Preparing for Canada’s Anti-Spam Legislation (CASL) – Commercial Electronic Messages

In the July 2013 issue of our Online from 339 eNewsletter, we provided a brief overview of the proposed Canadian Anti-Spam Legislation (CASL) that will regulate the sending of commercial electronic messages. To help you understand the impact and begin planning for compliance now, CVMA is providing a series of information bulletins on some of the core provisions of the regulations. **There are 2 key requirements under the proposed anti-spam law:** the obligation for the sender to obtain consent from the recipient before sending a commercial electronic message (CEM), and the obligation to include certain information that identifies the sender and enables the recipient to withdraw consent. However, certain CEMs are exempted from these requirements (subject of a future bulletin).

**What is a Commercial Electronic Message (CEM)?**
CEM is an electronic message sent by any means of telecommunication that encourages participation in a commercial activity, regardless of whether there is an expectation of profit. Electronic messages **do not** cover facsimile or normal voice-to-voice telephone communication.

**Forms of electronic messages:**
- Includes e-mail, text, sound, voice or image messages, possibly some social media content;
- Applies also to smartphones and personal digital assistance devices.

**How to determine the commercial nature of a message?**
Electronic messages with a ‘commercial character’ may do one or more of the following:
- Offer, advertise or promote goods, products or services, business or investment opportunity;
- Advertise or promote a supplier or sponsor;
- Direct the recipient to a location, telephone number, contact information or web page which is considered to have a commercial purpose.

**Examples of CEMs:**
- An e-newsletter which provides all sorts of information that is not commercial in nature, but that contains a link to a sponsor’s website;
- An online client satisfaction survey;
- A mass email providing general information about your business or organization;
- An electronic message that requests consent to send a CEM, is in itself a CEM.

Only messages of commercial nature fall within the scope of the Anti-Spam Legislation. These include messages sent from organizations to consumers, organizations to other organizations, and individuals to other individuals. However, if it’s not a CEM, then it is not subject to the CASL requirements.

**What you can do in anticipation of CASL?**
Take inventory of the electronic messages currently sent by your organization – identify what kinds of CEMs are currently being sent (e-mail messaging, text messaging, instant messaging, social media messaging), to whom they are sent, and why they are sent.

**Next bulletin: Understanding Consent**

Whenever CASL comes into force, almost every business and organization in Canada will be affected. **Questions? Visit www.fightspam.gc.ca or contact CVMA’s Communication team at communications@cvma-acmv.org or 613.236.1162 ext. 128.**

Please note: This document is intended as a general guide only based on the draft regulations and the information available to date.