



36TH ANNUAL CONFERENCE & EXHIBITION

.....▶ GO THE EXTRA MILE

January 13-15, 2015 • Hyatt Regency Denver Convention Center • Denver, Colorado

Marketing in an Opt-In World

Canada's Anti-Spam Legislation Affects You

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IMPORTANT

This presentation reflects our journey through the CASL legislation. The choices we have made were with the intention to satisfy the requirements of the law.

Our presentation today is to talk about a Canadian law that has impacts beyond our borders and to help you navigate a conversation about CASL within your organization.

We are not lawyers. If you have further legal questions about this legislation, we recommend that you seek outside counsel.

Why anti-spam legislation is important?

Did you know that:

- 90% of global email traffic is spam
- Over 1 trillion spam emails are sent globally each day
- 5% of emails contain malicious software (malware)
- 1 in 445 emails contain links to sites that are infected with malware (phishing)

What is CASL and who is affected?

Canada's Anti-Spam Law (CASL) is a regulation that was put into service July 1, 2014 to reduce spam including spyware/malware, email address harvesting.

CASL applies to all commercial electronic messages (CEMs) sent or received in Canada including commercial emails, text messages and social media messages.

Example: A CEM is any communication that is sent to or from an electronic address and contains content that is designed promote a product or service.

What is CASL and who is affected?

Canadian and global organizations that send CEMs within, from or to Canada need the permission of their recipients to send those messages, with very limited exceptions.

CASL applies to any organization that sends commercial (i.e. promotional) messages to an electronic device.

Organizations governed by this legislation include businesses, non-profits, trade associations and schools/universities.

Important CASL timelines

JULY 1, 2014

All CEMs to meet CASL's requirements

JANUARY 15, 2015

Consent is required to install spyware or software to another person's computer

JULY 1, 2017

Organizations in violation of CASL can be sued for actual or statutory damages under a private right of action

Penalties for non-compliance

- Hefty fines (up to \$10 million for businesses)
- Criminal charges
- Civil charges
- Personal liability

CASL rules in summary

In its most simplified form, CASL requires that all CEMs meet these requirements:

1. Consent
2. Identification
3. Unsubscribe

IMPORTANT: Unless exempt, all CEMs accessed on a computer system or electronic device must include all of the above.

CASL rules in summary

CONSENT

The sender must have implied or express consent to send a CEM

Data Protection Options

Can we keep in contact?

Yes, send me news and offers. We will never sell, trade or rent your info. *

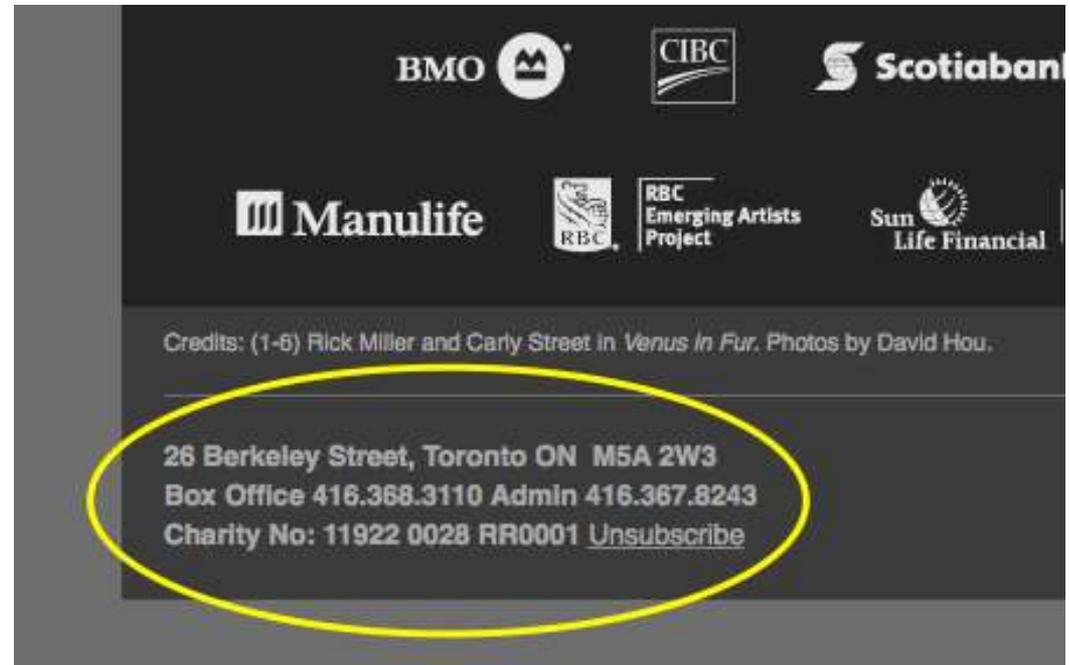
No, please don't send me news and offers. *

