrating mobile into your traditional media.

Adding Mobile to Your Marketing Strategy

Developing a mobile marketing strategy can be straightforward. However, the task does involve reviewing a lot of data (the current and future trends and needs of your customers, your industry experience, the competitive landscape, and industry rules and regulations), sifting through your business marketing objective, technology trends, and the engagement details that are unique to mobile marketing. After you've done all this, you then need to integrate these details with your overall marketing strategy. Developing and executing an effective mobile marketing strategy takes time, attention, and a keen understanding of every aspect of your market, your business, and even other businesses that provide the mobile services and connections you need.

An effective marketing strategy doesn't rely on a single channel or tactic. In marketing, the rule is that a consumer must see your promotional message three to seven times across multiple channels for awareness of your offering to stick.

You can make your mobile marketing strategic processes as detailed and complex (or as simple) as you like, but keep in mind that developing a strategy is an iterative process. In other words, you try something, learn, adjust, and try again to see what works best. And, when the market shifts and what you've been doing stops working, you must learn, adjust, and try again.

The key to any plan, however, is to clearly understand what it is you want to accomplish and how and what you'll do to accomplish it. When building a marketing plan that includes mobile, consider these four things:

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✦ **Strategy:** Understand what the objectives are for your overall marketing efforts and your individual marketing and mobile marketing campaigns. You'll need to understand what resources you have available (for example, time, money, people), which channels and tactics you want to use, and whether you have enough resources to get the job done. If your objectives are not clear, your channel and tactical plans are not clear, and if you don't know what kind of resources you have, take a step back and reconsider your plan until you are clear. Figure 1-2 aligns a number of mobile marketing tactics to a variety of marketing objectives. This framework may help you with your planning.

Figure 1-2: A mobile strategy and tactics framework.
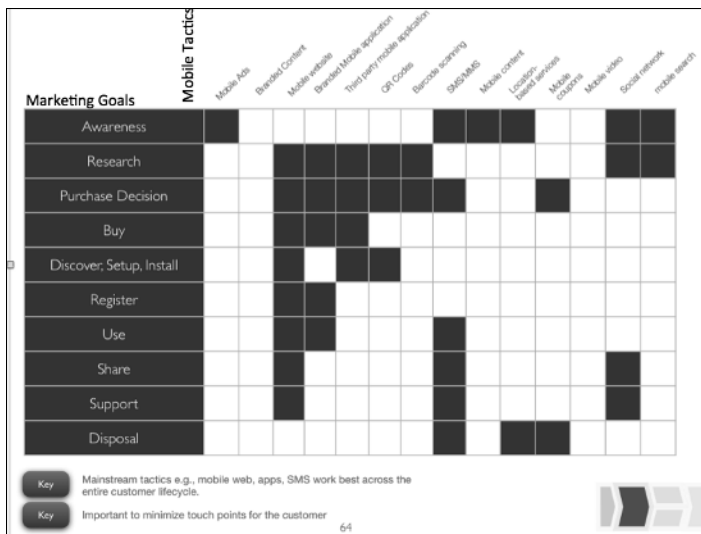
Courtesy of the-dark-matter.com

✦ **Creative:** Develop a plan for what you want your programs to look and feel like, including word choice, color schemes, and other design elements.

✦ **Technology:** Assess your technology and consider what you need to launch and run your programs — not just your mobile programs but your traditional programs as well. Consider how they might interact with each other.

✦ **Report:** Consider how you'll monitor and report on your programs. Reporting is key; without it, you won't know if and when you've met your goal.

In choosing how you'll go about executing your mobile marketing efforts, you can take four basic strategies to build your plan:

✦ **Do-it-yourself:** With this approach, you go it alone: You develop your own strategies, create and execute your own programs, and build all your own technology. This takes a massive commitment and investment — think things through before taking on this approach.

✦ **Agency:** With an agency approach, you contract with one or more marketing agencies or specialized mobile agencies or service providers to handle everything for you.

