

# New Anti-Spam Law: What You Need to Know

April 25, 2014 | By [Elizabeth Wilson \(mailto:articles@rew.ca\)](mailto:articles@rew.ca), [REW.ca \(http://www.rew.ca\)](http://www.rew.ca)

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As of July 1, your commercial emails and other electronic communications will fall under the most stringent anti-spam law of all the G8 countries.

What does this mean for you? For years you've been carefully collecting contact information and sending updates, holiday greetings, relevant listings, market analysis and/or newsletters to your list.

Will the new rules turn one of your best marketing tools into a criminal act?

Unlikely. The legislation is aimed at serious spammers and phishers. But you may be doing a few things that don't fit under the new rules, so here's a quick overview.

## Main Points

Spam is the electronic equivalent of junk mail or cold calls: commercial messages that you never asked for, but they come to your home or your phone anyway.

Canada's Anti-Spam Law (CASL) basically says that you require **prior consent** to send an individual any kind of electronic communication (email, text, instant messaging, apps and private messages via social media) **for the purpose of encouraging them to engage in a commercial activity**.

This does not apply to messages you send as part of conducting transactions. It's only for messages that promote or market your services.

It's up to you to **prove that you've been given that consent**, whether it's verbal, electronic or written. For instance, anyone who signed an opt-in box on your website to receive your newsletter has given you express consent to contact them, and you will have a record in your web logs. Someone who signed up to receive news of similar listings at an open house has given you consent in writing and you keep the signup sheet.

Express consent is valid until the person requests no further commercial communication (unsubscribes).

**Consent is implied if you already have a business relationship** with the person. A "business relationship" means that you and this person have done business or had a contract, or this person has inquired about your services or a listing.

If you've been regularly communicating with people who fit those criteria (and who haven't given express consent), their consent is implied for now. You have until July 1, 2017 to get them to confirm their consent or unsubscribe from your messages.

As of July 1 2014, a business relationship is defined as anyone you have done business with in the last two years and anyone who has sent you an inquiry in the last six months. You can add these people to your list, but you'll need to confirm their consent within the two-year or six-month time frame.

**Consent is also implied if you have a personal or family relationship** with the recipient, called a "non-business relationship."

CREA has prepared an in-depth guide called [Guidance on CASL for REALTOR® Members \(http://www.realtorlink.ca/portal/server.pt/community/realtor%C2%AE\\_resources/692/publications\)](http://www.realtorlink.ca/portal/server.pt/community/realtor%C2%AE_resources/692/publications). Any questions can be answered there. Meanwhile, here are some helpful tips on what to do.

## Best Practices for Commercial Electronic Communication

**Responding to inquiries/referrals:** In your initial message, ask for permission to contact them again. You are allowed to respond to referrals once, but after that there must be consent for any commercial message.

**Making initial contact with a prospective client:** Determine if this person has given you permission before you send a commercial message. If not, don't send it.

**Following up on networking contacts:** Business cards are not invitations for solicitation messages.



If you meet someone who says "I'm looking for a buyer's agent. Here's my business card; please get in touch," that constitutes verbal consent. It's still a good idea to confirm that it's okay to contact them. Otherwise, you can only send commercial e-messages if the service you offer relates to the business on their business card.

Acceptable:

From: McKenzie Realtor  
Sent: Tuesday, May 15, 2014 4:07 PM  
To: Jas Tardoo  
Subject: We met at home show

Dear Ms Tardoo;

I visited your flooring booth at the home show last week. I have many clients who want to upgrade their floors before selling. Would you be interested in getting together to talk about how we could offer them a special discount?

Not acceptable:

From: McKenzie Realtor  
Sent: Tuesday, May 15, 2014 4:07 PM  
To: Jas Tardoo  
Subject: We met at home show

Dear Ms Tardoo;

We met at your flooring booth at the home show. Are you selling your house and looking for an experienced agent?

**Obtaining consent:** After July 1, 2014 you must obtain consent before you send commercial messages to anyone not already on your list. Your request must include:

- What the person is signing up for
- Who will be sending it
- Who is requesting consent (and on whose behalf, if applicable)
- Your contact information, including physical address and phone, email or web address.
- Unsubscribe information

**Enabling unsubsribes:** If you're sending regular messages, e.g., listings or a newsletter, every message must provide a clear, simple way to unsubscribe, like this:

You are signed up to receive these listing alerts. If you no longer wish to receive them, please [Unsubscribe here](#).

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This message sent to [jtardoo@finefirfloors.ca](mailto:jtardoo@finefirfloors.ca) by [noreply@willowvale.ca](mailto:noreply@willowvale.ca).

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Talk to your email marketing provider about the best system for allowing recipients to unsubscribe. Take unsubsribes off your list within 10 days and do not contact them again.

**Obtaining consent from your current list:** Consider this an opportunity to reach out to your list... and to clean it up. Just to be on the safe side, you could ask for express consent before this July's deadline, even though you have three years. By doing it before the rules change, you'll be building on a list that's already in compliance.

Your email marketing provider will help you find the most efficient way to collect the information.

For more detailed information, consult the CREA [Guidance on CASL for REALTOR® Members](http://www.realtorlink.ca/portal/server.pt/community/realtor%C2%AE_resources/692/publications) ([http://www.realtorlink.ca/portal/server.pt/community/realtor%C2%AE\\_resources/692/publications](http://www.realtorlink.ca/portal/server.pt/community/realtor%C2%AE_resources/692/publications)).