REMINDER

C-28 VS GDPR

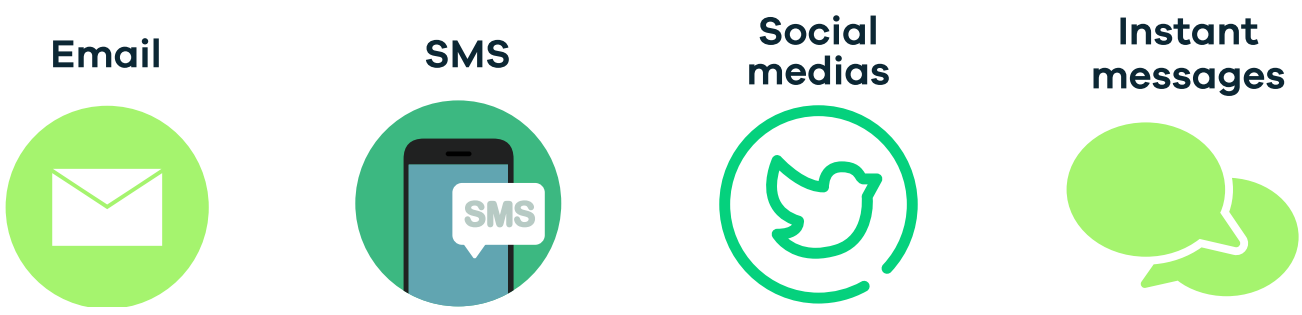
SUMMARY OF MAIN PRINCIPLES AND FOUNDATIONS

BILL C-28

« Canada's anti-spam legislation (CASL or C-28) protects consumers and businesses from the misuse of digital technology, including spam and other electronic threats. It also aims to help businesses stay competitive in a global, digital marketplace (Government of Canada). »

Applies to what?

Any electronic communication of a commercial nature sent to an e-mail address in Canada.



Such communications are prohibited, except with express or implied consent.

Implied consent

Any person with whom you have a business relationship, without necessarily having obtained his or her consent.

- Contract (24 months)
- Purchase made (24 monts)
- Information request (6 months)
- Request for quote (6 months)
- Ongoing private relationship
- Business cards
- Publicly posted email

Express consent

The contact has given consent to receive your communications.

- Oral agreement
- Electronic proof
- Hardcopy proof

The goal here is to turn all your implied subscriptions into express subscriptions.

What does it imply...

- Your email subject must be related to the content of your email.
- Clearly identify your company in your message.
- You must include your contact information in your communications.
- Always include a functional unsubscribe link.

4 tips for complying

- Be sure to obtain the consent of any person to whom you wish to send commercial communications.
- Keep your contact lists up to date and unsubscribe your contacts who have requested to unsubscribe within 10 days of that request.
- Set up a compliance program within your company.
- Keep accurate records (consents, training documents or signed contracts).

If you have any questions, you can call 1-877-249-2782 (CRTC).

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GDPR

« The General Data Protection Regulation (GDPR) is a European Union regulation that strengthens and unifies data protection. Its main objectives are to increase both the protection of persons concerned by the processing of their personal data and the accountability of those involved in such processing. (arep47). »

Who is it for?

All businesses established inside and outside the European Union territory that process data relating to EU organizations as well as when they target EU residents by profiling or offering goods and services.

The data of these persons may be processed if and only if one of the 6 legal bases for the processing of personal data is founded.

The 6 legal bases

1. Free, specific, informed and unambiguous consent.
2. Contract: the data processing is objectively necessary for the performance of a contract.
3. Legal obligation: the data processing is imposed by European or national legislation.
4. Public interest mission: the data processing is carried out by public authorities in order to fulfil their mission.
5. Legitimate interest: presupposes that the interests pursued by the data processing do not create an imbalance to the detriment of the rights and interests of the data subjects.
6. Save vital interests.

How to determine the legal basis that justifies the data processing?

A few questions to ask yourself...

- Do the texts impose or exclude a specific legal basis?
- What is the general context in which the data treatment is implemented?
  - Type of organization (private or public, with or without a public service mission, etc.);
  - Sector of activity (health, human resources, marketing, etc.);
  - The general objective pursued (commercial, general interest, etc.);
  - The degree of autonomy of the organization (is the data processing imposed on it or is it done on its own initiative?).;
  - People's degree of control over their own data;
  - The existence or not of a contractual framework;
  - Etc.
- Are the conditions for the envisaged legal basis fulfilled?

For more information, visit the CNIL website.