



**Email Marketing
How to comply
with the Canada's anti-spam legislation**

Contents

| | |
|---|----------|
| INTRODUCTION | 3 |
| THE LEGISLATION | 4 |
| WHAT SHOULD I DO TO COMPLY WITH THE ANTI-SPAM LEGISLATION? | 7 |
| DEADLINES | 9 |

Introduction

Currently, spam accounts for over 90% of emails sent over the web. These spam pose many problems to all web users, which is why Canada has decided to adopt this legislation, as has been done in many countries.

You should know that this legislation is very broad and does not only apply to emails but also to other electronic communications.

This document does not include exclusively all aspects of the law (which you can find on the government website fightspam.gc.ca) but is intended to simplify the understanding of the legislation and help you ensure that your email marketing campaign complies with the principles.

The Act will begin to take effect on July 1, 2014 when most of the Act comes into force.

The legislation

In this document, we focus on the application of the law in email marketing only.

In one sentence, the law says:

You must obtain the consent of your recipients to send commercial emails.

Specifically, this means :

1- Only commercial emails are concerned.

A commercial email is a message that is intended to encourage participation in a commercial activity (due to its content or the content of the website to which it gives access by a link)

Note: commercial email may not contain an explicit offer.

2- Commercial messages should include:

- a. Information to **identify you** (name, address and telephone number or email address or web site)
- b. An unsubscribe mechanism in accordance with law ie:
 - i. Must provide an email address or a link to a web page to unsubscribe
 - ii. The unsubscribe mechanism must run easily and be functional for at least 60 days after the date the email was sent.
 - iii. Withdrawal requests must be processed without delay and at the latest within 10 working days.

- 3- There are many exceptions. If your email meets one of these exceptions, no consent is required from your recipients.

Without going through all the exceptions here are the main to remember:

- a. **Charities** - whether the email is intended to fundraising
 - b. **Political organizations or parties or candidates** - if the email is soliciting contributions
 - c. Email addressed to a person **after someone else's recommendation**. But in this case, only sending a single email is allowed.
- 4- If your email is not an exception, you must obtain consent.

There are two types of consent:

- Express
- Implied

Express consent is obtained pursuant to a request which :

- a. Must include:
 - i. the purposes for which consent is sought
 - ii. information so we can identify you (name, address and telephone number or email address or website)
 - iii. statement regarding the possibility to withdraw consent
- b. can not be buried in terms and conditions
- c. must be expressed explicitly ie that the person must do something (by-example: checking a box).

According to the legislation, you can obtain consent orally, but it will be difficult to keep a proof.

Implied consent applies in the following cases;

- a. It follows an ongoing business relationship which is defined as:
 - i. **the purchase of products or services during the 2 years** preceding the date the email was sent.
 - ii. a contract between the parties or force maturing during the last 2 years.
 - iii. a **request for information by the recipient during the 6 months** preceding the date the email was sent.

- b. The person to whom the email is sent has conspicuously published their email address without mentioning she does not want to receive commercial messages (for example, on a website).
Note: The email has to be related with the professional activity of the person.

- c. The person to whom the email is sent has given to you his email address without mentioning she does not want to receive commercial messages (for example, by giving you his business card).
Note: The email has to be related with the professional activity of the person.

What should I do to comply with the anti-spam legislation?

There are five main steps that are listed in order of priority below:

1- Manage consents:

You must begin by managing the consents as required by law, ie that for each contact, you must register:

- the type of consent (express, implied or unsubscribe)
- the date of subscription
- the source of consent (subscription from the website, by phone, sending to a friend, special offer, trade show ...)

Then, you must set up a filter to exclude email addresses whose period of implied consent has expired (as described in the first part of this document).

Note: All your subscribers for whom you do not have a express consent before July 1, 2014, are considered tacit. But you will have to convert them into express consent before June 30, 2017.

2- Convert tacit consent into express consent:

As we have seen in the details of the law, there are several tacit consents and some of them are valid for a given period. You must therefore use this time to convert these subscribers into express consent.

To do this, in every newsletter that you send them, put a prominent link to a form to confirm their interest to stay subscribed.

To increase the conversion rate to express consent, you can also organize a contest.

When Expired, if you have not yet succeeded in obtaining their express consent, it will be possible to send a special email to announce that the subscriber who wishes to continue receiving privileged information or special offers, has to confirm his subscription promptly.

3- Provide the ability to subscribe

As the ideal is to obtain an express consent, you must offer as often as possible the opportunity to subscribe through subscription forms on your website, in social networks, during an online transaction and even over the phone or in store.

When you invite someone to subscribe to your newsletter, it is recommended to describe the content you want to send with benefits (exclusive offers, insider information ...) and the frequency of your emails.

Note 1: In a form, the law requires an opt-in (contact must check a box to subscribe by-example) and not the reverse (opt-out) when the box is checked by default.

Note 2: It is strongly recommended to use double opt-in on subscription forms on a website by-example, (ie a request for confirmation of the subscription is emailed to the contact for confirmation) to prevent someone from masquerading as another. Which ultimately could become a form of spam.

4- Ensure proper functioning of the unsubscribe mechanism

See requirements of the Act (Part I of this document)

5- Be sure to observe the correct form of email

See requirements of the Act (Part I of this document)

Deadlines

- On July 1, 2014:
All your subscribers without express consent will be considered implied consent until June 30, 2017.

- After July 1, 2014:
For subscribers who did a purchase, you have implied consent for 2 years from the date of the last purchase.
For subscribers who did an inquiry, you have a implied consent for 6 months from the date of the request.

During these periods, you must put every effort to obtain express consent from the subscriber and thus no longer be bound by a deadline subscription end.

It is also recommended to keep a history of communications sent and readings performed by your subscriber. The idea is to demonstrate, by-example, if a customer complains about spam you sent him, that he regularly reads your newsletters since several years as he is on the list. In this case, it is not spam because it has shown interest in the past.



www.adnetis.com

For more information: info@adnetis.com

1 877-638-6584



1 877-638-6584 | www.adnetis.com