Cancel

CASL rules in summary

IDENTIFICATION

CEMs must identify the sender and include contact info

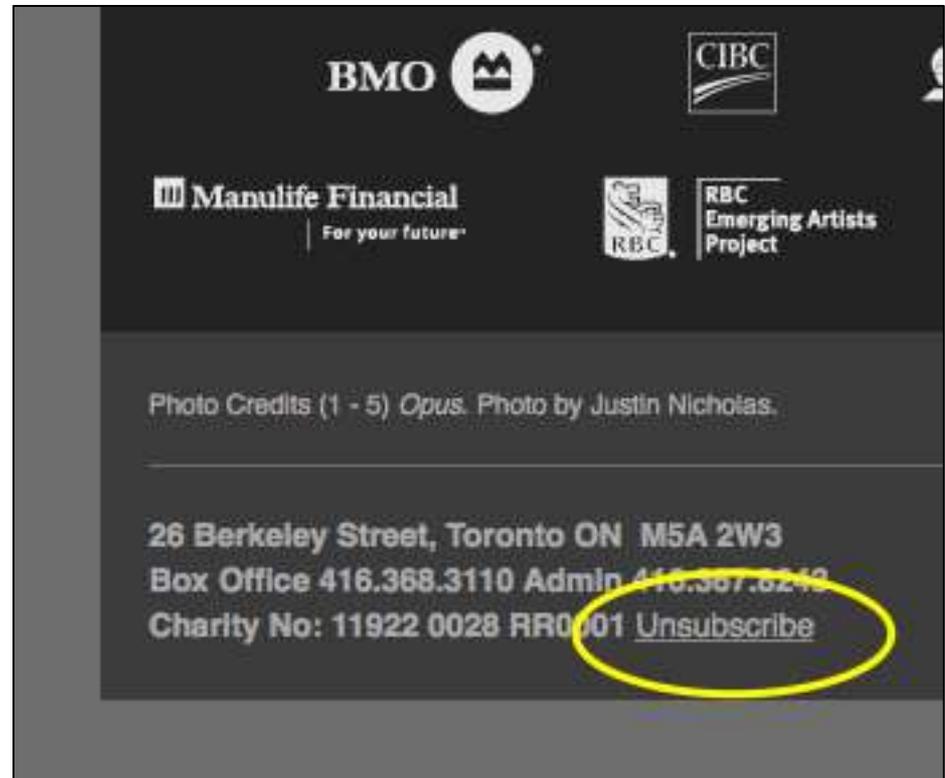




CASL rules in summary

UNSUBSCRIBE

Every CEM must include a single-click option to unsubscribe or opt-out



CASL full exemptions

There are both full and partial exemptions. The five categories of full exemptions include:

- Family or business relationships
- Business inquiries
- Legal
- Closed loop or secure messaging
- Designated groups

REMEMBER: Read the fine print and seek legal advice if you're unsure of your status.

CASL full exemptions

FAMILY or BUSINESS RELATIONSHIPS

This exemption includes CEMs between family and friends, or CEMs exchanged within or between organizations, provided they have an existing relationships and the CEM applies to the activities of the organization.

Example: Promotional offers that are exchanged between arts organizations that do not target one individual are considered exempt.

CASL full exemptions

BUSINESS INQUIRIES

This exemption includes CEMs that provide a response to an inquiry.

Example: A response to an email from a customer inquiring about pricing to a show is considered exempt.



CASL full exemptions

LEGAL

This exemption includes CEMs sent out of legal obligation

CASL full exemptions

CLOSED LOOP OR SECURE MESSAGING

This exemption includes CEMs sent from a messaging platform (i.e. iMessage, BBM Messenger, LinkedIn) where required identification and unsubscribe mechanisms are clearly published in the user interface.

Example: Messaging platform where you log in and control your privacy are exempt.

It can also include CEMs sent and received within limited-access secure accounts (i.e. banking portals).

Example: Offers you see when you log in to your banking portal is exempt.

DESIGNATED GROUPS

This exemption applies to CEMs sent by a registered charity for the primary purpose of fundraising.

Example: Canadian Stage's primary purpose is to create art and sell tickets. Fundraising is a complimentary revenue stream that support the art, therefore it is NOT exempt.

This exemption also applies to CEM's sent by a political party seeking contributions.