✦ **Platform:** With the platform approach, you handle the strategy, creation, and execution of programs yourself, and you use a mobile service provider's licensed software application or a platform for your technology and measurement.

✦ **Hybrid:** With the hybrid approach, you choose elements of each of the aforementioned approaches. For example, you may outsource creative work to a mobile service provider or agency and keep strategy for yourself, or license a platform for one part of a campaign.

Picking the right strategy for you and your firm is a very personal decision. You need to consider your resources and the type of company you are and want to be. See Chapter 4 in this minibook for an in-depth analysis on finding resources.

TIP

Which approach you select depends on how much of the overall mobile marketing process you want to personally take on and what pieces you see as being critical to your company's competitive advantage and core business offerings.

Exploring Mobile Devices

When most people think about mobile marketing, the first thing that comes to their mind is a mobile phone. But you need to ask yourself, what is a phone today? You find two types, feature phones and smartphones.

REMEMBER

Don't disregard the other mobile devices (like tablets, game terminals, e-readers, and GPS devices) that people carry with them as not being pertinent for mobile marketing.

For the purposes of mobile marketing, you should be familiar with three categories of mobile devices:

✦ **The feature phone:** The feature phone (see Figure 1-3) is the most
common phone in the market. As of December 2011, about 60 percent
of the phones carried in the United States are feature phones. These
phones run a real-time operating system (RTOS), which is a *closed
operating system* — one in which you can't make modifications such as
adding functionality to a mobile browser or changing the user experi-
ence on the phone. With feature phones, you're limited to SMS, MMS,
voice, and limited mobile Internet.

Figure 1-3:
Feature
phones are
the most
common
type of
phone today.

✦ **The smartphone:** The smartphone (see Figure 1-4) is a mobile device
that integrates mobile phone capabilities with the more common fea-
tures typically associated with a personal computer, including Internet,
applications, e-mail, entertainment, and rich-media services. Moreover,
smartphones increasingly include location, motion and related sensors,
touchscreens, and full keyboards. Smartphones are categorized by the
operating system they use. The top smartphone operating systems
(OS) are the Apple iOS, Google Android, Microsoft Windows Phone,
Research In Motion BlackBerry OS, HP Palm webOS, Samsung Baba,
Nokia Symbian, and Linux-based operating systems such as the MeeGo,
which is used in Nokia high-end phones. Smartphones account for
approximately 35 percent of the U.S. market today. In the United States,
by the end of 2011, nearly 40 percent of consumers have a smartphone,
a number that is surely to rise. Worldwide, however, smartphone pen-
etration is still in the 6 to 10 percent range.

More and more people will have smartphones and tablet computers
and be able surf the Internet, use e-mail, and download applications. In
fact, analysts estimate that by 2015 more people will access the Internet
through a mobile device than through a traditional desktop or laptop
personal computer.

Figure 1-4:
The
smartphone.

✦ **Connected devices:** The connected device category is the industry catchall term for all nonphone, mobile-enabled devices. This includes tablets (the Apple iPad, Cisco Cius, Samsung Galaxy, Research In Motion BlackBerry Playbook, Amazon Kindle Fire), e-readers (Amazon Kindle, Barnes and Noble Nook), portable gaming devices (PlayStation Portable), and so on.

Smartphones and tablets tend to run the same operating system, but for marketing purposes, you must treat them as very different mediums. Tablets, with larger screens, are used to consume content (books, articles, movies), while smartphones are used to take actions (search, scan, find stores, and offers).

Getting to Know Mobile Networks

The basic premise of mobile marketing is that you're engaging the consumer over *mobile networks*. You find three basic mobile networks:

✦ **Mobile carrier network:** The mobile carrier network (also referred to as the operator network) consists of a series of radio towers (so-called *cell towers*) that transmit and receive radio signals that talk with a mobile device. All kinds of technologies and acronyms go into making all this work — CMDA, TDMA, GSM, LTE, EDGE, and so on — but you really don't need to know anything about these. You'll also hear terms like *2G, 3G,* and *4G,* with the higher numbers referring to faster data speeds over the network. A 4G network is pretty close to broadband Internet speeds over mobile carrier networks (for example, it will enable things like real-time, interactive videoconferencing and social media).

