



Email Marketing in the Age of CASL: Making the Most of Your Magazine's Subscription Acquisition Strategies

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Derek A. Lackey is the President of the Direct Marketing Association of Canada (DMAC), leading the organization's move to integrate traditional and digital direct response solutions. Working with the regulatory bodies and lawyers, he has developed a comprehensive understanding of CASL and how it affects marketers who wish to reach out to Canadians. He has recently published an eBook, *CASL Compliance: A Marketer's Guide to Email Marketing to Canadians*. Derek is also the CEO of e10. With more than 20 years of traditional strategic advertising experience and the past 11 years of digital immersion, Derek is one of a handful of Canadian marketers who can develop truly integrated advertising and promotion campaigns. Prior to owning his own agency, Derek worked in magazines at Maclean Hunter, Hunter Nichols and Southam Business Publications, as Sales Manager and Publisher.



Growing Your Business in the CASL Era

THE STATE of EMAIL MARKETING
IN CANADA

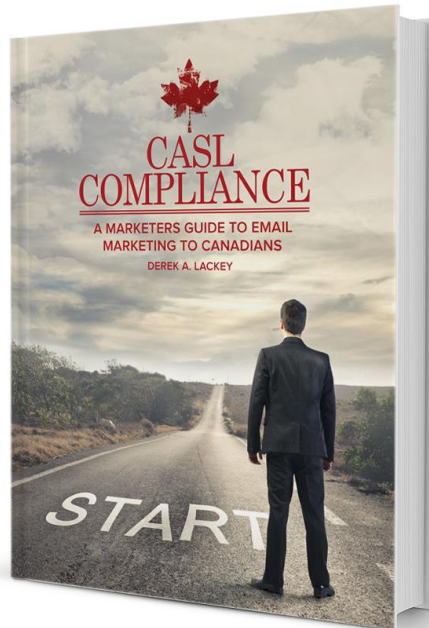


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Publisher of Blazon.Online

Author of the first CASL
Compliance book not written
by a lawyer





What We will Cover Today...

- The Basics of CASL for Publishers
- The Latest CRTC Rulings
- The Latest OPC Compliance Agreement
- The Opportunities in a Mobile Society
- How To Grow Your List
- Q&A



The Basics of CASL

For Canadian Publishers



Why CASL?





What is a CEM?

What constitutes a commercial electronic message (CEM)?

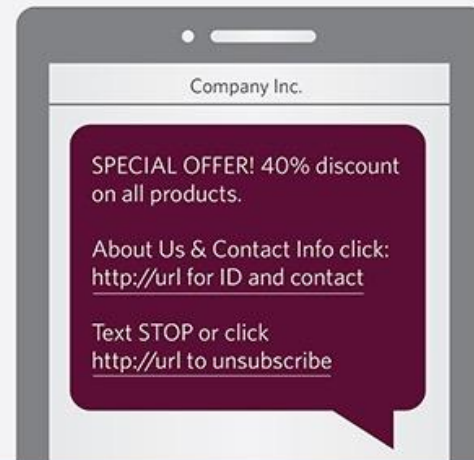
Under CASL, a CEM is a message that encourages participation in a commercial activity, including, but not limited to: offering, advertising or promoting a product, a service or a person.

EXAMPLES INCLUDE

EMAIL



SMS TEXT MESSAGE OR INSTANT MESSAGING



Specific conditions apply. Please refer to the Legislation and its Regulations.



Included in Every Email

Information to be included in a commercial electronic message (CEM)

WHAT INFORMATION NEEDS TO BE INCLUDED IN A CEM?



IDENTIFICATION

Identify your business name, if different from your name (if not, identify your name) and the name of anyone else on whose behalf or business you are sending the message.



CONTACT INFORMATION

You must include your mailing address. You must also include one of: a phone number to access an agent or a voice messaging system, an email address, or a web address for you or the person on whose behalf you are sending the message. Ensure these contact methods are accurate and valid for a minimum of 60 days after sending the message.

Specific conditions apply. Please refer to the Legislation and its Regulations.

BE CLEAR

If you are using a link to provide the required information, the link must be clearly and prominently displayed in the message.





Implied vs Express Consent

Express consent versus implied consent

WHAT YOU NEED TO KNOW BEFORE SENDING OUT YOUR COMMERCIAL ELECTRONIC MESSAGE

IMPLIED CONSENT

Existing business relationship

The recipient has made, or enquired about, a purchase or lease of goods, services, land or interest in land, a written contract or the acceptance of a business, investment or gaming opportunity from you.

Existing non-business relationship

You are a registered charity, a political party or a candidate, and the recipient has provided you a gift, a donation or volunteer work.

You are a club, association or voluntary organization and the recipient is one of your members.

Recipient's e-mail address was conspicuously published or sent to you

The address was disclosed without any restrictions and your message relates to the recipient's functions or activities in a business or official capacity.



KEEP RECORDS

Keep records of how you obtained implied or express consent, since in both cases you have the **onus to prove consent**.



