

Mobile Marketing Association to Update Privacy Guidelines

January 2011

The Mobile Marketing Association (MMA) [1] recently announced the launch of an initiative focused on the development of a comprehensive set of mobile privacy guidelines. The objective of these guidelines is to address the growing need for marketers and consumers to have a transparent, accepted understanding of how consumer information is collected and used. While this initiative is not a traditional media issue, it is certainly relevant as many media organizations, including broadcasters, newspapers and cable operators, have turned to mobile marketing as a new source of advertising revenue, to promote brands and to gather information on customers. Radio stations now regularly engage in text messaging campaigns to encourage listeners to join fan clubs and to compete in contests. Most major media companies have developed applications that allow users to access content on their smart phones. And almost all media companies have databases with email addresses and other information about their customers. The information collected by media companies through mobile marketing is incredibly valuable. It provides companies with information on their customers and, in turn, allows companies to better target content to their customers. The collection and use of personal information, however, also has the potential to be a liability because the information gathered through mobile marketing can be subject to privacy laws. Accordingly, media clients should be aware of restrictions on the collection, use and disclosure of personal data before engaging in any mobile marketing endeavor.

The MMA's initiative to develop mobile privacy guidelines complements its existing Global Code of Conduct (the Code). While not exhaustive, the Code can serve as a starting point for companies

Authors

Scott D. Delacourt
Partner
202.719.7459
sdelacourt@wiley.law

that desire to create a mobile marketing platform. It includes privacy principles for companies that choose to use customer information to market their products and services to customers' devices. A copy of the Global Code of Conduct is available [here](#); some of the highlights include:

- **Notice:** Mobile marketers provide users with Notice. Notice is an easily understandable and quickly discoverable description of the terms and conditions of a marketing program. Notice should include information sufficient to permit a user to make an informed decision about his or her choices on how that information is used for that marketing program.
- **Choice and Consent:** Mobile marketers ask for and obtain consent by obtaining an explicit opt-in from the user for all mobile messaging programs. Mobile marketers must implement a simple termination (opt-out) process so that users can stop receiving messages, and users must be able to exercise their opt-out choice from any message.
- **Customization:** Mobile marketers must take reasonable steps to ensure that user information they collect for the purpose of delivering targeted advertising is handled responsibly, sensitively and in compliance with applicable law.
- **Constraint:** Mobile marketers should target and limit mobile messages to those which users have requested.
- **Security:** Mobile marketers must implement reasonable technical, administrative and physical procedures to protect user information collected in connection with mobile marketing programs from unauthorized use, alteration, disclosure, distribution or access.

These principles are not exhaustive, and media clients should consult their Wiley Rein attorney or the attorney below for more detailed information.

[1] The MMA, a Wiley Rein client, is a nonprofit trade organization established to lead the growth of mobile marketing and its associated technologies.