

What is SPAM? A CAN-SPAM Act Overview

If you send out any emails for your business or website, then you are more than likely aware of the CAN-SPAM Act. If email marketing is a direction that you're headed in, then you will need to get up to speed with the Act and what it means. Regardless of what stage you're at with email marketing, there are critical mistakes that you need to avoid.

The CAN-SPAM Act (Controlling the Assault of Non-Solicited Pornography and Marketing) was enacted in 2003, specifically to regulate all email messages that are commercial in nature. This means any electronic mail message where the primary purpose is to commercially advertise or promote a commercial service or product.

You should familiarize yourself with the CAN-SPAM requirements, is fairly straightforward. There are a few requirements that are a little more confusing, but for now, let's look at some of the major requirements.

EMAILS NEED TO CLEARLY SHOW WHO THE SENDER IS.

All emails being sent out need to very clearly show they are from you or your business. This should be indicated in the fields marked "From:" and "Reply to:" for every email. It should also be clearly shown in the footer of your emails, where your contact information is listed. You are required to always display your valid physical address, whether it's a P.O. Box, street address, or private mailbox. This must always be kept up to date.

SUBJECT LINES NEED TO CLEARLY REFLECT THE CONTENT OF THE EMAIL.

Whatever you express in your subject line needs to clearly tie in with the content of your email. If you have a subject that says you're giving away a free car, then you need to be sending out an email discussing the free car. You shouldn't be sending out that title with an email selling televisions, with no mention of a free car. You should never mislead people just to increase your open rate.

IDENTIFY WHEN AN EMAIL IS AN ADVERTISEMENT.

There are lots of different ways to cover this requirement, and there's a lot left open to interpretation. Whatever method you choose to use, you need to make sure that in some way, you are clearly identifying the instances where your email message is actually an advertisement.

RECIPIENTS MUST KNOW HOW TO UNSUBSCRIBE.

If you use an email provider like AWeber, MailChimp, or Constant Contact, then you will have a handy unsubscribe link at the bottom of your emails. This legally has to be on every email so recipients know exactly how to unsubscribe. Even if removing themselves from a particular newsletter (email preferences setting) is the only way for them to unsubscribe, this has to be clearly explained and a link provided to do so.



UNSUBSCRIBE REQUESTS MUST BE HONORED IN A TIMELY FASHION.

Anyone wishing to opt-out of your emails must be opted out. If you are doing this by a manual process, then try to action requests as soon as possible. No matter what, recipients must be opted out within ten days of their request. Again, if you're using an email provider, most of these do this via an automated process so you don't accidentally keep sending people emails when they don't want them.

KEEP INFORMED AND STAY VIGILANT.

Avoiding CAN-SPAM violations is best accomplished by doing your research and ensuring that you understand how the law applies to your business and email marketing campaigns. You can always visit the [Federal Trade Commission website](#) if you are looking for some further information on staying compliant.

Even outsourcing your campaigns can be a risk, so make sure that if you're hiring an outside agency, that you are aware of what they're doing. Any violations by an agency working on your behalf will still leave you, as well as them, liable. Make sure to monitor work being done by the agency you've hired, even if it means joining the email lists that they're managing.

This post contains information about the CAN-SPAM Act and is aimed at making readers more aware of the legal issues associated with the Act. This post is in no way legal advice, and we strongly suggest that you always consult a lawyer for any legal assurances associated with how you interpret this law for your own business or person.

Additional Resources:

- Federal Trade Commission: CAN-SPAM Act: A Compliance Guide for Business:
<https://www.ftc.gov/tips-advice/business-center/guidance/can-spam-act-compliance-guide-business>
- Wikipedia: CAN-SPAM Act of 2003
https://en.wikipedia.org/wiki/CAN-SPAM_Act_of_2003

