



# CASL ARE YOU READY

On July 1, 2014, Canada's anti-spam legislation ("CASL") came into force. CASL is one of the toughest anti-spam laws of its kind in the world and has the potential to significantly impact any individual or organization that e-mails, texts, messages, or communicates electronically with a recipient, whether they are an organization or an individual.

With this legislation now in force, are you and your organization ready?

What can you do, now, to help ensure compliance with CASL?

## 1. Get Consent!

Get consent from *everyone* in your contact list. Do this now. With CASL now in force, it is an offence to request express consent by sending an electronic message, *unless you and the recipient are in an existing business or non-business relationship*.

Now that CASL is in force, before you can send an electronic message to a recipient with whom *you do not* have an existing relationship, even one merely asking for consent, you will first need to receive consent. Therefore, you will now have to seek consent from new contacts by phone, fax, or Canada Post.

## 2. Conduct a preliminary audit to understand what electronic messages your organization sends.

The first step of any CASL compliance plan is to audit your organization's current electronic communication practices. It may be necessary to survey various departments to get a full picture of the organization's activity.

## 3. Appoint a CASL Compliance Leader for your organization.

This is a large project. You are going to want to consider appointing one person within your organization to take the lead on this project. Decide now who the best person for this task is and encourage them to become as knowledgeable as possible about CASL.

## 4. Create a CASL Compliance Team for your organization.

Completing your CASL compliance plan is going to involve a need to engage a broad group within your organization including IT, marketing, management, accounting, and others. You may want to consider creating a core team responsible for ensuring compliance with your CASL Leader coordinating their efforts.

## 5. Make sure everyone in your organization knows about CASL and understands the requirements for compliance.

CASL imposes vicarious liability on corporations for acts of their employees and D&O liability on officers and directors for corporate violations. It is imperative that you educate yourself and your employees about the requirements of CASL, do your due diligence and come up with a plan to ensure compliance.

## 6. Ensure you keep a record of each consent you received prior to July 1, 2014, and after.

Under CASL, the onus of proving sufficient consent rests with the sender of the commercial electronic message. Your IT department will need to track consent, archive how the consent was obtained.

## 7. Ensure you keep a record of any unsubscribe requests you received prior to July 1, 2014, and after.

It is imperative that you create a system for keeping track of consents and unsubscribe requests. Under CASL you have 10 days to comply with an unsubscribe request and ensure that the unsubscribe request is honoured.

## 8. Review your contracts and agreements and revise them to include a CASL consent.

Do not rely on previous consent – get a new consent. Even where you have received consent in the past from your contacts, such consent is no longer be valid, if you do not have a copy of the consent. Start revising your contracts and other documents now so that you will be ready to receive express consent on a go forward basis.

## 9. Make sure your contact lists contain up-to-date information.

CASL will force you to return to the phone calls, faxes and Canada Post in cases where you are prohibited from contacting people electronically. You can still promote or advertise your organization through these means. So make sure you have the correct contact information.

Contacting people to update their contact information will also provide you with an opportunity to inform them that you need consent to communicate with them electronically. Inform them that they will be receiving a consent request from you and ask that they return it as soon as possible.

## 10. Talk to legal counsel. Get the right advice.

If you are unsure of what you need to do to ensure your organization is compliant with CASL, call us at Miller Thomson.

At Miller Thomson we have a CASL team that has been assisting clients across the country and have been developing tools to assist you. We can provide as little or as much assistance as you need. Please don't hesitate to call us. We would be happy to discuss the services we can provide.

How can you ensure that you are in compliance with CASL?

Three words: **CONSENT  
INFORMATION  
UNSUBSCRIBE**

***This is a brief summary of the Canadian Anti-Spam Legislation (CASL) and should not be construed as legal advice.  
Please contact Troy Baril for assistance at 306.667.5630 or at [tbaril@millerthomson.com](mailto:tbaril@millerthomson.com)***