



This policy is not intended to be, and does not constitute legal advice and should not be relied upon in lieu of consultation with appropriate legal advisors. These materials have been prepared for educational and information purposes only.

PEOPLES TRUST COMPANY ANTI-SPAM POLICY AND PROCEDURES

In order to comply with the Canadian Radio-television and Telecommunications Commission (CRTC) with respect to *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, and related Regulations*, commonly referred to as Canada's Anti-Spam Legislation (CASL), Peoples Trust Company (PTC) has established the following policies and procedures to assist you with your responsibilities under CASL.

PTC PROHIBITS THE USE OF OUR PRODUCTS AND SERVICES IN ANY MANNER ASSOCIATED WITH THE TRANSMISSION, DISTRIBUTION AND DELIVERY OF UNSOLICITED COMMERCIAL ELECTRONIC MESSAGES (CEMS).

1. INTRODUCTION

- 1.1 CASL defines a CEM as an electronic message where it would be "...reasonable to conclude it has as its purpose, or as one of its purposes, to encourage participation in a "commercial activity"". This determination is made upon the content of the message, hyperlinks to content on a website, or contact information. This can include "an electronic message that:
- (a) Offers to purchase, sell, barter or lease a product, goods, a service, land or an interest or right in land;
 - (b) Offers to provide a business, investment or gaming opportunity;
 - (c) Advertises or promotes anything referred to in paragraph (a) or (b) above; or
 - (d) Promotes a person, including the public image of a person, as being a person who does anything referred to in any of paragraphs (a) to (c), or who intends to do so."
- 1.2 As of July 1, 2014, CASL, will require businesses to obtain either express "opt-in" or implied consent to send CEMs to a person.



1.3 In general terms, CASL will prohibit:

- (a) sending CEMs without a recipient's consent, including CEMs sent to email addresses and social networking accounts, such as Facebook, Twitter, or LinkedIn, and text messages sent to cellular phones and other mobile devices;
- (b) altering transmission data in electronic messages which results in messages being delivered to different or additional destinations without express consent;
- (c) installing computer programs (such as spyware and malware, in addition to computer programs with a legitimate business purpose) without the express consent of the owner of the computer or an authorized user;
- (d) using false or misleading representations online (including websites) in the promotion of products or services; and
- (e) collecting electronic addresses by the use of computer programs or the use of such addresses without consent (address harvesting, scraping and hacking).

2. SERIOUS PENALTIES

2.1 Businesses that don't comply with CASL risk serious penalties including fines of up to \$1 million for individuals (including corporate directors) and \$10 million for corporations.

3. EXPRESS CONSENT

3.1 Businesses need express consent from recipients before sending a CEM. Using opt-out or pre-checked boxes will not be allowed. In addition, all electronic marketing messages will need to clearly and prominently identify the sender, include the sender's contact information, and provide an unsubscribe mechanism, unless fully exempted under CASL.

3.2 Recipients must indicate a positive and explicit consent by checking a box or typing an email address into a field. Express consent must be obtained separately for each act regulated by CASL, including sending a CEM, altering transmission data in CEMs or installing a computer program on another person's computer.

3.3 You must obtain express consent separately – consent cannot be bundled into general terms and conditions of use or sale.

- (a) When seeking express consent, you must also explain why you are contacting the prospect, in addition to including all the mandatory contact information (detailed below). You must also **provide an unsubscribe mechanism**.
 - (i) If you can't include this information in a CEM, you'll need to provide a link to an easily accessible web page that clearly displays this information.



3.4 Express Consent never expires unless it is revoked.

3.5 See Schedule A for examples of express consent.

4. WHAT CONSTITUTES EXPRESS CONSENT?

4.1 To send a CEM, you must obtain express consent either orally or in writing.

4.2 You must be able to prove that you have obtained express consent.

- (a) Oral consent can be verified by an independent third party or with a complete and unedited audio recording.
- (b) Written consent can be paper-based (ie filling out a consent form at the point of sale), or electronic (ie checking a box on the web or an application), as long as the date, time, purpose and manner of consent is stored in a database.
 - (i) If obtaining consent electronically, you must notify recipients that their consent has been obtained.