✦ **Wi-Fi and WiMAX:** *Wi-Fi,* or wireless fidelity, more commonly referred to as a wireless local-area network, is a wireless network powered by a small terminal connected to an Internet connection. You see them most often in homes, coffee shops, and airports. WiMAX is a Wi-Fi network on steroids. A WiMAX network is a Wi-Fi network that is broadcast over miles rather than a few hundred feet like Wi-Fi. Most smartphones and connected devices can connect to Wi-Fi and WiMAX networks to access the Internet. A huge amount of mobile marketing (ad serving, application downloading, and mobile Internet browsing) happens over these faster networks.

✦ **Local frequency:** A number of low-frequency channels can be used to exchange data and interact with the mobile device, like Bluetooth, Radio Frequency Identification (RFID), and Near Field Communication (NFC). *Bluetooth* is a low-bandwidth radio spectrum that has a reach of about 1 to 109 yards, depending on the power of the device. RFID and NFC systems are similar in concept to Bluetooth in that they're both short-range communication systems, but they have unique identification and commerce capabilities.

Bluetooth and Wi-Fi may be used to engage consumers in what is referred to as *proximity marketing,* or the localized distribution of content to a mobile device. The *Bluetooth path* refers to the use of the Bluetooth communication channel on the phone.

That little blue icon on your phone represents Bluetooth capability. If you use Bluetooth, you probably use it to pair your phone with a peripheral device such as a wireless headset or hands-free car kit. You also may use it to sync your phone with your laptop computer or to send pictures from your phone to your printer. Wi-Fi is the channel that connects your phone to the Internet via a Wi-Fi access point.

In addition to working with peripheral devices, both Bluetooth and Wi-Fi can be used for mobile marketing — a practice called *Bluecasting*. You place Bluetooth access points and a Bluetooth transmitter in a public area (such as a mall, airport lounge, bus stop, or movie theater) or at a live event. When a consumer walks by the access point, if his phone is set to receive Bluetooth requests automatically, his phone beeps, and he's asked to accept a pairing request from the Bluetooth access point. If he accepts the request, the Bluetooth access point sends an image, ringtone, game, or other communication to his phone.

Leading Bluecasting providers include BLIP Systems (`www.blipsystems.com`), Ace Marketing (`www.acemarketing.net`), Aura Interactive (`www.aura.net.au`), and ProximityMedia (`www.proximitymedia.com`). Also, a new type of proximity marketing has been recently spearheaded by shopkick (`www.shopkick.com`), a retail loyalty solution. It has developed a proprietary audio signal for proximity marketing that is taking the retail market by storm.

WARNING!

Make sure that you're clear with your Bluecasting permission statements. Pushing content to consumers' phones without the consumers' solicitation or consent is a modern-day discourtesy sometimes termed *Bluejacking.* Make sure to look into standards and the code of ethics to ensure that you are helping your customers, not annoying them. Also, *never* engage in *Bluesnarfing,* which is the unauthorized access of information from a wireless device through a Bluetooth connection. Bluesnarfing is illegal in many countries due to privacy issues involved with unauthorized access to personal information such as contacts and calendars.

Understanding the Many Paths within the Mobile Channel

Marketing paths are the combination of the tools, technologies, and media used to communicate messages and reach consumers. For example, advertising on a billboard is often referred to as outdoor advertising, which is one type of marketing path. When it comes to mobile, many different types of paths can be used to reach consumers (see Figure 1-5).

The eight different mobile paths can be organized into six broad buckets:

✦ **Messaging** consists of the three messaging channels: SMS, MMS, and e-mail. SMS messaging contains up to 160 alphanumeric characters, while MMS and e-mail may contain more characters and rich media (image, audio, and text).

