

Email Marketing Compliance: Managing Restrictions and Consumer Contact Preferences in 2023

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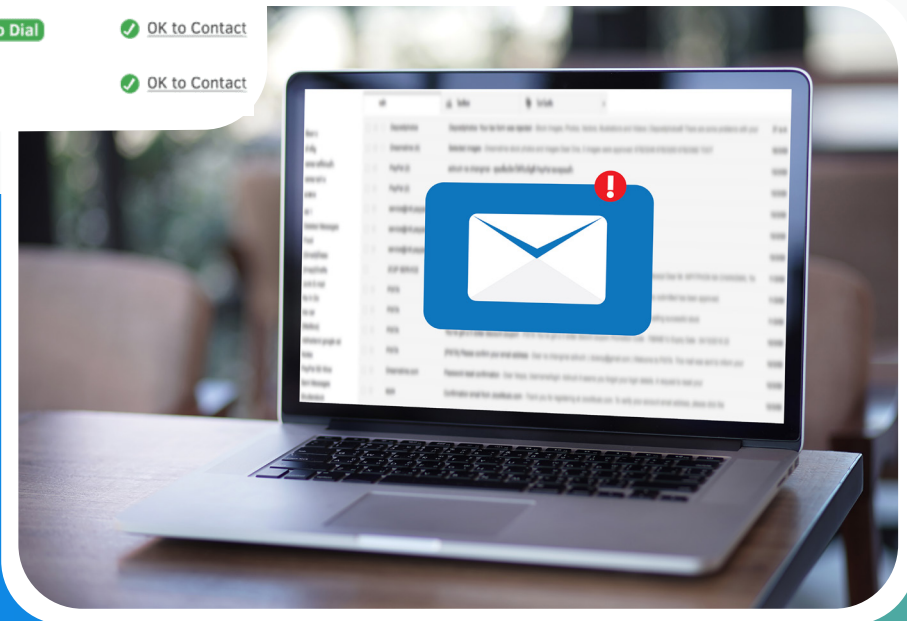
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Email Marketing Compliance: Managing Restrictions and Consumer Contact Preferences in 2023

In 2023, consumers have heightened expectations regarding how brands communicate with them. They want personalized experiences, the option of customization when it comes to privacy and the communications they receive, and of course, no spam. When executing email marketing campaigns, ensuring customer trust means guaranteeing that your customer communications remain 100% compliant with commercial email regulations like CAN-SPAM and CASL, and in line with consumer preferences.

Preference management, the ability of the consumer to choose the content they receive from brands, has become a standard expectation of the modern consumer. 39% of consumers say that they will not do business with brands that fail to deliver a personalized experience* – but honoring these preferences and manually updating email lists without centralized controls is prone to human error and can expend valuable time and resources.

To protect consumer relationships, many organizations are employing automated solutions to streamline the process of ensuring email compliance and keeping up with consumer communication preferences.

*<https://www.forbes.com/sites/garydrenik/2023/02/07/creating-meaningful-and-relevant-customer-experiences-using-data-quality/?sh=388ecadc66f7>

While the market continues to fluctuate and the economic future of many organizations seems uncertain, it's too much of a risk to gamble with consumer trust and not embrace a data-driven approach to compliance and preference management.

This eBook outlines what your organization needs to know regarding email compliance and preference management to both protect your brand and improve consumer experience, including:

1

Email compliance regulations you need to know to avoid costly penalties

2

How to use preference management to deliver personalized content and drive customer loyalty while remaining compliant

3

How to use an automated platform to streamline compliance, and more!

1. Email Compliance Regulations You Need to Know

Email is one of the most proven and effective marketing tools for brands to communicate with their target audiences. Consequently, ensuring compliance with commercial email regulations outlined in CAN-SPAM and CASL legislation is critical to the profitability of your organization.

In the U.S., each violation of the CAN-SPAM Act is subject to fines of up to \$50,120. Not only can failure to remain compliant with email marketing regulations result in costly fines and penalties, but it can diminish consumer trust in your brand and cause you to lose out on important business.

