



*Australian Phone* **Company**

### **Australian Phone Company anti-spam policy and Terms and Conditions**

- The User agrees not to transmit any material which violates State or Federal law, instructions, regulations or guidelines issued by regulatory authorities, relevant licenses and other codes of practice, or transmit any material which is in contravention to any privacy or copyright rules or any other proprietary interest.
- The User agrees not to harass, stalk, abuse or threaten any other person through SMS using SMS Broadcast.
- The User agrees to be aware and abide by the SPAM ACT 2003. <http://www.acma.gov.au/Industry/Marketers/Anti-Spam> . The User agrees to contact the Australian Media and Communications Authority <http://www.acma.gov.au> prior sending any SMS messages if the User is unsure that their SMS messages comply with the SPAM ACT.
- User agree to conduct business only according to SPAM ACT 2003, can be found: <http://www.australianphone.com.au/media/k2/attachments/spam.pdf>

### **Numbers that you're allowed to send Messages to:**

Whenever you would like to send SMS, you need to obtain certain permissions from the receiver. The permissions need to be clear-cut and transparent. You may do so in any of the following ways:

- An SMS Subscribe Form can be found on your website.
- By ticking on the square checkbox on the form - The checkbox would be empty by default and there'd be no signs of a tick mark on it and the person attempting to complete the form has to make the tick mark on the checkbox by his own will to indicate the fact that he or she would like to hear more from you.
- You may not contact a person that completed the given online form in the form of a survey or entered a competition unless he/she is aware of the fact that they may be contacted by you through SMS AND unless they tick the checkbox mentioned above which indicates that the person would receive SMS from you.
- Customers who have purchased an item from you within the period of last 48 hours are eligible of receiving an SMS from your side.
- If you receive a Business Card from a certain person and you've requested them to for a permission to add them to your list, you may contact them as per your concerns. If you did not personally receive the card and found it nowhere but at a public fishbowl at a random trade show, you may not contact the person unless there is an indication showing the willingness of the person to receive the SMS.

Overall, you may SMS someone only if you're granted clear and obvious permissions from the person himself to talk about the subject you're trying to contact them for.

### **Numbers you're prohibited to send messages to:**

Everything that is mentioned in the above given examples doesn't really equal the permissions in our eyes and so as to make it completely crystal clear to everyone. Here are some more of good examples so you don't end up getting confused. By using the services of the Australian Phone Company, you agree not to receive from or send content to any E-Mail which matches any of the following conditions:

- A case where you do not have accurate, precise and evident permission to contact the person regarding the topic you wish to talk about.
- In case you bought, loaned, rented or acquired a particular item from a third party distributor, regardless of what they claim about the quality of their product, you may still not contact them unless you receive permission from them about the contact.
- If you've failed to or didn't try to contact a person in the past two years, your permission expires in a way since this is a huge time period to be aged well. Such a person could've either changed their number or wouldn't remember giving you the permission or want you to contact them again in the first place. Hence, a person that wasn't contacted in the last two years may not be contact without a second permission.
- You may not contact numbers that you've copied or scraped from the public sites on the Internet. It doesn't really mean that the person wants to be contacted by you only because he has uploaded his number on the Internet.

### **Essential inclusions for message content:**

Every message sent using the Australian Phone Company needs to meet at least one of the following requirements:

- An opt-out mechanism has to be included in every message sent by you to the subscriber which gives out the subscriber an option to unsubscribe immediately, after which you won't be able to contact them anymore.
- The Name or Number of the sender has to be included in the message. If an SMS is being sent for your client, the name or number of that particular client has to be included instead of yours.

As mentioned earlier, you're not allowed to send people messages without a proper permission. If you're found violating the rules, the company shall immediately terminate your account.

You may contact us in case you wish to know more about the company's Anti-Spam Policy or if you seek the company's help in order to report a spamming activity by one of the customers.