CASL partial exemptions

Partial exemptions are classified in three parts:

- Customer-initiated interactions
- Information about an existing business relationship
- Third-party referrals

CUSTOMER-INITIATED INTERACTIONS

You do not need consent for a CEM that is sent to fulfill the request of a recipient, such as:

- Providing a quote
- Facilitating a commercial transaction

Example: Contacting a customer because the view from their seat becomes obstructed is considered exempt.

CUSTOMER-INITIATED INTERACTIONS (CON'T)

You do not need consent for a CEM that is sent to fulfill the request of a recipient, such as:

- Delivery a product or service

Example: Even if a customer has opted-out from electronic communication, they can still be sent invoices or print-at-home tickets. Print-at-home tickets cannot include promotions (i.e. hotel/restaurants partnerships, upcoming shows with a promotional message) unless the customer has the ability to opt-out from print-at-home tickets.

CASL partial exemptions

EXISTING BUSINESS RELATIONSHIP

CEMs can be sent if they provide information about an ongoing business relationship.

Example: An announcement about a show cancellation or postponement, or pre-show emails that include general show information including traffic alerts.

THIRD-PARTY REFERRALS

A one-time CEM can be sent to a prospective customer without prior consent based on a referral.

Example: A customer provides information to an organization to solicit a friend.

This partial exemption remains legitimate if:

- The referral is by a person who has an existing relationship with the sender and recipient
- The message discloses the name and contact information of the person who made the referral
- The message identifies the sender and contact information, and provides an opt-out option

Types of consent: implied and express

In some situations, implied consent (vs. express consent) is enough to send a CEM.

Consent is implied if:

- There is an existing business or non-business relationship
- The recipient is part of a published directory
- The recipient has voluntarily disclosed their email

Example: Handing out a business card is considered implied consent. In this scenario, the CEM must be relevant to the recipient's business role. If the recipient indicates they do not want to receive electronic communication, consent is no longer implied.

Types of consent: implied and express

An existing business relationship is where a recipient:

- Bought a product or received a service
- Entered into a written contract in the last two years
- Made an inquiry in the last six months

An existing non-business relationship is where a recipient:

- Makes a donation or gift to a registered charity
- Volunteers with the charity in the last two years
- Is a member of an organization's association in the last two years

Types of consent: implied and express

At Canadian Stage, customers who don't buy something new or renew a subscription within two years are given the opportunity to give express consent. If they don't give us their express consent, they're automatically opted out of CEMs.



Your email preferences are expiring soon.

canadianstage

14.15

We want to confirm our support for Canada's anti-spam legislation and let you know that your consent to receive electronic promotional messages from us is expiring very soon. You will still be sent electronic communications related to tickets and donations, however you won't hear from us about special events, chats and talk backs, and last-minute ticket savings until you indicate your consent below.

[Click here to \(re-\)subscribe to our email list](#)

We respect and protect your privacy

As always, we will never sell, trade, or rent your personal information to others. [Privacy policy](#)

20 Berkeley St. Toronto ON M5A 2W3 | Box Office: 416.366.3110 | Admin: 416.367.8243

canadianstage

Types of consent: implied and express

We want to confirm our support for Canada's anti-spam legislation and let you know that **your consent to receive electronic promotional messages from us is expiring very soon**. You will still be sent electronic communications related to tickets and donations, however you won't hear from us about special events, chats and talk barks, and last-minute ticket savings until you indicate your consent below.

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Types of consent: implied and express

Were we concerned about losing patrons by asking for consent?

No. Because our consent policies were already consistent with the CASL legislation, we only had to seek consent for those that hadn't engaged with us for many years - patrons who were already at the bottom of our loyalty pyramid and were unlikely to engage with us in the future.

Types of consent: implied and express

At Canadian Stage, we also use a third-party email provider to send the bulk of our promotional emails. Because the platform is not directly linked to our CRM, we download an “opt-out” list from the provider and upload the results into our CRM. This process is done once a week, satisfying the 10-day requirement for opting-out.

EXAMPLE: In MailChimp, there’s an option under **Lists > Settings > List name & defaults** that allows you to receive a summarized list of subscribe and unsubscribe activity. Use this list to update the communication preferences in your CRM.

Types of consent: implied and express

For CEMs that are not exempt, recipients must offer express consent by **ACTIVELY** and **POSITIVELY** indicating they want to receive your CEMs. Express consent can be achieved by:

- Checking an “opt-in” box
- Typing an address into a field

A screenshot of a registration form. The form includes fields for *City, *Province (a dropdown menu with 'Select' selected), *Postal code, and *Country (a dropdown menu with 'Canada' selected). Below these fields, there is a line of text: '*I have read and do agree to the Privacy Policy' followed by an unchecked checkbox. Below this is another line: 'Sign me up for Newspepper:' followed by a 'Yes' checkbox. At the bottom of the form are two buttons: 'Continue' and 'Cancel'. A yellow circle is drawn around the 'Privacy Policy' checkbox and the 'Sign me up for Newspepper:' checkbox area.

