Understanding Canada's anti-spam legislation

Read a quick overview of *Canada's anti-spam legislation* (CASL) and find links to the full text of the legislation.

On this page

- Fast facts about CASL
- How CASL is enforced
- Consequences of violating CASL
- How to find out more about CASL

Fast facts about CASL

In general, CASL prohibits companies from:

- sending you commercial electronic messages without your consent, including email, social media and text messages
- altering the transmission data in an electronic message so the message is sent to a different destination without your express consent
- installing software on your electronic devices without your consent (including, in some cases, updates and upgrades, even if you were the one who installed the original software)
- using false or misleading representations to promote products or services online
- collecting personal information by accessing a computer system or electronic device illegally

- harvesting addresses (collecting and/or using email or other electronic addresses without permission)

For detailed explanations, see Canada's anti-spam legislation on the CRTC website.

How CASL is enforced

Three government agencies share the responsibility for enforcing CASL:

- The Canadian Radio-television and Telecommunications Commission (CRTC) can issue administrative monetary penalties for violations of sections 6 through 9 of CASL

- The Competition Bureau can seek administrative monetary penalties or criminal sanctions under the *Competition Act*

- The Office of the Privacy Commissioner of Canada focuses on 2 types of violations: collecting personal information by accessing a computer system or electronic device illegally (usually through spyware, which collects your information without consent and can change the way your computer works) and harvesting electronic addresses.

You can read more about these partners' roles by visiting their websites. You can also view the undertakings and notices of violations issued by these enforcement agencies at Spam news.

Consequences of violating CASL

Enforcement agencies have a variety of options at their disposal to ensure compliance with CASL, including negotiated agreements and warning letters. Every person who contravenes any of sections 6 to 9 of CASL commits a violation for which they are liable to pay an administrative monetary penalty (AMP). A series of factors are considered when determining the amount of an

AMP, including the nature of the violation, previous CASL violations, whether the company benefited financially from the violation, and the company's ability to pay a penalty. Penalties for the most serious violations of CASL can reach $1 million for individuals and $10 million for businesses.

How to find out more about CASL

To read about the legislation in more detail:

- Read the full text of <u>CASL</u>

- Learn about the <u>OPC's responsibilities under CASL</u> and consult the <u>*Personal Protection and Electronic Documents Act* (PIPEDA)</u>

- Read the <u>Competition Bureau's FAQs about CASL</u> and the <u>role of the Competition Bureau in CASL</u>

- Read the <u>*Electronic Commerce Protection Regulations* (CRTC), SOR/2012-36</u>

- Read the <u>*Electronic Commerce Protection Regulations*, SOR/2013-221</u>

- Catch up on the CRTC's information bulletins:

  - <u>Compliance and Enforcement Information Bulletin CRTC 2018-415 — Guidelines on the Commission's approach to section 9 of *Canada's anti-spam legislation* (CASL)</u>

  - <u>Compliance and Enforcement Information Bulletin 2012-548 — Guidelines on the interpretation of the Electronic Commerce Protection Regulations (CRTC)</u>

  - <u>Compliance and Enforcement Information Bulletin 2012-549 — Guidelines on the use of toggling as a means of obtaining express consent under *Canada's anti-spam legislation*</u>

  - <u>Compliance and Enforcement Information Bulletin CRTC 2014-326 — Guidelines to help businesses develop corporate compliance</u>

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