### **The Booring Bits**

There are a few Terms & Conditions that you may want to keep in mind while using the services provided by the Australian Phone Company. By using the services of the Australian Phone Company through an electronic transaction or by any other means, you automatically agree to these Terms & Conditions.

The Australian Phone Company has been successfully providing its users the best of ways to create, launch or manage online SMS campaigns through its powerful and a wide range of tools and resources which can also be used to collect visitor mobile numbers and many more features. Though, the company does not support unsolicited or spam messages and would not aid its customers in doing so. This has been explained earlier in this document. Given below is a list of Terms and Conditions to which you automatically agree after making the decision of signing this document or by logging in for the first time:

## **1. Services and Support**

**1.1** The services provided are subject to this agreement as they may be amended by the Australian Phone Company and in addition to that, any guidelines, operating policies, rules may be posted from time to time, actively, being created or established by the Australian Phone Company. The Australian Phone company may modify the terms of Agreement at any particular time and may also discontinue or revise some of or all the other aspects of the services provided by it at its sole discretion while on the other hand, would make sure that it customers come to know of all the occurring changes by means of updating information on the website or by providing personal notices to its customers. All these changes in the agreement would become effective once the posting of the same is done on the website.

**1.2** The services would be available to you only if you're capable of forming legal binding contracts under the current applicable laws. Not limiting the foregoing, you may not be eligible of taking the services if your age comes in the category of below eighteen. If you don't meet this requirement, please do not make use of the services.

**1.3** The corporate websites, small business sites and community websites are allowed by the services to retrieve and use the data provided by you during your sign-up session and contact you further by phone or SMS according to your interests and thereby develop communications between you other targeted prospects.

**1.4** The Australian Phone Company meters and keeps an account of the number of SMS messages and the number of characters transferred by you. Your normal Australian Phone Company account enables you the ability to send an unlimited amount of SMS messages provided that your account contains enough credit.

**1.5** All the prices for message deliveries are subject to change at any point of time. You yourself shall stand responsible to review these prices in time and keep yourself up-to-date of the Australian Phone Company prices. The company also, on the other hand, shall immediately inform you through the means of SMS or E-Mail in case of change in prices so as to keep you informed. Any possible objections or grievances must be reported within seven days so as to receive a special consideration about the matter. The best way to make payments in advanced would be via a valid credit card that is accepted by the Australian Phone Company, unless you've decided to use another way after discussion with an official

Australian Phone Company representative. You may be notified via E-Mail if the Australian Phone Company fails to effectuate the automatic payment through your Credit Card. All the payments you make to the Australian Phone Company by any means are non-refundable. Your money will not be refunded unless your account was terminated by an official for a reason other than violating the Company rules.

**1.6** A registration form has to be filled and submitted by you at the Sign-up page and you're required to provide valid, accurate, current and complete information that was asked in the page so you can enjoy the best of the services. One of the important steps to be followed would be to provide a valid E-Mail address and password for your Australian Phone Company account. The company shall not be responsible for the security, passwords, files of your account, actions taken by your profiles or the services used by you through your name. You yourself shall be responsible for the above mentioned terms. The Australian Phone Company holds the right to deny a registration application of a particular user or cancel or deactivate an account if need be.

## **2. Responsibilities and Restrictions**

**2.1** This conformity with the Australian Phone Company is an agreement of services, hence, any kind of license or authority to any software shall not be provided. Neither directly, nor indirectly may you reverse engineer, dismantle or decompile or through any other means make an effort to find out the object code, source code, the structure lying underneath, mechanisms, plan, scheme or algorithms of any kind of document, software or data. You may also not try and remove any kind of notices that are copyrighted or labels made or brought out by the Service or multiple or any kind of software, alter, render or create cognate or subordinate works that were created by the Service or any other software. You may use the Service only for your business needs and may not make use of the Service or any software to act as a third party agent.

