

Full title of law or regulation

Code of Good Practice for Mobile Advertising

Polish: <http://www.gregsregs.com/downloads/POadvertisingCodeMobilePO.pdf>

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Mobile operators Polska Telefonia Cyfrowa, Polkomtel, Orange and P4 – in conjunction with IAB Poland and Agora, Interia, WP, Onet - have put together a set of good practices for mobile marketing.

The Code will apply to entities active in the mobile marketing industry: brand owners, media houses, mobile web publishers, creative boutiques, interactive agencies, mobile content and app developers, as well as members of IAB Poland - <https://iab.org.pl/firmy-czlonkowskie/czlonkowie/>

This document is intended for all market participants in mobile marketing, which can be divided into the following groups:

1. Web Portals, Vortals - publishers of mobile internet services such as: onet.lajt.pl, mini.wp.pl, M.gazeta.pl, m.interia.pl, m.bankier.pl or m.money.pl, also offering push marketing solutions, collecting for this purpose lists of recipients who consciously consent to receive advertising messages electronically.
  2. Telecommunication Companies - WAP<sup>1</sup> site publishers such as: wap.plus.pl, wap.era.pl, wap.playmobile.pl or wap.orange.pl, also offering push marketing solutions, collecting lists of recipients who have consciously agreed to receive advertising messages electronically.
  3. Companies providing mobile marketing tools - companies that lease their clients (usually under a license) software specifically designed for maintaining databases and conducting and analysing the sending of mass SMS / MMS messages. These companies do not have their own number databases, but only lend their platforms to customers for the needs of their operations. The competences of this type of company range from providing systems to providing customers with added services in the form of advice and planning and implementation of mobile marketing activities.
  4. Media houses, mobile marketing agencies, creative boutiques - campaign planning, strategy development, and mobile marketing solutions
  5. Marketers (advertisers) - entities that make up their own number databases for their own use and carry out their own dispatches.
  6. Developers and suppliers of the content.
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Definition of Mobile Advertising

Mobile advertising is understood to mean commercial communications that can be received using portable electronic devices such as mobile phones, tablets, palmtops, and other devices that connect to the internet. Mobile advertising is divided into push ads (SMS/ MMS/ wap-push<sup>2</sup>) and pull ads – where the ad is displayed after a specific action by the user – (i.e. entrance to a WAP site, sending SMS notifications etc... e.g. display forms - banners on mobile pages, content ads, text links, product placement)

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Signatories agree to abide by the following principles:

1. Push advertising may be directed only to recipients who expressly consent to receiving it. Such consent should be expressed by the customer in accordance with applicable legal regulations. At the same time, the customer must have the ability at any time to review and easily withdraw his / her consent.
  2. Signatories who process personal data of recipients should safeguard them with great care, to a level not lower than that required by law.
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<sup>1</sup> Wireless Application Protocol(WAP) is a technical standard for accessing information over a mobile wireless network. A WAP browser is a web browser for mobile devices such as mobile phones that uses the protocol

<sup>2</sup> WAP Push is like SMS, but are formatted to display an alert on the handset and include a link (URL) to direct a mobile subscriber to a web URL

