



FREQUENTLY ASKED QUESTIONS ABOUT CANADA'S ANTI-SPAM LEGISLATION (CASL)

Q: Can we continue to use third party lists that we purchased previously?

A: In most cases, yes...as long as you have a record & future messages have the required information & unsubscribe mechanism...as long as you have a record, you will not need to get a new express consent

Q: Can I send a message to all my customers to announce the legal changes, & then ask that they respond via a survey to confirm or deny that they are providing consent?

A: Before July 1, 2014, yes. After July 1, 2014, yes if you have consent. Note that if you have a record of how the electronic address was acquired before July 1, 2014, consent is considered implied until July 1, 2017, & you could send this type of message, unless of course the recipient unsubscribes.

Q: Can I send a CEM to another business without express consent? Does it have to contain an unsubscribe mechanism?

A: In some cases, yes. Some business to business communications are exempt from the form & content requirements & therefore do not have to contain an unsubscribe mechanism.

- To employees, between similar businesses that have a relationship or to contractors that have similar business interests



Q: I work for an industry association & often send CEMs to my members. Does this mean I'm exempt from the requirement for express consent? What about the form & content of CEMs? If they unsubscribe from receiving CEMs from me, can I still send them their renewal notice?

A: An industry association is a corporation. You can send a CEM to another business without express consent as long as you have a relationship & have records, business to business communications are exempt from the form & content requirements & therefore do not have to contain an unsubscribe mechanism. However, in practical terms, it may be prudent to include an unsubscribe mechanism to messages such as newsletters & advertisements. It is also important to note that membership prospects may not be covered under the business exemption.



Q: At a trade show, would scanning a person's badge be considered consent if they agree. Would the list derived from show management be used as proof of consent?

A: No, if the condition of entering the trade show was "bundled" with the request for consent. Yes if entering the trade show was separate + if you clearly ask the person if they grant their consent to receive exactly what type of CEMs & indicated that scanning their badge was the way you were making a record of that consent.

Q: We sell through distribution. Would we be considered as having an existing business relationship with the end customer? Does this mean we're exempt from the requirement for express consent? What about the form & content of CEMs?

A: It depends on who the end customer is. If the end customer is a consumer, then no. If it is another business, you would need to be able to demonstrate & have a record of the relationship.

Q: How long do we need to maintain records of consents?

A: For as long as you intend to communicate with the receiver. In practical terms, it is prudent to keep those records well beyond the last communication date. The law stipulates that a proceeding may be initiated up to 3 years after the violation was noted by the CRTC.

Q: For conferences or trade shows, would e-blasts to previous attendees to let them know online registration is now open or a reminder to register ok? Would this be a case of a business relationship that does not require express consent as long as they have attended or pre-registered in the past 2 years?

A: For most existing business relationships, consent is implied for 2 years or until the person withdraws their consent. It is implied for 6 months when the "existing business relationship" consists only of an inquiry or application. As a transitional measure, consent is implied for existing business relationships until July 1, 2017, or until the person withdraws their consent.

For further reading:

- The Act, where most of the new requirements are listed:
<http://laws-lois.justice.gc.ca/eng/acts/E-1.6/index.html>
- The last version of the proposed regulations that define key terms & list exemptions, likely to change before they are finalized, expected this fall:
<http://gazette.gc.ca/rp-pr/p1/2013/2013-01-05/html/reg1-eng.html>
- CRTC's regulations & interpretation bulletins & FAQs that clarify how they interpret, & intend to enforce, the new rules:
 - <http://www.crtc.gc.ca/eng/archive/2012/2012-183.htm>
 - <http://www.crtc.gc.ca/eng/archive/2012/2012-548.htm>
 - <http://www.crtc.gc.ca/eng/archive/2012/2012-549.htm>
 - <http://www.crtc.gc.ca/eng/casl-lcap.htm>