**2.2** You shall have to acknowledge and concur to the fact that all the Services and the Australian Phone Company names, the used names, logos and all other remaining similar products are legally a property of the Australian Phone Company or its suppliers and affiliates [basically known as "Marks"]. You shall not be using any of the above mentioned terms or Marks for your personal or commercial use, for example, advertising and publicity without a prior and written permission of the Australian Phone Company itself. The services used by you don't offer you any kind of possession, ownership or title in the service, the software, or the Marks. All the ownerships stay with the Australian Phone Company or respectively to its third party suppliers as may be the case.

**2.3** The Services are meant to be used for lawful purposes only. You shall not be transmitting or soliciting anything that violates the Australian Federal, state laws or your local city laws. The above may include material which contains obscenity, threatening, harassment, libellous behaviour or in any way any kind of intellectual property laws or the intellectual property rights of a third party.

**2.4** You shall be warranting, covenanting and act accordingly to the fact that all the services you use in future shall stay in proper compliance with the Agreement and all the laws that are applicable (not really limited to, but including all the previously mentioned

policies for defamation, solidity, indecency or spam). You may also need to agree to a requirement, that is to not use or access contact lists of third parties which lies in association with the preparing or sending of unsolicited messages to any other third party. Hereby, you agree to indemnify and to be able to hold the harmless Australian Phone Company against all kinds of losses, damages, settlements, liabilities, and expenses (together with the costs without the limitations and a reasonable fees for the attorney) which connects to any kind of claim or an action that rises up an suspected infringement of the foregoing or in other cases, arising from or relating to your personal use of the Services. The Australian Phone Company has no such obligations like monitoring the content which was created and provided by you, though, for the best, the Australian Phone Company may have to do so and delete any content or forbid the use of any services it feels is violating the foregoing.

**2.5** You might have to provide information like contact information, contact name or any other signing up information to the Australian Phone Company. The Australian Phone Company, in turn, could use this data or any other technical available information to tailor their service, facilitate you or even have a communication if needed to ensure you enjoy the best of their services.

**2.6** Except for needs regarding the service, the Australian Phone Company shall not use any of your subscriber list or customer information. No other parties shall receive your information. The Australian Phone Company shall also not use your customer information for the purpose of sending unsolicited or commercial form of messages.

**2.7** You shall have to obey the Anti-Spam or Privacy Legislations and guidelines that remain in contact to the Jurisdiction in which there's the receiving and sending of messages is done.

**2.8** You may, in any way, not make use of the Australian Phone Company in terms of distributing contests flagged as illegal, pyramid kind of schemes, letters in a chain, campaigns of multi-level marketing, etc.

**2.9** The Australian Phone Company may not be used to send messages that connect to or display obscene content, explicit content or nudity, betting or gambling related content, biochemical or pharmaceutical related content, software that are not legal, viruses, or conducting the act of distributing any form of material that is not considered appropriate.

### **3. Termination**

**3.1** By contacting us, this concord can be terminated at any point of time if you wish so. Your first name, last name and the Australian Phone Company username must be included in your application for termination. Refunds of any kind are not offered upon termination.

**3.2** On the completion of Termination, the Australian Phone Company may delete any of the data archived by you within the last thirty days. All the available segments belonging to this Agreement which, according to their respective nature, will be capable enough of surviving termination, incorporating without limitation, ownership rights, limitations of responsibilities and warranty disclaimers.

**3.3** The Australian Phone Company holds the right to conclude this agreement at any particular time with/without a cause or reason with a notice or without one. As a result of such termination, the Australian Phone Company shall possess no responsibility to you or any other third party. No refund shall be provided if the cause of termination was because of violating the rules.