✦ **Browsing** refers to mobile Internet access through a browser.

✦ **Downloading** refers to the software applications downloaded to the mobile device.

✦ **Proximity** refers to engagements that can be had through local radio and audio channels.

✦ **Voice** refers to the voice and audio channels of the phone.

✦ **Content** refers to any type of content, text, video, and so on.

REMEMBER

Although each of the mobile paths can work all by themselves, they are more effective when combined together. For example, a text message can deliver a mobile website link, which when clicked may include a phone number link. When that phone number link is clicked, it places a call. The call may present a prompt for the user to say or press 1. When the 1 key is pressed, an application or content download may begin. Granted, this string of linkages would present a terrible user experience, but hopefully it demonstrates that all the paths can work together.
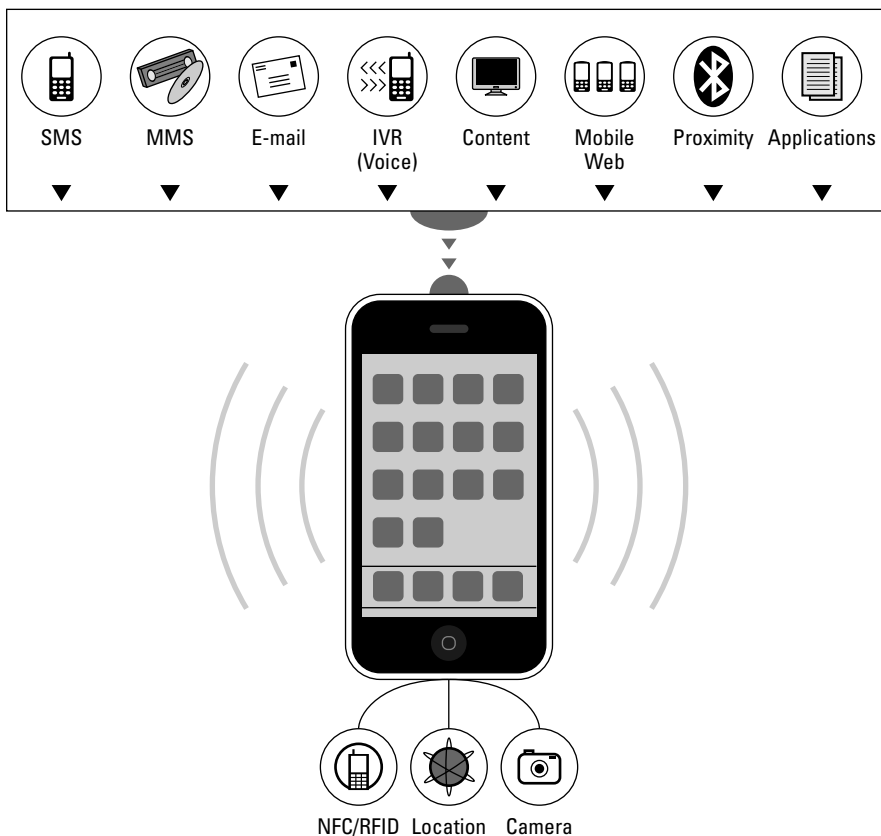
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Figure 1-5:
The paths
within the
mobile
channel.

The next chapter goes into depth on each of these paths.

Creating Your Company's Mobile Marketing Policy

Every company engaging in mobile marketing should have its own mobile marketing policy to ensure compliance with laws, regulations, and other standards in the marketplace. Your *mobile marketing policy* is a written document that outlines your company's position on key regulatory issues in mobile marketing and how you expect your employees and partners to react to these issues.

Regulations refer to government-mandated rules and laws that must be followed on both the state and federal levels in the United States, throughout a particular region, or in other parts of the world. *Best practices* and *guidelines*

are a compilation of accepted industry practices, wireless carrier policies, and regulatory guidance that have been agreed upon by representative members of a particular industry.

