



# CASL on a Page

## CASL Regulates:

CASL regulates sending electronic messages, altering transmission data, installing computer programs and collection of personal information – without consent, and making false or misleading representations for on-line promotions.

## CEMs:

This document will focus on sending commercial electronic messages (CEMs).

The threshold issue is to determine if the message is a commercial electronic message.

If the message contains:

- a link to a website;
- a signature block referring to your organization, or
- any content that could be considered commercial, promotional or marketing,

**THEN** it is likely a Commercial Electronic Message.

## Three Requirements for CEMs:

There are 3 key requirements for sending CEMs in order to comply with CASL:

1. Consent from the recipient:
  - the onus is on the sender to prove they have consent.
  - opt-out consents are not allowed.
2. Information requirements:
  - clearly identify sender and sender's contact information (name, company, address, phone number, e-mail).
  - clearly inform the recipient of the right to unsubscribe from receiving future messages.
3. Unsubscribe mechanism:
  - must be clearly and prominently set out.
  - unsubscribe must occur within 10 days of request.

## Exceptions to Consent Only:

The following CEMs do not require consent but still require Information and Unsubscribe details in the CEM. CEMs:

- responding to a request for a quote or estimate;
- respecting a commercial transaction previously agreed to;
- providing warranty, product recall or safety information about goods or services purchased;
- providing information about an ongoing subscription, loan or membership;

- providing information about employment or employment benefits;
- providing information about updates or upgrades of goods or services previously sold to the recipient;
- to a recipient who conspicuously published their electronic address (eg. business card, website, etc.)
- to a recipient who disclosed their electronic address (eg. in a conversation or letter);
- sent to a referral from a common contact but only the first CEM.

## Exceptions to CASL Compliance:

Some CEMs are exempt from CASL compliance altogether. Following are the exempt CEMs. CEMs:

- from one person to another person if they have a personal or family relationship;
- containing an inquiry or application for a commercial activity;
- sent within an organization about that organization's business;
- sent from your business to another business about business matters;
- containing a response to a request, inquiry or complaint;
- regarding judicial obligations or orders;
- sent by a charity IF the primary purpose is raising funds for the charity (BUT all other CEMs from the charity must comply with CASL);
- from a political party or candidate soliciting a campaign contribution.

## Serious Sanctions:

There are serious consequences for failing to comply with CASL. CASL contains significant monetary penalties, a private right of action, officers and directors liability and vicarious liability of a corporation for the actions of its employees and agents.

## Defences:

Individuals and organizations may be able to rely upon a due diligence defence against claims of non-compliance but you will have to demonstrate that you have taken pro-active steps to establish policies, procedures and processes to address CASL compliance and then monitor and enforce those policies.

***This is a brief summary of complex legislation and should not be construed as legal advice.  
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