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## **New Commercial Anti-Span Legislation Takes Effect July 1**

Once Canada's new Anti-Span Legislation (CASL) goes into effect on July 1, 2014, it will take its place as the most aggressive legislation of its kind in the world. The Act requires proof of consent for all commercial electronic messages (CEM's). Essentially, all electronic marketing messages are subject to CASL. The law restricts the installation of computer programs and prohibits the unauthorized alteration of transmission data. The onus is on the sender to prove explicit or implied consent. All CEM's must include information identifying the sender and enabling the recipient to withdraw consent.

CASL has been in development since May 2010 when Bill C-28 received Royal Assent. It takes effect July 1 this year, but there is transition time for the markets and the courts to prepare. The Computer Program Provisions take effect on January 15, 2015. The Private Right of Action, meaning that complaints can go court, commences July 1, 2017.

While much of the legislation reflects current best practices, many organizations will find they need to get their databases in order when it comes to documenting consent – proof is now required for both express or implied consent. Consent must be acquired *before* you send a CEM, i.e. you cannot request consent within a commercial electronic message.

In light of the law, databases should be reviewed, and consent retrieved and organized. If proof of consent is absent, organizations should contact individuals and confirm/request consent in writing/email. The safest route for organizations is to work towards 100% express consent. The transition period allows 36 months for organizations to acquire consent from contacts already in databases as of July 1/14. If an organization cannot prove consent within 36 months, any CEM's sent to that contact are in violation of the law.



There are some common sense exclusions. CEM's providing factual information about products or services that the contact has already purchased are permitted, as are updates, warranty information, recalls, etc. Factual information about memberships, subscriptions, accounts or loans are permitted. Various legal notifications are permitted, along with correspondence from political parties, most government communication and registered charities that are fundraising. CEM's sent to employees or colleagues within the same organization are exempt, as are CEM's sent to family members. Emails requesting a quote or similar information do not require consent. Businesses and organization should review the Act and related resources to design their compliant strategy.