



INFORMATION RELEASE

IMPORTANT NOTICE - PLEASE REVIEW

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June 24, 2014

To: SSA Member Organizations and Entities

Re: Canadian Anti-Spam Legislation (CASL)

From: Executive Director, Doug Pederson

Information contained in this page is our interpretation of the CASL regulations and should not be taken as a legal opinion. The SSA recommends all Member Organizations consult with your Board, as well as regulatory or legal advisors to ensure you receive CASL advice specific to your needs.

We have been advised that the best way to ensure compliance with Canada's Anti-Spam legislation is to ensure that **expressed consent** has been provided.

“Expressed consent is when an individual gives you permission to send them any type of message, including CEMs. “ (commercial electronic message)

“Implied consent assumes permission based on an existing relationship between an individual and your organization. This can include instances where an individual has:

- *Donated to you in the last two years (either cash or in-kind contributions);*
- *Volunteered for you in the last two years;*
- *Been a member of your organization in the last two years;*
- *Entered into a contract with your organization in the last two years;*
- *Purchased a good or service from you in the last two years; or*
- *Made an inquiry about your commercial offerings in the last six months*

It is important to note that a message asking for consent is itself a CEM. If you send such a commercial electronic message (CEM) and do not receive a response, you may no longer send CEMs to that email address, as of July 1, 2014.” (Source: [SPRA Website](#))

How Is Consent Defined by CASL

CASL defines consent as anyone who:

- Agreed to receive commercial messages (e.g., verbal consent at an event, signing up for the email using an online form)
- Has an existing and active relationship (i.e., within two years of most recent contact) with the organization (e.g., previously registered for a soccer event, are a client, or member).
- Made an inquiry to the organization within two years (e.g., asked about soccer programs)

Nonprofits can send commercial communications to people who match one or all of the above criteria for a two year period based on the “implied consent” clauses in the legislation.

However, since the legislation is new and there are many clauses that are open to interpretation and /or misinterpretation we have been advised that the best way to ensure that you are in compliance with CASL is to get expressed consent from all contacts.

Sources of Information:

Saskatchewan Parks and Recreation Association have outlined [steps all non-profits should adhere to.](#)

[Government of Canada- Anti-Spam Legislation](#)

[Sport and Law Strategy Group](#)

[Tech Soup Canada](#) – watch the [You Tube Webinar](#) which outlines is quite thorough and provides critical information you should be aware of.

We recommend all SSA Member Organizations review Anti-Spam information in detail and undertake similar protocols prior to July 1st 2014.

In order to ensure compliance, the SSA will undertake the following:

1. We will send out multiple emails to our contact lists requesting consent prior to July 1st 2014. This will include all Member Organizations and SSA contacts. This will maximize our potential to maintain contact with people. This step should be applied to all contact lists within your organization; organization master list and each individual contact list that is maintained.

- If you receive a request to provide consent and you confirm consent prior to July 1 2014 then you will continue to receive information from the SSA going forward.
- Once consent has been received, and at any time in future, you will then have the option to unsubscribe to be removed from our contact lists.
- If you choose not to reply or do not provide consent then we will NOT be able to send communications to you in the future.
- If you are representative for a Member Organization or an Entity or if you wish to participate in SSA programs you NEED TO PROVIDE CONSENT or you will no longer receive information from the SSA and this may impact you and your organizations ability to remain an active participant in the SSA.

2. CASL will impact SSA and Member Organization registration processes significantly. Since consent is required it is essential that all Member Organizations have a mechanism to receive and track consent in the future.

For the 2014 Indoor Season, Goalline we will have an expressed consent option for all registered participants who register through Goalline and wish to receive information from the SSA. We will also have another option for participants at the local level to provide expressed consent to receive information from the Member Organization.

Registering all your participants through Goalline is the best way to ensure compliance with CASL.

3. Since CASL is in effect in the very near future it is very important that all SSA Member Organizations initiate their registration platforms with Goalline as soon as possible. This will ensure that they have the ability to remain in compliance of the CASL regulations. It is also critically important that each participant personally register online so that SSA and your Member Organization are protected through the expressed consent features.

The online registration platform will also allow you to prove that you have their consent and also provides an option to unsubscribe which are required by law.

Why is this so important?

4. CASL is a reverse onus law, i.e. you **must be able to confirm** that consent has been received to avoid penalties under this legislation.

While it appears there may be a transition period where the focus is on education, Federal Government penalties for non-compliance with CASL are significant:

“If you commit a violation under any of sections 6 to 9 of CASL, then you may be required to pay an administrative monetary penalty (AMP). The maximum amount of an AMP, per violation, for an individual is \$1 million, and for a business, it is \$10 million. CASL sets out a list of factors considered in the determination of the amount of the AMP.”

Volunteers and staff may be impacted, *“Directors, officers, agents and mandatories of a corporation can be liable, if they directed, authorized, assented to, acquiesced in, or participated in the commission of the violation.” (Source CASL)*

5. As noted if individuals provide consent they will continue to receive electronic messages from the SSA and/or Member Organization. If they do not provide consent then they will not be able to receive electronic communications and participation in SSA and Member programs may necessarily be restricted if consent is not provided.

Additional information:

The SSA is able to provide additional information on how we will be utilizing Goalline and how we can assist you to utilize Goalline to remain in compliance with CASL; however, we cannot offer any further suggestions or interpretation of this legislation. If you have additional questions about the CASL we encourage you to [review information about the legislation](#) and seek advice from legal or regulatory agencies as necessary.