With a multitude of regulations and consumer protection controls to keep up with, guaranteeing email compliance can be a handful. Here's where to start:

CAN-SPAM Act

The Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act of 2003 sets standards within the United States for the sending of commercial electronic mail (e-mail) messages, applying to both email and text messages. The Act requires the Federal Trade Commission (FTC) to issue rules regarding commercial e-mail messages on wireless devices to protect consumers and businesses from unwanted communications. For commercial electronic mail messages in the US:

- No opt in is required, but primary senders must include the option to opt out
- Each e-mail must include the physical address of the individual or business sending it

- Senders must not use deceptive subject lines and false or misleading information
- Senders must identify that the email is an advertisement

*<https://www.fcc.gov/general/can-spam>

CASL

Canada's Anti-Spam Legislation (CASL) aims to protect Canadian consumers from spam and other unwanted commercial e-mail messages in the form of emails and text messages, while helping businesses stay competitive in the global marketplace. The law requires marketers to obtain consent before sending commercial electronic messages. Violators may be fined up to C\$10 million for a business or C\$1 million for an individual.

- Opt in, either express or implied, is required for commercial electronic messages
- All commercial e-mail sent through any channel is impacted
- All parties involved in the transmission of a message must adhere to all opt outs
- All parties involved in the transmission of a message must be identified in that message

*<https://ISED-Isde.canada.ca/site/canada-anti-spam-legislation/en>

GDPR

The General Data Protection Regulation (GDPR) requires companies to have processes in place for handling personal information and keeping personal data safe in the EU and European Economic Area. It mandates that the processing of personal data used to send e-mails is only allowed if the consumer has consented, or upon another legal basis – such as preserving the legitimate interest of an organization to send email

marketing communications. The law also requires that email marketers collect “freely given, specific, informed, and unambiguous consent from consumers” (Article 32.)

[*https://gdpr-info.eu/issues/email-marketing/](https://gdpr-info.eu/issues/email-marketing/)

2. Utilize Preference Management to Deliver Personalized Experiences and Ensure Customer Loyalty

Email preference management serves to build consumer trust with each communication. However, failing to respect a consumer’s contact preferences can cause customer frustrations detrimental to your brand reputation.

Not only does successful email management safeguard your organization from costly penalties, but it can set your brand apart from a competitive market by offering superior customer experience. Giving customers the ability to customize the content they receive via email delivers a sense of personalization that the modern consumer looks for in a vendor.

Consumer Preference Management

The first step towards compliant email marketing is ensuring that you have permission to send communications to consumers. This may include customizations for:

- Express or implied consent
- Established Business Relationships (EBRs)
- Opt-ins and opt-outs
- “Opt-down” functionality
- Frequency limitations

- Restricted domains
- State-specific restrictions
- Curfew restrictions

Maintaining Established Business Relationships

When sending commercial emails to customers, there are two types of permissions that organizations should be aware of:



Implied consent: When a consumer has a relationship with your business but has not explicitly requested marketing communications. Examples include obtaining a consumer’s implied consent after a consumer has completed an action such as completing a transaction with your business, making an inquiry regarding your businesses such as through a free download, or making contact information available on a social media profile.



Express consent: When a contact explicitly asks to receive marketing material from your business through a direct opt-in. Examples include filling out an online form, clicking through a link, or checking an unchecked box.

Organizations must also oblige consumer preferences and collect opt-ins and opt-outs from email communications.



Opt-in: A consumer actively subscribes to receive emails by providing personal information.



Opt-out: A consumer actively requests to be removed from an email list or all email lists by a sender.

Under CAN-SPAM regulations, organizations must include an option on each email that makes it easy for consumers to opt-out of future communications. Senders must remove opt-outs from their email lists within 10 business days and cannot email consumers who have previously opted out of receiving their communications.

Your brand can also prevent full suppression by giving consumers the option to “opt-down.” This option changes the frequency of which they receive emails or narrows down the types of emails they receive to preserve marketing impact while empowering customers to receive the offers they want. ‘

Frequency Management

Effectively managing email frequency – how many times a day, a week, or a month you send emails to consumers – across all direct employees and marketing service providers performing outreach on your behalf is a high-priority piece of your email marketing strategy.

Frequency rules are per company, so your organization may leverage a provider that can ensure all departments within your organization are cohesive in their approach to email frequency.

While a consistent email cadence is important to keeping your customers engaged, an overbearing frequency or failure to honor opt-down requests may result in increased opt-outs or a decline in satisfaction towards your business.

Allowing consumers the option to opt-down from future communications so that they are only hearing from you on topics they want to know about can strongly benefit customer satisfaction scores at your organization.