#### **4. Warranty Disclaimers; Remedies**

Any form of the use of the services or any dependence from your side in any form, including any kind of maneuver taken by you due to such use and dependency stays at your side of the risk. there exists no warrant from the Australian Phone Company which states the services are not continuous or are error-free; also not providing any kind of warranty towards the consequences that could be observed due to the actions committed making use the services. all the services provided here are "as is" and the Australian phone company does not claim any kind of warranty, implied or express, which also includes but does not limit to the warranties that were already implied of merchantability or fitness for any or particular kind of non-infringement or purpose.

Any kind of exclusive or sole remedies provided by you in case of any kind of failure or bad/non-performance shall stick with and help the Australian Phone Company for commercial use for them to make the best of efforts to repair and give out best services in the future.

#### **5. Liability Limitations**

To the highest possible expanse permitted by the law, there shall be no events or legal theories, contracts, tort or others shall the Australian phone company or any other fundamental service providers, info providers, business partners, licensors, account providers, distributors, agents or employees(the mentioned categories are collectively mentioned together as the Australian Phone Company) stand liable to you or any particular or different person for any kind of financial damages, whether they're special, direct, indirect or incidental, cover, dependence or any kinds of resultant damages, even if the information was provided to the Australian phone company beforehand, or for any kind of assert by any other party. in an event when the aforesaid cannot with stand, you shall find the Australian phone company accountable to you as a reason for the damages, whatever the cause may be, disregarding the cause of the action (in either of contract, tort [including negligence] any form of product liability or otherwise. the liability of the Australian phone company shall be limited to the particular amount paid by you to receive the service benefits. at some parts, the jurisdictions fail to allow the exclusion or restriction of incidental or consequential damages, so you may not be applicable to this restriction and exclusion.

#### **6. SMS Service**

**6.1** The Australian Phone Company has its own unique ways of providing SMS services that efficiently sends messages to the mobile phones with the help of established carriers and aggregation companies. This facility is subject to the following mentioned terms and conditions:

**6.2** The fact the Australian Phone Company sends out and successfully delivers the SMS messages through major telecommunication companies and huge mobile network providers and therefore, influence only the delivery transmission of those SMS messages within the boundaries of the technical constraints imposed by the providers mentioned above has to be acknowledged by you. The SMS messages that were submitted using an internet will, in due course, are transferred to the recipient's phone as long as the phone is turned on and is located in an area full of coverage of the network provided by their particular network provider. You also acknowledge the fact that there may be chances and situations where the SMS message couldn't be sent due to technical problems or network problems. The Australian Phone Company neither claims nor guarantees either the availability or the performance of this service. The Australian Phone Company shall not be held liable in case of message delivery failures, yet, every effort is being made to stop inconvenience and make the sending of the messages prompt.

**6.3** The transmitted messages are debited by the Australian Phone Company accordingly to their transmission logs. Even if opposition is expressed by the customer, these logs are believed to be correct and valid, unless and until some kind of proof about the technical error is found out by the Australian Phone Company itself or by the customer. Due to the fact that the Australian Phone Company does not guarantee the delivery of messages in time, or never, due to possible network errors or problems by the network providers, the Company does not refund credits for failed SMS messages.

**6.4** You shall have to agree that all the activities, the ones that can be traced to your username and password are deemed as having being performed by you yourself, regardless of any claims, and are hence, legally binding to you.

## **7. Export of Services or Technical Data**

The services, direct products that include all technical data, shall not be exported or removed, or allowed to be re-exported from Australia in violation of any restrictions, regulations or laws of Australia or any other country that's applicable.

## **8. Miscellaneous**

**8.1** If, in any case, some part of the Agreement is found to be unenforceable or invalid, that particular provision's status shall be set to limited or would directly be deleted to the lowest of extents as possible as an attempt to keep the Agreement intact and keep changes at the minimal level.

**8.2** Both, the Australian Phone Company and you, the customer agree to the fact that this agreement is fully complete, with an exclusive statement of the consent and mutual understanding of the involved parties. It should also state that all the previous written and oral agreements, communications or any understandings related to the agreement and all the waivers and modifications must be produced in written form, keeping in mind that it is signed by both parties, except as provided herein. Any form of delay or omission by either the company or the customer in practising any kind of right or remedy that falls under this agreement or exists as law or equity shall not be considered a waiver of such a right or remedy.

