

EMAIL COMPLIANCE

DIGITAL MARKETING CHEAT SHEET

EMAIL COMPLIANCE, THE DO'S AND DONT'S

There's a lot of confusion about what you can and can't do legally when it comes to email outreach.

In this email compliance cheat sheet, we'll clarify some of the misconceptions surrounding the subject and outline some best practices to help keep you compliant.

US

Contrary to what some might have you believe, it's not illegal to email a business without their permission (in the U.S.)

You just have to **follow some simple rules**.

To be CAN-SPAM compliant, you need to adhere to the following guidelines set by Federal Trade Commission (FTC) for B2B organizations:

1. Don't use false or misleading header information. Your "From," "To," "Reply-To," and routing information – including the originating domain name and email address – must be accurate and identify the person or business who initiated the message.
2. Don't use deceptive subject lines. The subject line must accurately reflect the content of the message.
3. Identify the message as an ad. The law gives you a lot of leeway in how to do this, but you must disclose clearly and conspicuously that your message is an advertisement.
4. Tell recipients where you're located. Your message must include your valid physical postal address. This can be your current street address, a post office box you've registered with the U.S. Postal Service, or a private mailbox you've registered with a commercial mail receiving agency established under Postal Service regulations.
5. Tell recipients how to opt out of receiving future email from you. Your message must include a clear and conspicuous explanation of how the recipient can opt out of getting email from you in the future. Craft the notice in a way that's easy for an ordinary person to recognize, read, and understand. Creative use of type size, color, and location can improve clarity. Give a return email address or another easy Internet based way to allow people to communicate their choice to you. You may create a menu to allow a recipient to opt out of certain types of messages, but you must include the option to stop all commercial messages from you. Make sure your spam filter doesn't block these opt-out requests.

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6. Honor opt-out requests promptly. Any opt-out mechanism you offer must be able to process opt-out requests for at least 30 days after you send your message. You must honor a recipient's opt-out request within 10 business days. You can't charge a fee, require the recipient to give you any personally identifying information beyond an email address, or make the recipient take any step other than sending a reply email or visiting a single page on an Internet website as a condition for honoring an opt-out request. Once people have told you they don't want to receive more messages from you, you can't sell or transfer their email addresses, even in the form of a mailing list. The only exception is that you may transfer the addresses to a company you've hired to help you comply with the CAN-SPAM Act.
7. Monitor what others are doing on your behalf. The law makes clear that even if you hire another company to handle your email marketing, you can't contract away your legal responsibility to comply with the law. Both the company whose product is promoted in the message and the company that actually sends the message may be held legally responsible.

Source: <http://business.ftc.gov/documents/bus61-can-spam-act-compliance-guide-business>

UK

Here are the basics of the anti-spam laws in the UK (if you're operating from the US, the equivalent legislation is the CAN-SPAM act):

You CAN email anyone who has OPTED IN to receive emails from you, for example by requesting your regular email newsletter.

A person who has bought a product or service from you can be considered a 'soft opt-in' – meaning you should be able to email them, provided you are sending them related offers and give them the opportunity to opt-out.

You CANNOT 'cold email' consumers – i.e. private individuals.

You CAN 'cold email' individuals at business addresses PROVIDED that your promotion is a BUSINESS-TO-BUSINESS promotion RELATED to their work.

However, you CANNOT 'cold email' sole traders or partners in business partnerships in England and Wales, even if you email them in their professional capacity because the law counts these individuals as consumers.

Any commercial email you send must always a) identify accurately who it's from, and b) provide an email address or mechanism through which people can opt-out of further emails.

The content in this cheat sheet is given for informational purposes only. Please check with the relevant authorities in your country to ensure compliance with current legislation.