

Getting consent to send email

From: Innovation, Science and Economic Development Canada

Canada's anti-spam legislation (CASL) requires businesses and organizations to obtain consent before sending commercial electronic messages. Find out what's involved.

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Understanding consent in CASL

Consent is at the heart of CASL. The information below is intended to provide basic background about the legislation, but should not be construed as legal advice. For detailed information, please see [Canada's anti-spam legislation](#) on the Canadian Radio-television and Telecommunications Commission website.

Under CASL, individuals and businesses are required to obtain consent from customers before sending them commercial electronic messages, such as emails or texts. If asked, senders should be ready to provide proof of this consent.

There are 2 kinds of consent:

- express consent
- implied consent

Express consent means someone has agreed (verbally or in writing) to receive a commercial electronic message from you. There is no time limit unless the recipient withdraws his or her consent.

Implied consent is only recognized in certain circumstances (see [subsection 10\(9\) of CASL](#)). One is when the sender has an existing business relationship with the person to whom the message is sent. For example, as a business, you may have implied consent from someone who has purchased something or submitted an inquiry. If you're relying on an existing business relationship for the purposes of implied consent, you must ensure that the message is sent within the appropriate time frames (see [subsection 10\(10\) of CASL](#)). Implied consent is generally time-limited.

Consent can also be implied if the person who sends the message has an existing non-business relationship with the recipient. Charitable or non-for-profit organizations may have implied consent in certain situations, such as when the recipient has made a donation or been a member of or volunteer with the organization. For more details on the rules for charitable and not-for-profit organizations, see the [CRTC's FAQs](#), the [Competition Bureau's FAQs](#), and [subsections 10\(9\)\(a\) and 10\(13\) of CASL](#).

If you have express or implied consent to send somebody commercial electronic messages, then that consent will generally apply to any messages from you, unless you received express consent for only specific types of messages.

Businesses should note that their consent obligations under CASL are not the only ones they must respect. Some businesses may have separate obligations under the [*Personal Information Protection and Electronic Documents Act \(PIPEDA\)*](#), Canada's federal private sector privacy legislation, especially with regards to how they handle personal information and conduct commercial activities. Businesses must comply with both CASL and PIPEDA, so they should also familiarize themselves with PIPEDA's [Fair Information Principle 3 – Consent](#) and [Guidelines for meaningful consent](#).

We also recommend the following resources:

- Visit the [Express Consent Versus Implied Consent](#) web page
- Read the [Guidelines on the use of toggling as a means of obtaining express consent under Canada's anti-spam legislation](#)
- [Know Your Responsibility When Managing Consent](#)
- Get informed about how to [keep records of consent](#)

4 things to think about when sending commercial electronic messages

1. Think about who you're sending messages to and whether they agreed to receive them.

Did they give **consent**? Do you have a **record** of this consent? For example:

- Did they say, "Yes, please contact me"?
- Did they consent to receive only specific types of commercial electronic messages, such as a newsletter?
- Did they publish their contact information online or give you a business card? Look closely for any "don't contact" instructions.
- Do you have an existing business or non-business relationship, such as with customers, clients, associates, donors, supporters, volunteers or members?
- How long has it been since your last interaction with the recipient? Their implied consent may be valid for up to 2 years—or just 6 months in the case of inquiries or applications.

2. Think about the types of messages you're sending:

- Are they being sent to **electronic addresses**, usually through email, SMS, instant messaging or similar platforms?

- Do they contain **commercial or promotional information**, such as marketing, sales, offers, solicitations or similar activities?
- Are you sure that **no part of the message is false or misleading?**

3. Remember that your message must include:

- your business name and the name of anyone on whose behalf you're sending the message
- a current mailing address and either a phone number, email or website address
- accurate contact information that will be valid for at least 60 days after you send the message
- an unsubscribe mechanism in accordance with subsection 11(1) of CASL

4. Think about giving the customer more control:

- Include clear instructions about unsubscribing and ensure the unsubscribe mechanism can be readily performed
- Remember that every unsubscribe request must be actioned within 10 business days or less and at no cost to the recipient

For more information about what to include in the commercial electronic messages your business sends, see the [Compliance and Enforcement Information Bulletin CRTC 2012-548: Guidelines on the interpretation of the Electronic Commerce Protection Regulations \(CRTC\)](#).

Don't be a spammer

You can earn and maintain your customers' trust and confidence by following these tips:

- Don't send messages without consent

- For express consent, a customer must have said, verbally or in writing, “Yes, please contact me”
- If you have implied consent because of an existing relationship with the recipient, ensure you maintain complete records and respect the time limits for implied consent as set out in CASL
- If you’re relying on implied consent through an electronic address that was conspicuously published, ensure that it was not accompanied by an indication that the person does not wish to receive unsolicited commercial electronic messages and that your messages are relevant to their business, role, functions or duties
- Make sure you provide an opportunity for customers and clients to say no to your commercial electronic messages
- Clearly identify yourself and your organization
- Be truthful in advertising (for example, specify whether or not taxes are included)

⚠ Note: This information is intended to provide a plain language explanation of some of the requirements under the legislation. It is not to be considered as legal advice, an interpretation of any legislation or regulations, or as a settlement or commitment on behalf of the Enforcement Agencies for CASL.

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