

SMS for the estate agent – Targeted marketing tool, or Legal Minefield?

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By Ken Norbury

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Imagine having at your disposal a means to immediately inform house buyers that you have just the property they are looking for. Potential buyers have given their details and their preferences – imagine that you can send them this information no matter where they are or what they are doing, they can read it at a time that's convenient and can act accordingly in their own time. Imagine that you can do this quickly and easily, in a matter of minutes, regardless of the number of recipients.

Sounds too good to be true? Well it's not – it's available now, it's inexpensive and you can be taking advantage of it within minutes of reading this article. It's called SMS Text Messaging – and of course you already knew about it didn't you?

From the homebuyer's perspective, SMS is a really convenient way to get information. It's personal and it's discreet. There's immediacy about the message, but at the same time it's not intrusive, and they can handle the response at their convenience.

So you decide that this is a great idea and you want to get your company geared up for the 21st century. How do you get started? Perhaps your first thought is to get your friendly IT Consultant to take a look at the problem, right?

Stop! Don't pick up that phone until you've read the rest of this article. In common with many of these kinds of issues it's easy to get so bogged down in the technicalities that we fail to consider some of the other issues involved.

First of all, let's look at the legalities.

By 31st October 2003, all member states of the European Union will be implementing Article 13 of the Directive on Privacy and Electronic Communications (DPEC). A public consultation on how to implement the DPEC in the UK was launched by the DTI on 27 March 2003, and ran for 12 weeks,

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closing on 19 June 2003. Final implementing Regulations are now being prepared, taking into account the responses received. The DTI intend to publish details of these final measures by mid–September 2003. The new Directive:

Replaces existing definitions for telecommunications services and networks with new definitions for electronic communications and services to ensure technological neutrality and clarify the position of e–mail and use of the internet;

Enables the provision of value added services based on location and traffic data, subject to the consent of subscribers (for example, location based advertising to mobile phone users);

Removes the possibility for a subscriber to be charged for exercising the right not to appear in public directories;

Introduces new information and consent requirements on entries in publicly available directories, including a requirement that subscribers are informed of all the usage possibilities of publicly available directories – e.g. reverse searching from a telephone number in order to obtain a name and address;

Extends controls on unsolicited direct marketing to all forms of electronic communications including unsolicited commercial e–mail (UCE or Spam) and SMS to mobile telephones; UCE and SMS will be subject to a prior consent requirement, so the receiver is required to agree to it in advance, except in the context of an existing customer relationship, where companies may continue to email or SMS on an 'opt–out' basis;

Clarifies that the Directive does not prevent Member States from introducing provisions on the retention of traffic and location data for law enforcement purposes;

Introduces controls on the use of cookies on websites. Cookies and similar tracking devices will be subject to a new transparency requirement – anyone that employs these kinds of devices must provide information on them and allow subscribers or users to refuse to accept them if they wish.

So what does that mean to the potential implementation of your SMS service? Well, it seems quite clear, we must obtain the recipient's permission before sending any SMS messages "unless there is an existing customer relationship". The exact meaning of "existing customer relationship" is however somewhat of a grey area in the act. For example, if it is interpreted as being someone who has at some time bought a product from the vendor, would that mean that the product being marketed would need to be the same type of product? If this were the case, a supermarket would only be able to send messages about a single line of product to people who have bought that product and would not be able to send messages about other merchandise or services. The DTI's stance on this is that this particular issue is clearly covered in existing UK legislation under the Data Protection Act 1998:–

"These would restrict a business to direct marketing the kind of products the addressee would have reasonably expected it to market at the time they gave or agreed to use of their contact details i.e. a business could market the products available at the time, but not necessarily those of a business that it took over, or a substantively new product range."

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So, therefore, it would seem that say a large supermarket chain, who got your name and address, phone number and email details whilst you were a customer buying groceries, should not be legally entitled to begin any form of communication with you using information about you gathered in this way if, for example, they were to start selling Insurance services or indeed start up an Estate Agency business? It would seem so.

So, in most cases, it would appear that your existing customers are open to you being able to send them SMS messages, as it would be reasonable to assume that they would expect you to send them property related information.

There are however other grey areas in the document.

The following is an excerpt from the DTI's document on Article 13:–

"Grey areas under the current rules include the status of systems which send SMS automatically and power dialler–type systems which dial numbers automatically but are designed to establish a voice link with a live operator rather than a pre–recorded message. Lack of certainty about the application of the

TDPP (Telecoms Data Protection Directive) Regulations has made it harder to deal with the problems that these kinds of systems can cause. Power diallers, for instance, can cause problems to subscribers where they are used without enough call centre staff available to answer the calls being dialled, resulting in single or repeated silent calls, or calls which cut off after a few rings, in addition to any annoyance caused if they are used to ring subscribers who have registered on the TPS (Telephone Preference Service).

Limiting the definition of automated calling system does not mean that these areas will be unregulated. The sending of unsolicited SMS for advertising purposes is now explicitly covered by the Privacy Directive which treats them in the same way as e–mail messages."

Anyone receiving SMS messages from you should have a clear indication of where the message came from and a clear method to unsubscribe from your service.

It would seem therefore that apart from any other considerations, there are many potential legal pitfalls to setting up your own e–marketing system.

