

CAN-SPAM Act: Requirements

The law, which became effective January 1, 2004, covers email whose primary purpose is advertising or promoting a product or service, including content on a Website.

The Federal Trade Commission (FTC), is authorized to enforce the CAN-SPAM Act. CAN-SPAM also gives the Department of Justice the authority to enforce its criminal sanctions. Other federal and state agencies can enforce the law against organizations under their jurisdiction, and companies that provide Internet access may sue violators, as well.

What the Law Requires

- ☐ It bans false or misleading header information. You email's "From," "To," and routing information — including the originating domain name and email address — MUST be accurate and identify the person who initiated the email.
- ☐ It prohibits deceptive subject lines. The subject line CANNOT mislead the recipient about the contents or subject matter of the message.
- ☐ It requires that your email give recipients an opt-out method. You MUST provide a return email address or another Internet-based response mechanism that allows a recipient to ask you not to send future email messages to that email address, and you must honor the requests. You may create a "menu" of choices to allow a recipient to opt out of certain types of messages, but you must include the option to end any commercial messages from the sender.

Any opt-out mechanism you offer must be able to process opt-out requests for at least 30 days after you send your commercial email. When you receive an opt-out request, the law gives you 10 business days to stop sending email to that address, or have another entity send email on your behalf to that address. Finally, it's illegal for you to sell or transfer the email addresses of people who choose not to receive your email, even in the form of a mailing list, unless you transfer the addresses so another entity can comply with the law.

- ☐ It requires that email be identified as an advertisement and include the sender's valid physical postal address. Your email MUST include your valid physical postal address.

Penalties

Each violation of the above provisions is subject to fines of up to \$11,000.

Additional fines are provided for emailers who not only violate the rules described above, but also:

- ☐ "Harvest" email addresses from Websites or Web services that have published a notice prohibiting the transfer of email address for the purpose of sending email.
- ☐ Generate email addresses using a "dictionary attack" — combining names, letters, or numbers into multiple permutations.
- ☐ Use scripts or other automated ways to register for multiple email or user accounts to send email.
- ☐ Relay emails through a computer or network without permission — for example, by taking advantage of open relays or open proxies without authorization.

The law allows the Department of Justice to seek criminal penalties, including imprisonment, for emailers who do — or conspire to:

- ☐ Use another computer without authorization and send email from or through it.
- ☐ Use a computer to relay or retransmit multiple email messages to deceive or mislead recipients or an Internet access service about the origin of the message.
- ☐ Falsify header information in multiple email messages and initiate the transmission of such messages.
- ☐ Register for multiple email accounts or domain names using information that falsifies the identity of the actual registrant.
- ☐ Falsely represent themselves as owners of multiple Internet Protocol address that are used to send commercial email messages.

[Read the law](#) from the Federal Trade Commission in its entirety.