

# LIVING IN A POST-CASL WORLD

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September 10, 2014 ESPC Annual Meeting

### **BUILD SMART EMAIL MARKETING CAMPAIGNS**

## AGENDA



- CASL
- What's happened?
- Myths vs Fact
- CASL in the Wild





# CASL

## **Quick Review**

# **Our Services**



- July 1, 2014 Permissions, Form and Prescribed Information
- January 15, 2015 Installations of Computer programs and Data manipulation (Sections 7 and 8)
- July 1, 2017 Private Right of Action

### Enforcement by:

- Canadian Radio-television and Telecommunications Commission (CRTC)
- Office of the Privacy Commission (OPC)
- Competition Bureau





- Over 70K reports from Canadians non-automated submissions ~ mid August
  - Current trend indicate about 10,000 complaints a week are sent to the Spam Freezer by Citizens
- Some companies have already received and settled notifications of violations with the CRTC
  - No names provided at this time
- More cases are in process and more violation notices are being prepared.
- Not all cases will be published as part of their enforcement actions



- Enforcement will follow similar process as the Canadian DNC enforcement process.
- Not everything is a \$10 Million dollar violation
  - Recent fines under DNC range from \$4,000 to \$250,000



- Largest number of current callers are international business calling to complain the law is too strict
  - Canadians have moved onto Section 8 enforcement
- Review the need for multiple unsubscribes in 3<sup>rd</sup> party emails.
- Refer a Friend emails are still risky
  - Recommending Forward-to-Social



# **Separating Fact from Fiction**



"Confirmed opt-in emails can contain the prescribed information, so I don't need to update my subscribe forms... because you are not opted-in until you confirm."

### FALSE

 Your COI email is simply validating and adding additional auditing data to the record of the consumer.



"I need express consent for everything I do going forward."

### FALSE

 There are a lot of exemptions to the legislations. Things like implied consent and inquiries are great reasons to continue messaging without express consent (though express consent should always be preferred).

## Myths vs Fact



"I'm outside of Canada so this law won't affect me/it's not enforceable in my country."

### FALSE

- If you have Canadian recipients, you must abide by Canadian laws.
- The government will be working with international counterparts for enforcement where possible.

## Myths vs Fact



"This law will kill the electronic messaging industry in Canada!"

### FALSE

 We are still seeing electronic messaging growth in volumes after CASL. You just have to be *smarter* about what you send and to whom.

## Myths vs Fact



"Schools, government agencies, and non-profits are exempt from the law."

### FALSE

- Every sector is expected to comply by the new regulation, not just businesses.
- Exemptions apply for charities sending fundraising messages
- Government doesn't typically send CEMs so mainly exempt

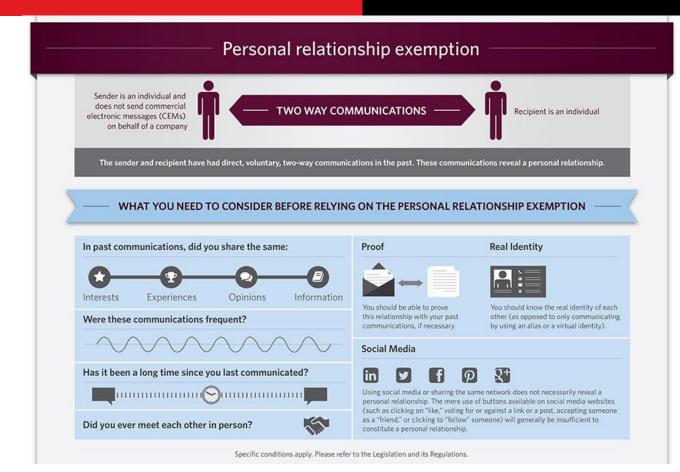


# **Separating Fact from Fiction**



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Seneca Niagara Casin	Have your photo taken with the majestic Budweiser Clydesdalest - You have reserved this email at SENECA@	iy 20







#### 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.

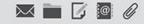
#### Recipient's e-mail address was conspicuously published or sent to you

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.



### 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.

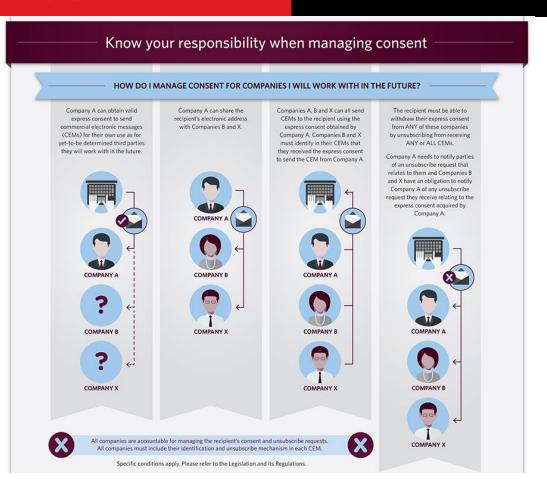
If you are using a link to provide the required information, the link must be clearly and prominently displayed in the message.

**BE CLEAR** 



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







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### Targeting

how to hit the mark every time

#### Hit the bulls-eye every time.

Buyers and those they listen to are socially wired. They expect instant gratification when considering why to purchase from you (yes, even those B2B targets). Find out how to make sure your web pages and white papers, social posts, and search optimization are primed and ready to give them exactly what they need... before the competition does.



A Reply

#### Read about Targeting

The Oracle Marketing Cloud is your single source for leading solutions enabling marketing automation, content and social marketing, digital advertising management and all the data needed to run it all.

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### Problems:

- 1- Sent w/o
- permission
- 2– Sent to 3<sup>rd</sup> party list w/o disclaimer (on behalf of)



To unsubscribe from receiving further commercial electronic messages from The Bank of Nova Scotia in Canada, please click here: https://unsubscribe.scotiabank.com?entid=BNS&buid=SBNK

To unsubscribe from receiving further commercial electronic messages from certain other senders set out in the attached list, please click here: <u>https://www.unsubscribe.gwi.scotiabank.com?page=gwi</u>

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