The following sections walk you through the components of a thorough policy that will give you the security and confidence you need anytime you run a mobile marketing campaign.

Adopting a code of conduct

A *company code of conduct* is a collection of statements within a mobile marketing policy that clearly states what you believe to be right and wrong when it comes to mobile marketing and consumer engagement in general. Think of your code as all the following rolled up into one:

✦ **A statement of your intent:** For example, "Our goal is to engage our customers through the mobile channel in a safe, easy, consumer-friendly way so that they ultimately will consider their mobile devices as a seamless and natural medium through which they can interact with our brand."

✦ **Your framework within which you engage consumers and protect their data:** For example, "We ensure that consumers interact with our brand strictly on a voluntary basis and in a highly secure environment using state-of-the-art encryption and other security protocols to protect against inadvertent disclosure, misappropriation, and external attack."

✦ **Your treatise for complying with laws and regulations:** For example, "We commit ourselves to ensuring that our mobile marketing programs are in compliance with current and future laws, regulations, and industry best practices. We will work with the governing bodies, our partners, and regulators to evaluate our program no less often than quarterly and will establish a communication policy to advise our employees, clients, and partners of any changes to our programs that are necessary to be in compliance with these regulations. Moreover, we will promptly address any industry audits conducted by the mobile carriers, application store, or related parties."

The Mobile Marketing Association maintains a recommended code of conduct that can be downloaded at `www.mmaglobal.com/codeof conduct.pdf`.

Publishing your privacy policy

A privacy policy is absolutely critical if you want to collect information from consumers. Although privacy policies are not required in the United States, consumers expect them when your business is engaged in electronic commerce and collecting consumer data. Not only does a privacy policy

help to inform and please consumers, but you also save yourself a lot of legal headaches later if you can demonstrate your adherence to a publicly available privacy policy if someone complains about your privacy practices.

Your mobile marketing policy should clearly spell out how your company plans to

✦ Obtain permission when you want to engage someone in your mobile marketing programs

✦ Keep a record of someone's permission after you obtain it

WARNING!

You should take the security of consumers' information very seriously. If you don't, you may ruin any possible future relationship with a consumer at the very least. At worst, you could pay a severe fine and even end up in jail (especially in Europe, which has incredibly stringent consumer protection laws).

To find out more about privacy statements, go to `http://mmaglobal.com/privacy-policy`.

Stating your permission practices

The use of consumer information and most forms of outbound mobile communications require opt-in permission from the recipient before they are legal or permitted by mobile carriers. Your mobile marketing policy should include a statement of your permission practices so that you can ensure that your information is usable and your messages will be deliverable and legal.

You must obtain prior opt-in permission from consumers before you can initiate engagement on their mobile devices. The following are examples of cases where opt-in permission is needed and examples of how opt-in might be applied in the interest of the best consumer discloser:

✦ **Be upfront about the cost.** The marketing material you use to invite the consumer to engage in your mobile program must contain opt-in information about the cost of engagement. For example, adding *Std Txt&Data rates may apply* (which stands for *Standard text and data rates may apply*) as part of the legal information near the call to action to participate means that the consumer would be charged a fee by his carrier for all text messaging, multimedia messaging, and data — application downloads, website views, and so on — in accordance with the contract that he has entered into with his mobile carrier. You can find even more detailed versions of this language as detailed in the Mobile Marketing Association Consumer Best Practices (`www.mmaglobal.com/best practices.pdf`).

✦ **Send text messages on an ongoing basis.** Your permission statement needs to outline the steps for obtaining prior permission. For example, your statement might require new customers to reply *yes* to all your text-message prompts before they can receive future messages.

✦ **Charge for content or services on a phone.**

✦ **Ask for donations through mobile devices.** Your statement should detail the process for confirming present and future donations.

✦ **Track physical location.** Some mobile applications can serve pertinent information to consumers based on their physical location. Before activating any location usage application, consumers must be prompted with the specific request for permission. Your statement should include a process for gaining permission, such as a check box or online form that asks users whether they want to allow you to use their location.

