

CAN-SPAM Act of 2004 Checklist

Most of the points below are fairly basic and should be practices of most opt-in e-mail marketers. Some of these points can be considered more complex. Things like the inclusion of a legitimate physical postal address –not a PO Box. Of course, the following should not be considered a legal opinion or legal advice, however you may want to consider the below in order when considering steps to be in compliance with The CAN-SPAM Act of 2004:

- **First, CAN-SPAM only applies to commercial emails.** Things like e-statements, billing updates, customer service emails, and the like are not covered by the Act.
- **Never use fraudulent transmission data**, such as open relays and false headers (sections 4(a), 5(a)(1), and 6).
- **Never use misleading sender names or subject lines** (section 5(a)(1) and 5(a)(2)).
- **You must incorporate a legitimate postal address** to all commercial e-mails (section 5(a)(3) and 5(a)(5)(A)(iii)).
- **You must include a clear notice** that the e-mail is an ad/ solicitation **if** your list is not opt-in or double opt-in –“prior affirmative consent”, (section 5(a)(5)(A)(i)).

If your list is opt-in or double opt-in, you are exempt from this provision.

- **You must offer a "clear and conspicuous" unsubscribe** mechanism in every e-mail (section 5(a)(5)(A)(ii)).
- **Unsubscribes must be completed within a 10-day window.** This needs to be in place in electronic form, as well as for unsubscribes by postal mail and phone or fax if you include them in the email (section 5(a)(4)).
- **You should offer recipients a mechanism to receive only *some* types of e-mail from you** and unsubscribe from others. Also include a "global unsubscribe" option to stop all future e-mail from your organization (section 5(a)(3)(B)). Xerox does this well on their website if you unsubscribe from their mailing list.
- **Never share the address of a person who unsubscribed with any other entity** seeking to send that party e-mail (section 5(a)(4)).
- **Never “harvest” e-mail addresses** or use automated means to randomly generate addresses (called a “dictionary” attack) (section 5(b)(1)).
- **Sexually oriented material cannot *APPEAR* in any of your messages.** CAN-SPAM requires such material be *readily identified in the subject line*. When “initially viewed,” the message body can include only instructions on how to access such material, as well as your postal address, a notice the message is an advertisement or a solicitation, and a working unsubscribe mechanism (section 5(d)(1)). You can ignore this if the message is sent to someone who opted in (section 5(d)(2)).