3. If location data is used in a mobile advertising campaign, the recipient's consent must be obtained in accordance with the applicable law.
4. If the advertiser's intention is to further process part of a data set acquired in a mobile advertising campaign, he / she should report this to GIODO. At the request of the mobile operator, the advertiser will present the database number reported in GIODO, to which the advertising message has been sent and will provide information on when and how consent has been obtained from the particular MSISDN<sup>3</sup> and what is the scope of the consent granted by that recipient.
5. The effectiveness of mobile advertising is based on its proper adaptation to the Recipient (targeting) profile. Signatories will do their best to ensure that their campaigns are in line with the expectations and interests of the recipients, and that their quantity should not compromise their privacy and exceed the level of acceptability. Signatories will make every effort to continually measure the satisfaction of consumers. Messages in the mobile advertising campaign will be sent in a way that will not inconvenience the audience, which means not sending advertising messages, for example, at night.
6. Advertising campaign for mobile advertising must meet the following rules:
  - Compliance with applicable law
  - Accuracy of factual claims
  - An absence of information capable of misleading the recipient, causing them anxiety or giving rise to a sense of threat.
  - In the case of content inappropriate for persons under the age of 18, the recipient will be asked to confirm that he or she is an adult,
  - Mandatory information on the advertiser's name
  - Signatories will make every effort to ensure that the offer of a mobile advertising campaign is not worse than what is available on the market and that the way to make use of it is as simple as possible,
  - The signatories undertake to inform the recipients of additional costs, if any, as a result of their interaction with the advertiser.
7. Legal Aspects  
They concern push formats (SMS, MMS, wap-push, voice mail). Communications should be subject to the applicable law, taking into account in particular:
  - Personal Data Protection Act (29<sup>th</sup> Aug 1997)<sup>4</sup>
  - Act of 18 July 2002 on provision of services by electronic means
  - Telecommunications Act 16<sup>th</sup> July 2004<sup>5</sup>
  - Laws governing rules for dissemination of advertisements
8. SMS Spam Policy - Five Principles of Anti-Spam Policy in Mobile Advertising

Every form of push advertising, in particular, SMS, MMS, wap-push, voicemail<sup>6</sup>, Bluetooth, may be treated as SPAM by the recipients if the following rules are not followed:

#### **A. Targeting**

Advertising should only be sent to carefully targeted audience (who are potentially interested in the service or product) and who have previously consented to receiving such communications – so as to minimise the effect of unwanted advertising. Consent should not be abused and extended to areas

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<sup>3</sup> Mobile Station International Subscriber Directory Number; This is a unique number assigned to each SIM card, so identifying the user of the phone. What the users call simply a phone number, in technical terminology is called the MSISDN number.

<sup>4</sup> Unofficial English Translation: <http://www.gregsregs.com/downloads/POProtectionPersonalData1997.pdf>

<sup>5</sup> Translation of key provisions: <http://www.gregsregs.com/downloads/POTelecomsAct.pdf>

<sup>6</sup> Discount coupon, which allows you to send discounts and special offers to a defined and selected group of recipients on a mobile device

other than those referred to in the wording. Campaigns sent to "all" are more likely to expose an advertiser to negative associations and to lose a good image. In addition to the precise selection of the audience, the ad should be delivered at the right time and place. Addresses that have received a number of solicitations that exceeding the quota should not be contacted any more" (literally "they should be excluded from the target group).

**B. The content of the personalised message**

The message should be structured so that the recipient knows (in the first words) that it is addressed to him/her and knows who the sender is. The advertising message should be personalized, not generic, if possible.

**C. Fairness**

Advertising cannot mislead the recipient or make promises that are not fulfilled later. Where an ad invites recipients to interact: send an SMS, use an app, etc., the recipient should be informed of how much it will cost.

**D. Permission to revoke / withdraw consent**

It is important to ensure that if the recipient is not interested in receiving further communications, they can easily withdraw his / her consent, cancel the subscription.

**E. Sender ID**

It is imperative to inform the recipient who is the sender of the message – thus allowing him/her to classify the nature of the received message.

9. Campaign Monitoring

Campaigns should be implemented using dedicated tools which enable in-depth analysis of the campaign. Once the campaign is over, each advertiser should receive at least the basic campaign indicators:

Push campaigns e.g. SMS/ MMS

- Number of messages sent
- In the case of efficiency campaigns, e.g. the number of leads collected.

Pull campaigns, such as banners on mobile pages

- Number of page views
- Campaign reach
- Number of clicks
- Click through Rate<sup>7</sup> (CTR)
- Interaction

Games and Apps

- Number of downloaded applications
- Number of actions (depending on application features)

10. Education and Promotion – Entities involved in mobile marketing will educate consumers, advertisers, users on good mobile marketing practices.

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<sup>7</sup> ratio of users who click on a specific link to the number of total users who view an advertisement