Additional Restrictions

It is important to be aware of restricted domains to which marketers are not allowed to send unsolicited e-mail messages. The FCC manages restrictions on domain names where messages will go to wireless devices like cell phones and pagers. Registered Domain Names are required to be updated by wireless service providers within 30 days of a provider issuing a new domain name and deleted within six months of a domain's last date of use.

For collection agencies recovering money owed to creditors via email, curfew restrictions apply as outlined in the Fair Debt Collections Practices Act (FDCPA).

A business must identify themselves as a debt collection agency and give the name and address of their collection agency, inform consumers of the name of the company or person they owe, how much they owe, and that they can dispute the debt or seek verification. It is important to note that creditor harassment laws vary from state to state.

[*https://www.debt.org/credit/collection-agencies/harassment/](https://www.debt.org/credit/collection-agencies/harassment/)

Effectively Managing Email Regulations

With all the specifications and customizations surrounding email marketing rules, it can be difficult to effectively manage these processes and avoid violations with a manual approach.

Applying time restrictions or curfew blocks to emails for certain consumers, filtering opt-down requests, and removing contacts that have opted out in a legal timeframe can be as laborious as it sounds.

Rather than risk human error or waste valuable resources to manually honoring consumer protections, an automated compliance solution can simplify these processes and tailor compliance to your organization with custom controls to improve your team's outreach ability.

3. Use an Automated Platform to Streamline Compliance and Avoid Costly Penalties

An automated, centralized compliance solution can offer your organization warranted protection, safeguard consumer trust, and help increase revenue by streamlining email compliance processes and the need to manually enforce restrictions and consumers.

In real-time, a compliance solution automatically screens outbound email campaign lists against opt-out requests, restricted domains, frequency limits, and other company-specific rules. The technology blocks these contacts to streamline the process of ensuring your email campaigns are compliant and creates a fully auditable history of all transactions.



If you only want to email a contact once a week, a compliance solution will automate that frequency, allowing your organization to devote fewer resources to preference management and eliminate human error.

How does a compliance provider ensure compliance for all emails?

- 1 A compliance solution “gets in the path” of an email campaign as it is queued to be contacted and routed from your company (or a third-party that is marketing on your behalf) through a compliance provider's servers via real-time Web Service API calls.
- 2 As a list is in queue, the compliance solution automatically evaluates your database to screen for compliance and certify each record as Ok to Email or Do Not Email. The solution will factor in consumer preferences and company rules for specific identifiers or personal IDs, ensuring they are in place and applying these preferences at the campaign level.
- 3 The compliance solution automatically approves or blocks the send against compliance regulations and consumer preferences and provides you with information on why an email was blocked.



This process extends to SMS with the same requirements and processes for solution providers to guarantee compliance with consumer protections like curfews and preference management.

How does a compliance provider ensure compliance for emails sent by a third-party provider on my behalf?

If you are employing a third-party email service provider to execute marketing campaigns, automated compliance technology will still automate all screening and blocking of emails sent on your behalf. Compliance solutions integrate with in-house and third-party platforms to ensure your own rules are applied across both technologies.

What to Look for in an Automated Email Compliance Solution



Automated screening of outbound email campaigns without the need for human review



Custom controls for business-specific rules including frequency controls, EBRs, IDNC lists, IDNC opt-outs, and contact preferences



“Opt-down” functionality to prevent full suppression by facilitating campaign-specific exemptions



Certification of all email marketing campaigns against Do-Not-Email, VIP, U.S. FCC Wireless Domain name, and U.S. DMA Do-Not-Email lists



Key reporting and audit trails to ensure protection and peace of mind

Ensure Email Marketing Compliance with Gryphon.ai

Take into consideration the risk (and expenses) of trying to manually keep up with email marketing regulations and constantly changing consumer preferences. Not only are violation fines and penalties costly, but the damage to consumer trust and your brand reputation can be disastrous, especially in an uncertain economy.

While compliance can get complicated, it doesn't have to be. Instead, learn how Gryphon.ai's automated compliance solution can ensure compliance with zero violations, safeguard your organization from costly penalties, and help preserve consumer trust to accelerate growth at your organization.

Learn more about Gryphon's Automated Compliance solution and how this technology can safeguard your organization from costly violations and ensure marketing compliance. Schedule a demo today!

Learn More

Contact us at sales@gryphon.ai or give us a call at **(866) 644-5422** to learn more about Gryphon.ai's solutions.