**8.3** As a result of the Agreement, no agency, partnership, joint venture or employment is created. You do not have any right to bind the Australian Phone Company in this particular respect, whatsoever.

**8.4** The prevailing party will be entitled to easily recover all its lost costs and attorneys' fees in case there results an action or proceeding to enforce rights that fall under this Agreement.

**8.5** The Agreement is going to be governed to the fullest by the laws of the state of NSW, Australia disregarding its opinions or choices or conflicts of law provisions. Any legal action taken in connection to the Agreement shall be performed in the state or the Federal Courts located in Sydney, New South Wales, Australia.

## **9. System Requirements**

Australian Phone Company can easily be used on a Windows PC or a mac with the browsers namely Internet Explorer 7.0, Safari 3.0, Firefox 2.0 or more. On an additional note, it is recommended to use a decent internet connection. The Australian Phone Company gives out limited works on other platforms but does not guarantee functionality at any time. Also, the Australian Phone Company might run limitedly on a non-Internet Explorer browser (for example, Netscape Navigator) but still does not guarantee full functionality for any web browsers.

## **10. Compliance Rules for Sending Messages**

All the customers of the Australian Phone Company must strictly follow the rules of the Federal SPAM Act and the Anti-Spam aspects of this agreement that they've agreed to before sending messages using the provided service. The following is suggested to keep in mind while sending a message from the system. This would help ensure that the Australian Phone Company succeeds in maintaining its position in the white-list and have a good reputation like it always did with a number of major carriers and white listing programs. In case your message was flagged by a user as SPAM, the Australian Phone Company reserves the right to cancel your account without further notice.

## **11. Message and Permission Practices**

**11.1** With every message you send, do not forget to include the 'Opt-out' mechanism in your message, the tool that provides the subscriber an opportunity to unsubscribe at any time if they feel to do so. These mechanisms remain intact for a period of thirty days once you send them and must be in the right form and type satisfactory accordingly to the Australian Phone Company. You shall acknowledge and agree to it that you don't disable/remove this mechanism and follow this rule appropriately.

**11.2** You automatically agree to import or access or if you'd want to, use only permission based contact lists. (Note: Purchased lists may not be used. Please contact the Australian Phone Company support in case you're having questions.)



**11.3** Please be aware that you cannot send messages to a newsgroup, distribution lists or a spam address.

**11.4** After sending the 'Opt-out' mechanisms along with messages, you gain its responsibility and are responsible monitoring, correcting and processing the requests within a time period of ten days, and also updating the mobile numbers to which you normally send messages to using the service of the Australian Phone Company.

**11.5** Sometimes, the messages you send may fetch abuse complaints from the recipients. You'll have to make sure you don't receive a lot of these complaints and they don't go excessive according to the industry norms. Finally, in its sole discretion, the Australian Phone Company shall decide the level of abusiveness posted in the message and see if it exceeds the industry norms with a final, binding and conclusive determination for all purposes under this agreement.

**11.6** The Australian Phone Company may at any point of time, with or without notice, disable your account with no refund if it, at its sole discretion feels that you've violated any of the above mentioned conditions of this Agreement, or the laws of the Australian Phone Company Anti-Spam Policy.

## **12. SMS Message Character Charges**

The following rates are the charges for SMS Messages:

- 1 - 160 characters = 1 SMS credit
- 161 - 306 characters = 2 SMS credits
- 307 - 459 characters = 3 SMS credits
- 460 - 612 characters = 4 SMS credits
- 613 - 765 characters = 5 SMS credits
- 766 - 918 characters = 6 SMS credits

**If you have any questions call us on:  
03 9999 82 89 [www.australianphone.com.au](http://www.australianphone.com.au)**