



# The Text Revolution: Changing Times Call for Changes in your Communication Practices

By Aaron Simon

## Introduction

In today's day and age there are numerous ways you can communicate with people, including your insurance customers. This includes phone calls, letters, text messaging, Facebook Messenger®, Skype®, LinkedIn®, and so on. The use of what was once known as "non-traditional" forms of communication, particularly text messages, has exponentially increased over the past few years. This article will focus on this rise in text messaging, how you can properly use it to increase and improve your business, and the legal implications of texting for insurance agents.

As an attorney, I regularly have clients text me and message me on Facebook® and LinkedIn®. My clients are using this format to contact me and likely so are your insurance customers. In addition, you may have communications with insurance company underwriters and other insurance company personnel via text messaging. It would not surprise me if you will soon be able to report an insurance claim via a text message. Even my 73 year old father regularly uses text messages to communicate with me, and expects me to promptly respond to him!

Some research has shown that **"sending and receiving text messages is the most prevalent form of communication for Americans younger than 50"**; and "[m]ore than **two-thirds of 18- to 29-year-olds say** they sent and received text messages 'a lot' the previous day, as did nearly **half of Americans between 30 and 49.**"<sup>1</sup> In addition, some studies have shown that **more than 90 percent of people read a text message within the first three minutes of receiving it.**<sup>2</sup>

While some may not like the predominance of texting, it cannot be ignored. There are no legal prohibitions against the use of text, or similar, messaging with your customers. But, there are both positives and negatives to texting. Some of the biggest positives are that texting is simple and easy; texting documents your communications; and the cost of texting is very low. Some of the biggest negatives are the potential for misunderstandings and misinformation and the impression of informality and unimportance.

## Positives of Text Messaging

First, as a marketing tool, allowing your customers to reach you via text, should you choose to do so, gives them access to you 24/7. This could be a big selling point for you, particularly with the Millennial Generation (born between 1980-1999), an 80 million-plus group of customers. Millennials are always near their phones, and their next text, with 80% sleeping with their cell phones next to their beds.<sup>3</sup>

Text messaging is also a way for you to successfully reach your customers, with instant confirmation that a text has been sent, and statistics showing that it will likely be read. For example, some studies show that **"Brands using SMS successfully reach 95 percent of smartphone and non-smartphone users."**<sup>4</sup> Text messaging is, likewise, generally a reliable and a universal way of communicating with customers and others not just in the United States but throughout the world. Texting internationally is generally the same as a making a phone call; you just need the country calling code to send a text.

Further, texting is instant and to the point. Texting forces you to be succinct, which is important to customers. It is, in fact, the most inexpensive form of communication. To quote Mark Twain, "I didn't have time to write a short letter, so I wrote a long one instead." So if you have a tendency to go on and on to make a point, texting forces you to be brief and to succinctly convey your message.

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Additionally, you don't have to "break the bank" to use texting technology in your business. Software can allow you to sync your phone to your desktop computer and allow you to send text messages directly from your desk. You can also store, download, characterize, and sort your text messages using various applications on your smart phone, most of which are free or at a very low cost.<sup>5</sup>

## Negatives of Text Messaging

So with all of these positives to texting, are there any negatives? The answer is yes, and the lesson is: be aware and be careful when communicating via text.

First, texting, Twitter®, chatting and IM abbreviations, while common, may be confusing. In normal, everyday life, a "TTFN" would be totally appropriate, but when communicating with an insurance customer, such abbreviations are too informal. Certainly, the use of "THX" would be acceptable, but use caution. While you might be up-to-date on the latest lingo, your customer might not know what "BTW," "RBTL," "2moro," or "IMHO" mean. Similarly, if you receive a message with such abbreviations, make sure you are clear on the meaning. A simple message back with a confirmation would suffice.

Likewise, context is very hard to convey in a text message, such that sometimes the benefit of conciseness is outweighed by the need to put the information you are conveying, or receiving, into context.

Errors in spelling and content are also more prevalent in text messages as opposed to emails and traditional letters. Auto-correct can also entirely change the meaning of the message sent or received. Proofread before hitting "send."

Finally, some people are just not yet comfortable sending and receiving text messages. In those instances, traditional communications are best.

## Legal Implications of Text Messaging

While text messaging has taken over as the dominant form of communication, there is little case law or legal authority that discusses text messaging in the insurance agent insurance customer dynamic. Currently, there is no legal prohibition on the use of text messaging, or other forms of IM, in communications with your insurance customers. In fact, courts have recognized texting as a valid and predominant form of communication.

