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NSBA Policy re: Canadian Anti-Spam Legislation (CASL)

On July 1, 2014, the Canadian Anti-Spam Legislation comes into effect. This legislation regulates the use of email, text messages and other forms of electronic messages. It also impacts the installation of applications (Apps) and other computer programs for marketing purposes. The federal government passed the law in an effort to reduce spam, malware and related internet threats.

From a practical standpoint, CASL is most impactful to the NSBA in relation to commercial electronic messages (CEMs); the law applies to CEMs. There are two key components in the definition of a CEM: it must be an electronic message; and it must be commercial. An electronic message includes email, SMS text messages, instant messages and any form of electronic messaging that is sent to an electronic account.

In order for the NSBA to continue to use electronic means (primarily email; mass emails through a third-party service provider and group emails from NSBA staff to members), we must have consent to do so. Consent can be achieved in one of two ways: Implied Consent and Express Consent.

There are five different circumstances where consent can be implied from a potential recipient (ie: a CEM can be sent by a sender without explicitly asking for permission). The one that applies specifically to the NSBA by definition is: An Existing Non-Business Relationship. This relationship exists where the sender is a club, association or volunteer organization of which the recipient has been a member within the previous two years. The NSBA memberships are renewed on an annual basis, which places our entire membership in this category.

There is a three-year window (to July 1, 2017) where Implied Consent can be utilized. During this timeframe, the NSBA must work towards gaining Express Consent from its recipients. If Express Consent is not achieved (or if the recipients unsubscribe) before July 1, 2017, they must be removed from our mailing list.

The NSBA communicates with its members through CEMs on a regular basis through mass email communication. This communication is sourced one of two ways: through a third party provider (currently Constant Contact), or through a self-generated email from an NSBA staff member email account.

There are three types of email messages that the NSBA sends to its membership via Constant Contact: E-Flyers, NSBA News, and Upcoming Events. Each of these three types of message is easily identifiable by the respective message headers that declare the type of content the

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message contains. They each also have their own database of recipients, as some members want only certain types of this communication.

E-Flyers are messages and/or advertisements the NSBA sends to its membership on behalf of advertisers (usually other NSBA members) on a fee-for-service basis.

NSBA News is information that is generated from our office that we share with our membership. It may include things such as our NSBA Focus newsletter, a public service announcement, or an advisory that we deem to be valuable or of import to our membership.

Upcoming Events is an email that advises the membership of upcoming NSBA events, as well as others events that may be of interest or value to the membership. This is the primary form of marketing the NSBA does to its membership to encourage attendance at our various events throughout the course of the year.

Each of these mechanisms identifies the sender as the NSBA, and contains an unsubscribe link at the bottom of the message, which complies with CASL.

When a recipient submits an unsubscribe message, Constant Contact undergoes an automatic process. An auto response back to the recipient advises them that their name has been removed from the database. Constant Contact is programmed to remove that email address from that particular database, and places it into a new folder, which contains all unsubscribed email addresses.

Effective April 2014, all NSBA application forms (including NSBA 2.0 [student] application forms, and online application forms on the NSBA website) have a check box for new members to provide consent, (or to deny consent) for email communication from the NSBA. Currently, approximately 50 NSBA members (6% of membership) have provided express consent via this method.

Members are not required to provide express consent to be a member of the NSBA. Effective July 1, 2014, Opt in and/or Opt out check boxes will be incorporated into all membership renewal forms.

Every CEM will contain the following information, set out clearly and prominently:

- The NSBA's name
- Contact information including a mailing address, and either a telephone number, email address or website address.
- The CEM must also identify anyone on whose behalf the message is being sent and their contact information. Contact information means a mailing address must be provided along with either a phone number or an email address or a web address.

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- A functional unsubscribe mechanism;
 - either through a requirement of the recipient to reply with “unsubscribe” in the subject line; or
 - by clicking a hyperlink which will take the recipient to a web-based unsubscribe web page.
 - must take effect not more than 10 business days after the unsubscribe notification was sent, and
 - it must be done at no cost to the person unsubscribing.

Communication via CEM to non-NSBA members, unless consent (Implied or Express) has been provided is NOT permitted, as it contravenes CASL legislation.

CASL does NOT apply to the following CEMs:

- Inter-office communications (sender and recipient employed by same employer),
- Inter-business communications (sender and recipient are employed by organizations that have a business relationship),
- Contacting service providers or sellers of goods (where sender is contacting the supplier/vendor about their goods and/or services),
- Personal or family relationships (this seems straight-forward BUT 'family relationship' is narrowly defined to mean only spouses, parents and children; beyond that narrow circle, you need to rely on having a 'personal relationship' with extended family); and
- Messages sent by a registered charity for the purpose of soliciting funds/donations. (The NSBA is a non-profit association, NOT a charity).

If none of the foregoing exemptions applies, you need consent, express or implied, from the recipient(s) BEFORE you send the CEM.

When consent (Express or Implied) is not achieved, contact to the recipient must be made through regular mail Canada Post and/or courier services, OR by telephone.

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