Securing and managing consumer data

Personal information can take many forms, including a consumer's mobile phone number, address, health and financial data, current location, and behavioral data. In marketing, personal information is divided into two classes:

✦ **Personally identifiable information (PII):** PII is any and all information that can be used to identify a person.

✦ **Nonpersonally identifiable information (non-PII):** Non-PII is information collected through the course of the marketing process, such as clicks on a website, that can't immediately be linked to a specific person.

California is the only state that actually requires businesses collecting PII from California residents to have and post a privacy policy. The Online Privacy Protection Act has quite a few requirements, so if your business collects PII from residents, you should definitely consult with an attorney who is knowledgeable in this area.

Both PII and non-PII are collected in mobile marketing interactions. The information may simply be a person's phone number, as when someone text-messages into a program, or it may include additional details such as age, name, and address. The information may be provided by the consumer during the course of his interaction with you or obtained later by combining data from multiple public and private data sources.

WARNING!

Regardless of how the information is collected, you *must* protect and safeguard all information that you collect during your interactions with consumers. You should collect only information that you really need. Frankly, why assume the liability of having it if you don't have to?

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Your customer data is very valuable to your company, but keep in mind that it's even more valuable to identity thieves. These days, governments not only go after those who steal it. They also go after companies who allowed the data to be stolen.

As a general rule, if you include the follow four steps in your mobile marketing policy and adhere to them, you'll usually be in compliance with data security laws:

✦ **Collect only the data that you absolutely need.** If you collect your customers' Social Security numbers, but don't do anything with them, you've created unnecessary risk.

✦ **Limit internal access to customer data to only those people who absolutely need it.** Some businesses give everyone in their IT department access to all information out of convenience in case someone from IT has to fix something. But if you allow an employee who sets up e-mail accounts for new employees to have access to a customer's payment history, you've created unnecessary risk.

✦ **Store data in highly secure form.** Encryption has become standard of care.

✦ **As soon as you're done with a customer's data and have no further need for it, destroy it.** If you retain customers' data after they have closed their accounts, you've created unnecessary risk.

After you have a plan for storing your data, you should document your data management policy and make sure that it spells out the logistics of all the concerns mentioned previously. Your data management policy should answer questions such as where is the data; how is it secured; who has access to it; what are the protocols for accessing, retaining, or deleting it; and so on.

WARNING!

If you hire a third-party agency to manage the engagement and collect data, ensure that an agreement is in place regarding the PII obtained and stored on your behalf. It should be managed, shared, and disposed of based on the security you require. It's wise not to make assumptions here; an agency might have a different viewpoint on this issue that is not in accordance with your policies.

Creating policies for special programs

Some mobile marketing campaigns have the potential to create unique legal and regulatory implications, so you need to address them individually in your mobile marketing policy. These special programs include

✦ **Winner data in prize promotions:** Talk with your attorney to make sure that your policy addresses state and local laws in addition to national laws for contests and promotions.

✦ **Incentives:** If you're using gifts, prizes, or other incentives to engage your customers, make sure that your policy complies with local, state, and federal laws. These laws can be extremely complicated; consult your attorney or a specialist firm like ePrize (`www.eprize.com`).

✦ **Social media:** If your business has a social media presence, give some thought to whether your policies or procedures should treat those who interact through their mobile device differently from those who access through laptops or desktops. For example, if you want to use mobile social media technology to utilize consumers' location data, you may run into legal issues with publicly posting the physical location of individuals. Allowing the general public to know where specific individuals are (or that they aren't home right now) can present safety and privacy concerns.

Special program policies are often specific to your business, industry, or local jurisdiction. Get help from your attorney before you address them in your policy or in practice.

Complying with Trade Association Guidelines

Following industry guidelines is always important. Even though the mobile marketing industry is young, you still have practices to follow. You need to follow these guidelines if you want to be effective in marketing through mobile channels. The following sections show you what you need to know.

