

Email Marketing Compliance Fact Sheet

Permission-based email marketing is used effectively everyday by many organisations to build their brands, increase sales, and strengthen relationships with their customers. Permission-based email marketing is sending messages to people who have given their consent to receive them.

In terms of compliance, there are two types of email marketing:

1. **Unsolicited email** (often called SPAM)
2. **Permission-based email** marketing otherwise known as opt-in email. Email sent to people who have asked to receive the messages

Many people, particularly email marketers, have varying definitions of what constitutes permission-based email in terms of direct or implied consent.

Understanding Consent

It is important that we understand the 2 types of consent

Inferred Consent: This is achieved through an existing business or other relationship, where there is a reasonable expectation of receiving commercial electronic messages or via conspicuous publication of a work related electronic address because it is accessible to the public, or a section of the public (and if the address is not accompanied by a statement saying no commercial messages are wanted).

If you are not confident that the existing business relationship is strong enough to infer consent, or are unsure that the recipient will want your messages, you will need to obtain express consent.

Express Consent: An individual or organisation provides you with their email address by filling in a form, ticking a box, over the phone or face to face. The individual clearly understands that by doing this they will receive commercial messages from you in the future.

Read more about “Consent” by clicking the links below:

[Ensuring you don't SPAM](#)

[Understanding Consent](#)

It is important to be wary of purchasing email lists which provide an opt-out solution rather than an opt-in one. Opt-out is where the recipient is contacted by email, and it is up to the recipient to unsubscribe from that initial contact. Failing to opt-out does not provide the sender with valid consent.

Opt-out lists do not constitute compliant email marketing.

Reasons for using permission based Email Marketing

Sending unsolicited email to people who do not know who you are is in breach of the SPAM legislation.

When done right, email marketing can be a powerful and effective marketing tool. It allows you to communicate with customers or members and build a relationship based on value and trust.

Sending SPAM can ruin a legitimate organisation's brand and reputation.

The Spam Act 2003

Amongst other things, the Spam Act regulates the sending of commercial electronic messages and prohibits the sending of these messages except in certain limited circumstances.

Electronic messages are messages sent by:

- email
- short message service (SMS or text messages)
- multimedia message service (MMS)
- instant messaging (iM).

For more spam-related information, [click here](#).

Best Email Marketing practices

When sending messages which are commercial in nature, for instance, selling or advertising goods or services, or directing the recipient to a location where goods and services are sold or advertised, the three key steps to follow are:

Consent: Only send commercial electronic messages with the addressee's consent – either express or inferred consent.

Identify: Include clear and accurate information about the person or business that is responsible for sending the commercial electronic message.

Unsubscribe: Ensure that a functional unsubscribe facility is included in all your commercial electronic messages. Deal with unsubscribe requests promptly.

Read more by clicking below about Best Email Marketing Practices:

[Unsubscribe from poor marketing practices](#)

[Quality E-Marketing rest assured](#)

AML is here to help you better understand Email Marketing Compliance. Please contact us for more information.

Note: The information used in this fact sheet has been sourced from www.acma.gov.au; It is intended as a guide only and it is NOT a substitute for legal advice.



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