



Understanding the CASL Hassle:

FAQs We All Seem To Be Asking



What is CASL?

Canadian Anti-Spam Legislation took effect July 1, 2014 with new restrictions about what permissions — consent — companies must obtain before they can email customers and prospects. While it was really created to stop those mass consumer spammers from dropping 1 million emails at a time, it does contain a few provisions legitimate b-to-b marketers have to account for.



What's it say in a nutshell?

OK, here it is boiled down from the 40-page lawyer brief:

- First, your database has to contain only customers, and those prospects that have given you “implied consent.” Implied consent means they filled out a form or asked you to send them information. You can't have any email addresses you entered without the recipient's knowledge or request, such as that list from a directory you had last summer's intern put into your database. There'll be no more of that!
- Now you've got a clean list of customers and prospects that have given you implied consent. You have 3 years to convert them all to “expressed consent.” More on what that means in a minute. Again, while this applies to just those from Canada, you really have to do this for your entire database, and we'll explain why below.
- Once you obtain expressed consent, it does not expire unless the customer or prospects unsubscribes or asks to be removed from your list.
- For new names you add after July 1, make sure you have implied consent — a legitimate business relationship. You have 2 years to convert them to expressed consent.



So I just take out anyone in my email database with a .ca email address from Canada?

Oh, we wish it were that easy! Those email addresses certainly need to be segmented ASAP, but you don't really know where a .yahoo or .gmail address is located. It could be in Canada. Further, even if you have an email address for johndoe@apple.com, you don't really know if that Apple employee works out of Canada or not. So every email address in your database has to be part of a CASL compliance program you implement.



How do I get “expressed consent?”

First, expressed consent means the recipient has given documented permission to receive your emails. Documented. That means they have specifically “opted in,” and we can no longer “pre-check” a permission box on an email saying they agree to receive future messages.

Implied consent is consent obtained under circumstances that are already direct marketing best practices in the US and in Canada, meaning that the message recipient already has a business relationship of some sort with you as a customer or prospect who asked you for information.



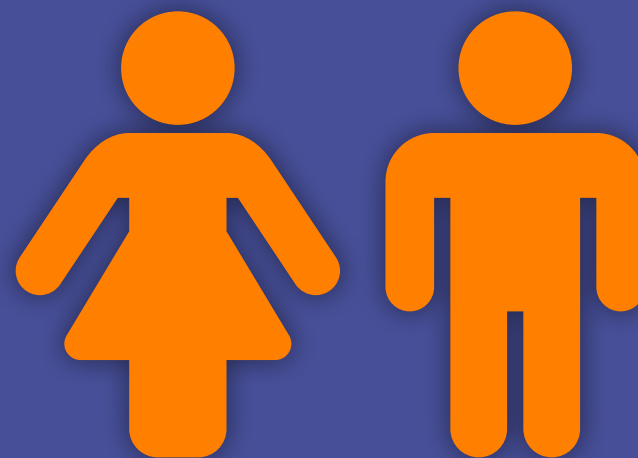
It went into effect July 1, 2014. Should I stop emailing until I figure out how to comply?

No, there's a three-year grace period. So begin to make your changes, but you don't have to put your marketing effort on hold, even within Canada.



Do I have to treat customers and prospects differently in my database and in my email content programs?

There is no difference between a current customer and a prospect for the purpose of CASL and obtaining express consent to receive commercial electronic messages. There might be a difference in terms of whether the circumstances prove you actually have implied consent for that individual — it is obviously easier to prove you have implied consent for an actual customer than for a prospect.



Am I allowed to email to leads I get from trade show visitors?

Sure. You can assume implied consent if the messages will relate to their roles with their company/business. You then have the 2 years to convert them to expressed consent.



Will US follow suit?

Who among us can predict what Congress will do? While there are discussions about passing similar legislation in the US, there's nothing imminent. But many companies are using CASL as an opportunity to apply best practice clean-up techniques to their entire database.



What about sending emails to a recipient for whom the marketer has received a referral?

CASL allows this, as long as the referrer has an existing business relationship with BOTH parties, and that your email includes a statement that you're contacting him/her as a result of that referral. (It's best to just treat this as you would any "implied consent" prospect and convert them to expressed consent within the two years.)



So, this has all been interesting. But just what do I do?

Here's six steps you have to take next:

1. Some tools, such as Hubspot, can actually identify Canadian emails in your database automatically. Run your database through the tool, if available, to segment the Canadian emails on your list. If you can't segment Canadian-only emails, you'll have to run your entire database through the next few steps. If you can, just apply the Canadian addresses to the next few steps.
2. Change EVERY lead form you have on your site, landing pages and email response forms to include a Country field. Set is as required.



3. You'll need to keep track of those who've given you consent, their consent date, and those who haven't given you consent. Add those new fields to your database structure.
4. Create a campaign to convert implied consenters to expressed consenters, either as part of a regular series of email outreaches, or as a specific "re-qualifying" campaign. Be sure to include a specific opt-in button that is not pre-checked. As with all emails, it must contain the typical required information — your company's identity and unsubscribe information. Add this new opt-in button to all future emails.
5. Drop the Forward to a Friend feature. They no longer comply with the new Canadian anti-spam law.



6. Stop adding purchased lists to your email databases. Our agency long ago ended the practice of purchasing lists, as these are very low quality and rarely worth the investment. CASL now makes it too hard to manage conversion to expressed consent for those lists.

Remember, CASL wasn't meant to attack legitimate efforts to build relationships and trust between companies, customers and prospects. Whether we're talking about Canada or email campaigns in general, it's always good policy to email information that meets the standard we always try to apply: "does this information help me do my job better." Stick to THAT rule, and you'll always be on the right side of whatever legislation is introduced.



About Goldstein Group Communications



Goldstein Group Communications, a technology b-to-b agency, brings an unusual combination of corporate communications management and engineer-level writing capability to its national client roster. With deep experience in electronics and industrial markets, the agency is able to draw on its skills to articulate with impact and clarity the technical advantages its clients bring to their customers. Unlike other agencies, staff members for the most part have built their careers on the corporate side of the desk, rather than as agency executives, a perspective that results in a higher level of accountability and measurability in the agency's programs.