However, text communications do have potential legal implications. The most obvious issue is making sure you receive and acknowledge communications that you receive via text from your insurance customers. What is the effect of an insurance customer texting you "please add new 2015 Camaro to my automobile policy the VIN is..." Does this bind coverage? Probably not. However, if you as the agent fail to add the new vehicle, and a claim involving that vehicle later arises, you might be exposed to a professional liability claim.

Another potential legal implication of texting is sending a text to the wrong customer. There is likely limited liability exposure here but there is chance to upset and offend your customers.

Another legal issue that arises with using texts in business is sending sensitive information (driver's license numbers, social security numbers, bank information, etc...). First, it is highly recommended that you do not send sensitive information via text. However, if you or your customers are sending sensitive information via text, then make sure at minimum you are always locking your phone when not in use; and you should encrypt<sup>6</sup> your phone.



**Aaron Simon** is a litigation attorney with the law firm of Brownson & Linnihan, PLLP. He is admitted to practice law in Minnesota and Wisconsin. A focus of Mr. Simon's practice is defending insurance agents and agencies and handling insurance coverage cases in state federal courts. Mr. Simon is a member of the Minnesota State Bar Association, the Wisconsin State Bar Association, the Minnesota Defense Lawyers Association, and the Defense Research Institute and the Professional Liability Underwriting Society. To learn more about Aaron, go to

<http://www.brownsonlinnihnan.com/bio/aaron-m-simon/>



One should also take care if you are sending mass marketing via text messaging. There are federal and state regulations that exist that apply to this and that should be carefully followed.<sup>7</sup>

## Recommendations

Like it or not, text messaging (and other forms of non-traditional communication) are here to stay. Be aware of this and embrace these forms of communication while at the same time taking care to still communicate appropriately. Even though texting is less formal than other forms of communication, carefully composing and sending text messages is important. Only communicate via text or instant message with customers who have specifically agreed to this form of communication. Have the customer confirm on the first text that you have the right contact number. In fact, a best practice is to ask your customers what form of communication they prefer.

As always from a professional liability standpoint, documentation is key. Set standards and follow them: all “conversations,” with a customer—whether by text, email, phone or in person— should be documented and preserved.<sup>8</sup> You should also obtain written acknowledgement from your customer regarding all decisions and transactions. Unfortunately, it is sometimes not enough to have one-sided documentation. It is also recommended that if you regularly communicate with a customer via text that you send that customer a written statement regarding your policies and limitations regarding your agencies’ text communications.

A best practice is to develop policies and procedures for your agency’s communications with customers and others by text or other forms of instant messaging. Make sure these procedures are understood by all and carefully followed.

## Conclusion

Communication continues to evolve with technology and social media. For the insurance industry, this evolution can provide an opportunity to connect in a new way with your customers, particularly as the Millennial Generation takes over the marketplace. For every communication, there's an appropriate form of messaging, including text messaging. The bottom line is that this form of communication, used with proper safeguards, can be advantageous to an agency’s business, both in terms of reaching more customers and, if a liability claim arises, creating documentation to protect you.

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<sup>1</sup> <http://www.gallup.com/poll/179288/new-era-communication-americans.aspx>

<sup>2</sup> <http://venturebeat.com/2015/03/27/why-businesses-cant-ignore-sms-hint-90-of-people-read-a-text-message-within-the-first-3-minutes/>  
See also: <http://www.fastcompany.com/3010237/bottom-line/texting-is-the-new-email-does-your-company-do-it-right/>

<sup>3</sup> <https://www.uschamberfoundation.org/millennial-generation-research-review>

<sup>4</sup> <http://www.forbes.com/sites/cherylsnappconner/2013/11/12/fifty-essential-mobile-marketing-facts/>

<sup>5</sup> <http://smallbusiness.chron.com/improve-business-communication-through-text-messages-74614.html>

<sup>6</sup> Most smart phones have a setting that allows to encrypt all of the data on your phone.

<sup>7</sup> The Telephone Consumer Protection Act (TCPA) and the CAN-SPAM Act set for the requirements for commercial messages and marketing. More information on both laws can be found at <https://www.ftc.gov>

<sup>8</sup> Texts should be immediately forwarded to your business email address and entered into your agency management system. It is important for everyone in your agency to learn how their specific phone works for text forwarding and understand the characteristics of their devices, as they differ.