Getting to know the influencers

You'll find a number of trade associations whose guidelines and best practices are well respected when it comes to mobile marketing. It's a good idea to become familiar with each association and its guidelines:

✦ **The Mobile Marketing Association (MMA):** The MMA is the leading worldwide trade organization whose members include agencies, advertisers, hand-held device manufacturers, carriers and operators, retailers, software providers, and service providers, as well as any company focused on the potential of marketing through and with mobile devices. The MMA's Consumer Best Practices Guidelines (`www.mmaglobal.com/bestpractices.pdf`) is a good place to start learning about accepted industry practices, wireless carrier policies, and regulatory

guidelines that have been agreed on by representative member companies from all parts of the industry. Check its website every six months or so for updates.

✦ **The Direct Marketing Association (DMA):** The DMA is a leading trade organization in both the United States and the United Kingdom that focuses on direct marketing practices, including mobile marketing. In 2009, the DMA included a mobile marketing section in its Guidelines for Ethical Business Practice (`www.dmaresponsibility.org/ Guidelines`), which is designed to help you execute your mobile marketing programs properly.

✦ **CTIA — The Wireless Association:** The CTIA (`www.ctia.org`) is an international nonprofit membership organization that has represented the wireless communications industry. Its membership includes wireless carriers and their suppliers, as well as providers and manufacturers of wireless data services and products. Participating wireless carriers, in conjunction with CTIA, have voluntarily adopted the Wireless Carrier Content Classification & Internet Access Control Guidelines. This is another critical resource you should consult if you want to market to consumers through the mobile channel.

✦ **Interactive Advertising Bureau (IAB):** The IAB is an organization that includes more than 375 leading media and technology companies that are responsible for selling 86 percent of the online advertising in the United States. Among the IAB's core objectives are sharing best practices and educating industry members in responsible marketing methods to help fend off adverse governmental legislation and regulation. The IAB mobile committee produces best practices and mobile advertising guidelines, which are available at `www.iab.net/iab_products_ and_industry_services/1421/1488/mobileplatform`.

✦ **Groupe Speciale Mobile Association** (**GSMA):** The GSMA is a global association spanning 220 countries and uniting nearly 800 of the world's mobile operators, as well as more than 200 companies in the broader mobile ecosystem, including handset makers, software companies, equipment providers, Internet companies, and media and entertainment organizations. This organization is focused on innovating, incubating, and creating new opportunities for its membership and the growth of the mobile communications industry. Information on the GSMA is available at `www.gsmworld.com`.

TIP

In addition to the five most influential trade associations, an increasing number of guidelines and best practices are set by installed application providers. These guidelines aren't set by an association, but rather are set by the application stores. For example, the Apple App Store requires that any iPhone application that offers location-based services must notify and obtain consent from an individual before his location data is collected, transmitted,

or otherwise used by the application. Make sure that you are aware of any and all individual provider guidelines before going through the trouble of building an application, website, or other program involving a partner.

Complying with U.S. Government Regulations

The U.S. government and individual states have managed to pass a few laws specifying what you can and cannot do with mobile marketing. The following sections highlight key laws, statutes, and regulatory activities that intersect with mobile marketing. As with all legal analysis, consult with your attorney before setting your company policies or taking any action with legal implications.

Steering clear of mobile spam

Mobile spam is unsolicited, unwanted communications in the form of e-mail, text messages, multimedia messages, and so on. As you might imagine by looking at your e-mail inbox or junk folder, spam is one of the more heavily regulated activities. Different laws apply, depending on the specific technology used to send communications. Most communication practices fall under these federal statutes:

✦ **CAN-SPAM:** CAN-SPAM is a U.S. federal statute that regulates the senders of commercial electronic mail. Electronic mail messages regulated under CAN-SPAM include e-mail and other electronic messages sent through social networking sites, but do not include text messages. (Text messages are governed by the TCPA, discussed in the following bullet point.) To comply with CAN-SPAM, check the current law at `http://business.ftc.gov/documents/bus61-can-spam-act-compliance-guide-business`. If you violate any of the CAN-SPAM laws, the U.S. Federal Trade Commission (FTC) can prosecute you.