4.3 **Once CASL comes into force, unless you have express or implied consent, you can no longer send an electronic message requesting consent because it will be considered a CEM.**

5. IMPLIED CONSENT

5.1 Consent can be implied, but only in certain circumstances:

- (a) If you send a CEM in the context of an existing business relationship.
 - (i) An existing business relationship is one where the recipient has:
 - (A) bought or leased a product, good or service from your business;
 - (B) been involved in an investment opportunity with your business;
 - (C) entered into a written contract with your business in the last two years; or
 - (D) made an inquiry or application to your business in the last six months.

5.2 Implied consent expires in six months, if a prospect doesn't become a client, and in two years if an existing client doesn't buy something new or doesn't renew their loan, account or contract.



6. TRANSITIONAL PERIOD

- 6.1 In cases where a sender of CEMs has an “existing business relationship” with CEM recipients, CASL provides a three year transitional period from the coming into force of the legislation on July 1, 2014, to gain express consent from those recipients. The transitional period ends if a customer opts out during the transition period.

7. GENERAL REQUIREMENTS FOR COMMERCIAL EMAIL

- 7.1 To comply with CASL, you must provide CEM recipients with:

- (a) the name of the person or organization seeking consent;
- (b) a mailing address and either a phone number, voice message system, email address or website where recipients can access an agent for more information and which remains valid for at least 60 days after the CEM is sent;
- (c) a statement identifying the person on whose behalf consent is being sought;
- (d) the identity and contact information of any third party or affiliate used to obtain the recipient’s consent;
- (e) content of websites and CEMs, including subject lines and headers, must be accurate and not misleading;
- (f) a free unsubscribe mechanism that takes effect within 10 days maximum giving recipients two ways to electronically opt-out of communications, such as by email or hyperlink; and
- (g) the ability to opt-out of all types of communications sent by either your organization or a third party partner.

- 7.2 If you can’t include the information set out in subsection 7.1 in a CEM, you’ll need to provide a link to an easily accessible web page that clearly displays this information.

8. BEST PRACTICES

- 8.1 The onus is on the sender of a CEM to prove consent has been obtained. If you are accused of violating CASL, you must prove that you had explicit consent, or that you had implied consent by virtue of one of the exceptions under CASL. Accordingly, the following best practices are recommended to track and document compliance on an individual recipient basis:

- (a) do not send any unsolicited CEMs or other unsolicited online communication;
- (b) maintain rigorous list management and acquisition practices;



- (c) utilize the double opt-in or closed-loop subscription process by sending a welcome email to verify subscription;
- (d) keep the unsubscribe message simple and conspicuous within the email;
- (e) include a thank you page that confirms any opt-in or unsubscribe request and include the date of the request;
- (f) include essential identifying information in your email, such as the business name and contact information (including address and phone number, and a link to a contact form on the host's website).

9. ARE THERE ANY EXCEPTIONS WHERE CONSENT IS NOT REQUIRED?

9.1 Yes. The main ones are:

- (a) Within a business.
- (b) Where there is an existing business relationship and the CEM is relevant to the recipient's role, function or duties.
- (c) In response to a direct request for information.
- (d) To enforce a legal right or obligation.
- (e) If you have a family or personal relationship.
- (f) If it relates to an existing transaction.
- (g) If you are a customer inquiring about a business activity.
- (h) where the recipient has:
 - (i) conspicuously published an email address or given you one and the CEM is relevant to the recipient's business role (the 'publication' exception), or
 - (ii) disclosed his or her electronic address to you, has not indicated any wish not to receive unsolicited CEMs and the CEM is relevant to the recipient's business role (the 'business card' exception).
- (i) If someone who has been referred to you by a third party who has a family, personal or business relationship with you and with the recipient.

10. HOW CAN YOU PREPARE FOR CASL

10.1 You are responsible to comply with the CASL. Peoples Trust Company prohibits the use of our products and services in any manner associated with the transmission, distribution



and delivery of unsolicited CEMs, as well as the use of address harvesting. For more information, please visit the government's Anti-Spam website at: www.fightspam.gc.ca.