Looking at this from a slightly different perspective, the solution may well be a lot easier than you might expect. From the consumer's angle, the approach to receiving SMS or email messages about products and services is something each of us would rather have much more personal control over. In 1998, my company at the time, Geoworks Corporation, did some extensive focus group research into consumer reaction to e–marketing and in particular SMS. This research was conducted both here in the UK and in the US. At that time, SMS messaging had been available to mobile phone users for a number of years, but we had not achieved the massive volumes that were to be reached in the phenomenon which took place some 12–18 months later when Pay As You Go services sparked huge SMS growth. To illustrate the point, all of the UK mobile phone companies at this time probably had only one or two SMS Controllers (a computer which handles the storage and routing of SMS messages) in their

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infrastructure. When the ramp-up suddenly began, the growth caught most of them completely unawares and meant that they had to try and commission new SMSC's faster than the boxes could be ordered! What had been a fairly straight and flat line on a graph suddenly went vertical. Our research at Geoworks indicated that consumers were excited about receiving SMS messages about products or services provided that they were not being charged to receive the message and they had some control over what products and services they were going to receive messages about. "Permission Marketing" was the key – what the consumer wants, when they want it and where they want it. Consumers indicated that they would be happy to receive all kinds of information supported by advertising on the same basis – for example, Weather Information sponsored by X or Football Scores sponsored by Y.

It would seem then, that the key to success in this area is not in the hands of the vendor's innovations or exclusive products, but in giving the consumer control. Without permission, any attempt to sell via this means becomes annoying and intrusive, causing the would-be potential buyer to become alienated against the marketer – a self-defeating exercise if ever there was!

So what should be your way forward? Look at other e-marketing success stories for a clue. Amazon.com is, today, a well known and respected seller of books and much more which started from humble roots in the Seattle area and has grown to be a worldwide \$multi-million success. Amazon's success was based on giving you, the consumer, control and providing a top-class next-day service. You control from the comfort of your home or office, the parameters that determine what you get from Amazon. It's easy and convenient, and grew like topsy. Ebay is another example – providing a worldwide auction service. Many other services provide 'Portal' access for the consumer to select what

information they wish to receive.

So it seems Portal services are the key to gaining the hearts and minds of the consumer. But as an Estate Agent, how does that help?

A Portal could provide a single access point for would-be housebuyers to register their interest in properties by locale, price and number of bedrooms. The consumer controls what they want to get. It is open to all Estate Agents who can register, quickly and easily, any property that is going on the market. Any technical or legal issues are the responsibility of the Portal and not of the individual Estate Agent.

From the consumer perspective, it's one place to go, they register once, but potentially get messages from many Estate Agencies provided that they match their criteria. It's free to the consumer, and they have control to change their criteria or unsubscribe should they wish.

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Ltd. a company who specialise in

services for the Estate Agent market. He was formerly Vice President of Geoworks Corporation, a US company who pioneered many aspects of mobile communications including mobile messaging server systems and Operating Systems for devices such as the Nokia Communicator 9000 and 9110.

Ltd. developed the qpAlert!

web portal service which allows house

buyers to register their interest in properties by area, price and size.

The Saga Of An Ideal Real Estate Agent

By David Riewe

Behind the success of a man is a woman, and behind the success of a real estate business is an ideal agent. Indeed, it's the human resource that is considered to be the most important factor for real estate business to succeed.

Indeed, real estate can be a lucrative activity when managed properly by the right person. But what does it take to be an ideal real estate agent? Here's how:

1. Have a solid track.

Most people who succeeds in life knows where they want to got, what they want to do, and the reasons behind it. And so, for a person to be a successful real estate agent, he or she must encompass this trait in order to succeed in the industry.

2. An ideal real estate agent knows who he or she is.

Skills, strategies, and marketing tools will all go to waste if the real estate agent does not have a solid assessment of his or her own personality.

Consequently, a successful real agent is honest in his or her endeavors especially those that involves transactions with a client. If, in the first place the real estate agent is not being true to himself or herself, then the real estate agent will most likely have difficulty in dealing with other people.

This all boils down to the fact that an achiever is a believer not of any other thing, but in himself.

3. Optimism.

A lot of people who succeeds in life are optimistic. This means that a person has always a positive outlook in life. An optimistic person believes that there is no such thing as failure. And an ideal real estate agent knows this too.

4. Motivation power.

An ideal real estate agent knows how to motivate or move people into action. It's that unique power of every sales person to device a strategy that can motivate their clients to buy the product he or she is selling.

5. Awareness of the value of properties.

To become an ideal real estate agent, one should be aware of the ebb and flow of the cost of the properties. These should be taken into consideration with utmost care and skill.

6. They should not price.

To be an ideal real estate agent is to be considerate with their client's purchasing capability. They should be sensitive enough to detect if the price of the real estate is reasonable enough to hit their market.

7. An ideal real estate agent does not engage into hard selling.

8. An ideal real estate agent knows how to make a pleasant showcase of the property.

David Riewe is a Publisher and Online Marketer. Visit his Real Estate Blog [Save \\$\\$\\$ Selling Your Own Home FREE eBook Shows You How!](#)

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