



## New Anti-Spam Legislation in Force July 1, 2014

Key provisions of the government of Canada's new legislation: *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*, otherwise known as "Canada's Anti-Spam Legislation", or "CASL", will come into force on July 1, 2014. While CASL will have a much larger impact on the private business sector, it will impact local governments who send electronic messages that contain any form of commercial content.

Among its key provisions, CASL governs the sending of "commercial electronic messages" ("CEM's"). A CEM is defined under CASL as:

*"an electronic message that, having regard to the content of the message, the hyperlinks in the message to content on a website or other database, or the contact information contained in the message, it would be reasonable to conclude has as its purpose, or one of its purposes, to encourage participation in a commercial activity, including an electronic message that*

*(a) offers to purchase, sell, barter or lease a product, goods, a service, land or an interest or right in land;*

*(b) offers to provide a business, investment or gaming opportunity;*

(c) *advertises or promotes anything referred to in paragraph (a) or (b); or*

(d) *promotes a person, including the public image of a person, as being a person who does anything referred to in any of paragraphs (a) to (c), or who intends to do so."*

A "commercial activity" is defined as:

*"any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, whether or not the person who carries it out does so in the expectation of profit, other than any transaction, act or conduct that is carried out for the purposes of law enforcement, public safety, the protection of Canada, the conduct of international affairs or the defence of Canada."*

Under CASL, the sending of CEM's to an electronic address (which includes email, instant messaging, telephone and similar accounts) is prohibited unless the following requirements are met:

1. The receiver must have consented to receipt of the CEM. Consent can be either express, or can be implied if the limited circumstances described in CASL apply. As a matter of prudence, express consent should be obtained. CASL and its Regulations set out specific requirements for obtaining express consent. The CRTC has also released *Compliance and Enforcement Information Bulletin CRTC 2010-548* which offers some additional guidance about the requirements for obtaining consent.

[\(more...\)](#)

### **New Anti-Spam Legislation in Force July 1, 2014**

2nd Floor, 837 Burdett  
Ave.  
Victoria, British Columbia  
Canada V8W 1B3

PH: 250.380.7744

FX: 250.380.3008

[www.sms.bc.ca](http://www.sms.bc.ca)

[logolaw@sms.bc.ca](mailto:logolaw@sms.bc.ca)

[Download this Bulletin as a PDF](#)

Please visit our website for the terms of use applicable to this document.