Types of consent: implied and express

While pre-checked consent boxes are no longer considered a form of consent, those that existed on email communications before July 1, 2014 will be grandfathered in.

Example: If you sent an email with a pre-selected “opt-in” box in an email communication prior to July 1, 2014, it will be considered express consent.

Requesting consent

All outgoing requests for consent must include a few basic elements, including:

- The name of the sender and the third party seeking consent (if different)
- A physical mailing address
- A phone, email or web address
- A statement indicating that consent may be withdrawn (i.e. an “unsubscribe” link)

If you are requesting consent over the phone or in-person, you must give instructions on how to unsubscribe.

Example: “May we contact you by email for news and promotions? You can unsubscribe from our emails at anytime by: clicking a link in our emails; visiting CanadianStage.com; calling us at 416.368.3110; or visiting us or mailing us at 26 Berkeley St., Toronto, ON, M5A 2W3”

Requesting consent

The recipient must have the ability to opt-out of all types of media.

Example: If you're requesting personal information on a printed form (i.e. a contest ballot), you must seek consent.

(Right): An example of a bookmark we used at our outdoor amphitheatre to help the occasional volunteers engage with foot traffic at our gate and to collect patron information.

POSTAL CODE
.....

EMAIL
.....

PHONE
.....

* All fields must be complete to be eligible to win.
Full contest rules available at
<https://www.canadianstage.com/online/hp-contest>

Under 30?
Get \$15 tickets this season!

Yes, enroll me in your C-Stage program.

Can we keep in contact?
(Check one)

Yes, send me news and offers. We will never sell, trade or rent your info.

No, please don't send me news and offers.

Please note: You can unsubscribe from our emails at anytime by: clicking a link in our emails; visiting CanadianStage.com; calling us at 416.368.3110; or visiting us or mailing us at 26 Berkeley St., Toronto, ON, M5A 2W3

How to become CASL compliant

To begin the process of getting your organization CASL compliant, start with the following:

- Designate a working group to review your CEM processes and identify compliance gaps
- Develop your process and implementation plan
- Reach out to contacts in your database in an effort to turn implied consent into express consent. IMPORTANT: Because we've passed the July 1, 2014 deadline for CASL compliance, you can only target those customers whose implied consent is soon to expire.

How to become CASL compliant

Questions you should ask include:

- How will you manage unsubscribes if you share content lists?
Example: You provide ticketing services on behalf of another organization. A customer buys a ticket from you and you pass on the customer's electronic information to the organization. How will you be notified to unsubscribe the customer if the customer unsubscribes from an email sent by the organization?
- What processes do you have in place to convert customer's with implied consent to express consent before their implied consent has expired?

How to become CASL compliant

Ensure that your CRM has the technology to implement proper consent, including:

- Managing and tracking opt-outs and consents
- Recording an audit trail of content
- Producing a report of consent

A recipient must be opted-out within 10 business days of unsubscribing.

How to become CASL compliant

CASL provisions took effect on July 1, 2014. If you are not compliant, there is a grace period with limitations.

Business that have existing relationships with their customers benefit from a three-year grace period to confirm implied consents. This grace period only applies to contacts obtained as implied consent prior to July 1, 2014. Starting July 1, 2014, you have three years to document express consent for these existing contacts.

Proving compliance

You must keep records of all consents and unsubscribes so they are documented and stored. If you are sending CEMs, you must be able to prove consent.



Good practice

- Have a written privacy and use of data policy. Patrons must be notified when policy is changed.
- Be transparent as to why and for what purpose you are collecting personal information
- For emails, clearly indicate the email is from you with address and telephone number
- Patrons need to opt in, NOT opt out



Best practice and future thinking

- Provide an unsubscribe option on all emails. It must be available for 30 days and the patron must be unsubscribed within 10 days
- Email needs to come from your organization's domain (i.e. No spoofing)
- Subject lines can't be deceptive and need to reflect our email content
- If an email is an advertisement, say so
- As a registered charity, we are currently exempt from the Canadian Do Not Call Registry (<https://www.innate-dncl.gc.ca/index-eng>) for outbound telephone calls. However, charities may no longer be exempt in the future, which will likely bring with it different rules by country AND provinces/states



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Thank you!

Questions?