

POLICY: CANADA'S ANTI-SPAM LEGISLATION

SECTION: II - General Policies

MOTION#/DATE: – XXX / October 26, 2015

Effective Date

October 26, 2015

Policy Objective

This policy has been developed as part of Toronto Public Library's corporate program for compliance with "Canada's Anti-Spam Legislation" or "CASL". CASL is intended to regulate electronic messages that have, as at least one of their purposes, the promotion of participation in commercial activity, even if there is no expectation of profit. Although the Toronto Public Library is a publicly funded, non-commercial institution, the application of CASL and the concept of "commercial activity" might include some electronic messages issued by the Library within the scope of CASL and subject to its requirements. As a result, in light of the possibility that Toronto Public Library electronic messages could be considered to be for the promotion of "commercial activity" for the purposes of CASL, this policy is designed to ensure that these messages comply with CASL requirements. These requirements require ensuring that the consent of the recipients for the receipt of such messages is properly obtained and that, when obtaining consent, recipients are also provided with an unsubscribe mechanism and relevant Library staff contact information.

Underlying Principles

The Toronto Public Library believes that its customers should not be sent unsolicited commercial electronic messages without their prior authorization and supports the goal of CASL which is "to promote electronic commerce by increasing confidence in the use of the Internet to carry out business transactions."

CASL regulates "commercial electronic messages" and the installation of computer programs "in the course of commercial activity".

Policy Statement

Toronto Public Library is a non-commercial, not-for-profit, publicly funded corporation that communicates with members of the public through several mediums, including electronic messages, such as email, in order to promote certain activities. With the understanding that these messages may be considered commercial under CASL:

1. The Library will only send unsolicited electronic messages promoting activities to electronic addresses belonging to members of the public in accordance with CASL and with:
 - a) the express consent of recipients, obtained in accordance with CASL;
 - b) the contact information of the relevant Library staff included in the message seeking consent; and
 - c) an unsubscribe mechanism included in the message seeking consent .

The Library will maintain subscriber lists for its electronic addresses and a record of when each subscriber provided express consent to receive unsolicited electronic messages from the Library.

2. All Library staff will receive the appropriate training on the Library's obligations under CASL and the requirements of this policy.
3. The Library will continue to ensure that, in the course of any commercial activity, it will not install, or cause to be installed, a computer program on any other person's computer system unless it has obtained the express consent of the owner or an authorized user of the computer system.

Definitions

“Canada’s Anti-Spam Legislation” or “CASL” is formally known as *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*, S.C. 2010, c. 23,

“Commercial” is defined in *the Dictionary of Canadian Law*, 4th ed., as “connected with trade and commerce in general”. In turn, “commerce” is defined in *the Dictionary of Canadian Law*, 4th ed. as “trade; exchange of goods or property” and in *the Canadian Oxford Dictionary*, 2nd ed., as “financial transactions, especially the buying and selling of merchandise”.

“Commercial activity” is defined in CASL as any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, whether or not the person who carries it out does so in the expectation of profit, other than any transaction, act or conduct that is carried out for the purposes of law enforcement, public safety, the protection of Canada, the conduct of international affairs or the defence of Canada.

“Commercial electronic message” is undefined in CASL, but the CRTC provides the following examples:

- offers to purchase, sell, barter or lease a product, goods, a service, land or an interest or right in land;
- offers to provide a business, investment or gaming opportunity;
- promoting a person, including the public image of a person, as being a person who does anything referred to above, or who intends to do so.

“Electronic address” is defined in CASL as an address used in connection with the transmission of an electronic message to (a) an electronic mail account; (b) an instant messaging account; (c) a telephone account; or (d) any similar account.

“Electronic message” is defined in CASL as a message sent by any means of telecommunication, including a text, sound, voice or image message.

Accountability

The Communications, Programming and Customer Engagement department will be responsible for a) communicating with, and training, staff, and b) monitoring the Library’s electronic messages, to ensure compliance with this policy.