In addition to FTC involvement in spam, the Federal Communications Commission (FCC) has imposed a ban on sending unwanted commercial e-mail messages to wireless devices if the e-mail address receiving the e-mail includes a wireless domain e-mail address listed at `www.fcc.gov/cgb/policy/DomainNameDownload.html`. This is a special rule designed to prohibit marketers from sending commercial e-mail to mobile devices.

✦ **Telephone Consumer Protection Act (TCPA):** The TCPA was passed by Congress in 1991 — long before SMS technology existed. The TCPA generally applies to telephone solicitations and other calls made to phone numbers, including wireless numbers. The FCC has noted that the law encompasses both voice calls and text calls to wireless numbers,

including SMS messages. One of the things the TCPA prohibits is the use of autodialers — computers that dial phone numbers — without prior express consent from the owner of the mobile number or account. Without getting into all the legal mumbo jumbo, the TCPA's application to text messages gets pretty convoluted. To be on the safe side, don't send unsolicited text messages to anyone.

> The best practice with any of the preceding regulations is to make sure that you get consumers' consent before you contact them through mobile channels.

In addition to CAN-SPAM and TCPA, the FTC issued the Telephone Sales Rule and has revised it on several occasions to update its applicability to the evolving climate of the mobile channel. The TSR consists of four general requirements for telemarketers:

✦ **National Do Not Call Registry:** On October 1, 2003, the TSR gave consumers a choice about receiving most telemarketing calls by establishing the National Do Not Call Registry. Telephone solicitors are required to ensure that they do not make telephone solicitation calls to any number listed not only on the National Do Not Call list, but also various lists containing those numbers that have changed from landline to wireless accounts and numbers that have been set aside for wireless service. Consumers can register their home and mobile phone numbers with the Do Not Call Registry at www.donotcall.gov. Most marketers are forbidden to place telemarketing calls to any phone number listed in the registry, but some exceptions exist, such as political organizations, charities, telephone surveyors, and companies that have preestablished business relationships with a consumer. Marketers are required to check the registry at least once every 31 days to clean their internal lists. Text messaging and e-mail also fall under the umbrella of the Do Not Call Registry.

✦ **Standards for telemarketers:** The TSR prohibits deceptive and abusive telemarketing acts and practices and sets forth standards of conduct for telemarketing calls:

• Calling times are restricted to the hours between 8 a.m. and 9 p.m., specific to the time zone you are calling, such as Eastern Standard Time (EST).

• Telemarketers must promptly tell you the identity of the seller or charitable organization and that the call is a sales call or a charitable solicitation.

• Telemarketers must disclose all material information about the goods or services they are offering and the terms of the sale. They are prohibited from lying about any terms of their offer.

✦ **Predictive dialers:** A *predictive dialer* is a computerized dialing system that automatically calls a batch of phone numbers within a given range. Telemarketers who use predictive dialers must connect the call to a live representative within two seconds of the consumer's completed greeting. If they don't, the call is considered abandoned, even if it's answered by a live representative after the two seconds. Abandoned calls are generally prohibited, meaning that you cannot keep someone waiting on a line longer than two seconds before he is connected to a live attendant.

✦ **Caller ID:** To be in compliance with the Caller ID component of the TSR, a marketer may not block Caller ID and must list a company name and telephone number that can be called by the consumer for company Do Not Call requests. The callback number must be answered with the same company name listed on the Caller ID.

All the rules and requirements surrounding contacting wireless devices seem like a virtual landmine. The DMA has come out with a very useful Wireless Marketing Compliance chart that helps you navigate through the rules and requirements surrounding contacting wireless devices. Check it out at `www.dmaresponsibility.org/WirelessChart`.