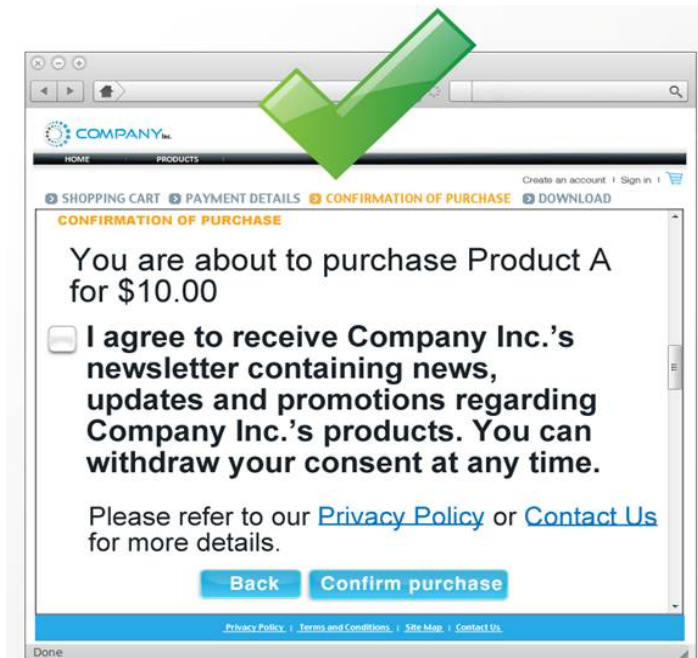
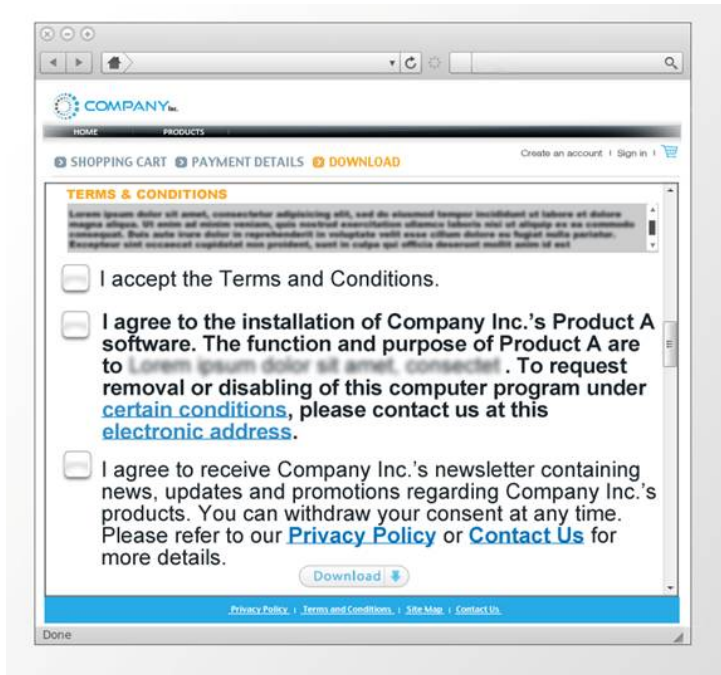
- 10.2 To help you assess compliance of specific messages, a decision tree is attached to this procedure as Schedule "B" for your reference.

E & OE



SCHEDULE A

EXAMPLES OF EXPRESS CONSENT





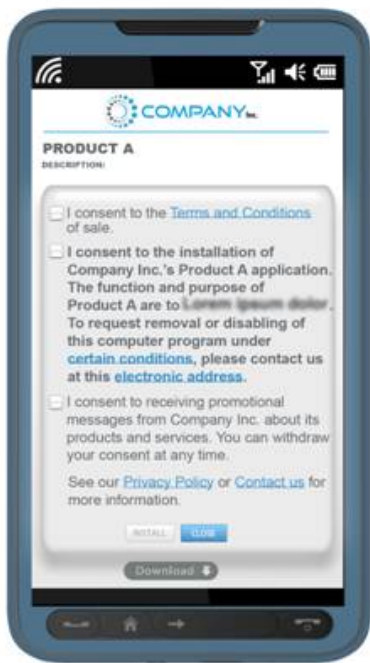
[Sender] Request For Your Consent

As outlined above, [Sender] wishes to obtain your consent in order to continue to send you e-communications from our company. This may include newsletters, publications, announcements, invitations and other news or information.

Please use the button below to confirm your consent to receive emails and other electronic exchanges, as outlined above, from [Sender].



If at any time you would like to withdraw your consent or update your profile and preferences, you can do so by [clicking here](#) or by [contacting us](#) directly.





SCHEDULE B

CEM DECISION TREE