Specific conditions apply. Please refer to the Legislation and its Regulations.

EXPRESS CONSENT

Valid consent given in writing or orally

The recipient gave you a positive or explicit indication of consent to receive commercial electronic messages.

Your request for consent set out clearly and simply the prescribed information.



Express consent is not time-limited

Unless the recipient withdraws his or her consent.

Implied consent is generally time-limited

It is typically a period of 2 years after the event that starts the relationship (e.g. purchase of a good). For subscriptions or memberships, the period starts on the day the relationship ends.



Is My Current List Valid?

Is my existing express consent valid?



VALID EXPRESS CONSENT BEFORE CASL

YES!

Your existing valid express consent is acceptable after CASL comes into effect.

CASL

STARTS JULY 1
2014



YOU MUST COMPLY WITH CASL

CASL requires that a request for express consent contain all the prescribed identification and contact information. Express consent cannot be obtained via a commercial electronic message after CASL comes into force, unless you already have implied consent as defined in CASL.

REMEMBER: Under CASL, senders must retain proof of express consent, even if consent was obtained prior to CASL coming into effect.



GET YOUR FREE GUIDE NOW

First Name *

Last Name *

Company *

Work Email *

Title

I WANT MY FREE COPY

*By submitting, you agree to receive content from in the future. We value your [privacy](#) and trust.



STAY CONNECTED

Sign up for the DMAC Newsletter.

First Name

Last Name

Email

SIGN UP



The Direct Marketing Association of Canada is a leading authority on traditional and digital direct response marketing in Canada. Emails are designed to keep you current on events and information that affects direct response marketing.

[Contact us.](#) You can unsubscribe at any time.

Read our [Privacy Policy](#).



Can I Lend My List To Partners?

Know your responsibility when managing consent

HOW DO I MANAGE CONSENT FOR COMPANIES I WILL WORK WITH IN THE FUTURE?

Company A can obtain valid express consent to send commercial electronic messages (CEMs) for their own use as for yet-to-be determined third parties they will work with in the future.

A building icon (Company A) sends an envelope icon with a checkmark to three question mark icons (Company B, Company C, Company X). A dashed arrow points from the checkmark to the question marks.

Company A can share the recipient's electronic address with Companies B and X.

A building icon (Company A) sends an envelope icon to two person icons (Company B, Company X).

Companies A, B and X can all send CEMs to the recipient using the express consent obtained by Company A. Companies B and X must identify in their CEMs that they received the express consent to send the CEM from Company A.

A building icon (Company A) sends an envelope icon to a recipient icon. Below, three person icons (Company A, Company B, Company X) are connected to the envelope icon by lines, indicating they all send CEMs.

The recipient must be able to withdraw their express consent from ANY of these companies by unsubscribing from receiving ANY or ALL CEMs.

Company A needs to notify parties of an unsubscribe request that relates to them and Companies B and X have an obligation to notify Company A of any unsubscribe request they receive relating to the express consent acquired by Company A.

A building icon (Company A) sends an envelope icon with a red 'X' to a recipient icon. Below, three person icons (Company A, Company B, Company X) are connected to the envelope icon by lines, indicating they all receive the unsubscribe request.

X All companies are accountable for managing the recipient's consent and unsubscribe requests. All companies must include their identification and unsubscribe mechanism in each CEM. **X**

Specific conditions apply. Please refer to the Legislation and its Regulations.



Data Tracking

- our CASL Keep™ technology allows us to know when an individual engages with us online.
- you must be able to prove express opt-in or an expression of interest.
- due diligence defence is based on how well you document your process.



CRTC Rulings

- Only one fine to date. Compu-Find for \$1,100,000
- avoided CRTC - return their calls!
- was 'trampling' all over the new law (hiding for a good reason)
- how do you even get on CRTC's radar?



CRTC Rulings

2 'undertakings' (agreements)

1. Porter Airlines - mainly unsubscribe mechanisms that did not work

2. Rogers Media - same - missing or non-functioning unsubscribe processes.

And a MAJOR raid (worldwide)



Office of the Privacy Commissioner

- the OPC is responsible for monitoring email harvesting for list building
- no ability to fine.
- “the publicly available exception cannot be claimed if an address was collected by the use of address-harvesting software.”



The Opportunities

- Marketing professionals in Canada
- LinkedIn says there are 110,682
- Strategy circulation = 13,000
- Marketing Magazine circulation = 7,900

- Who is serving the GAP? How?



How To Build a List

- Conspicuously Published or Publicly Available is an exceptional B2B exemption
- The ‘indiscriminate’ use of address harvesting software is frowned upon but we are not fined.
- Start with “where are your readers looking for the kind of information you provide?”



How To Build a List

- For some industries, LinkedIn is exceptional - Lead Gibbon
- Track tweets about a certain topic, follow the source back to LinkedIn or their website for publicly
- Start with “where are your readers looking for the kind of information you provide?”



Thank You

Please text the word

CASL

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