

Federal law: [CAN-SPAM: Controlling the Assault of Non-Solicited Pornography and Marketing](#)

Before sending out any commercial emails in the United States, please be sure to review the requirements of the CAN-SPAM Act. CAN-SPAM is the federal law that sets out the rules for sending commercial email. It covers three main areas:

- 1) Establishes requirements for sending commercial messages,
- 2) Gives recipients the right to have you stop emailing them, and
- 3) Enforces rules by setting penalties for violations.

Timeline:

- Enacted: 2003
- [Updates:](#) FTC Press Releases outlining updates to CAN-SPAM.

Main notice and consent requirements of CAN-SPAM:

- Notice and opt-out permissioning.
- Businesses must honor consumer opt-out requests within 10 business days and have a working unsubscribe mechanism in each promotional email that is sent.
- The opt-out mechanism should be working for at least 30 days from when the email was sent.
- Pre-checked boxes are permitted and considered implied consent.
- Your email must include your physical postal address or a PO Box.
- Do not use false or misleading header information or subject lines.
- Email harvesting is considered an aggravated offense under the law and can trigger multipliers for fines and enforcement.

Types of messages covered:

Country	Promotional	Factual/ Transactional	Remarketing	Mixed Content	Refer-a-Friend Mechanism
United States	Covered	Case-by-Case	Covered	Case-by-Case	Brand responsible for end-recipient's prior consent, notice and choice.

Please review your email program with your legal counsel to ensure that your program is meeting appropriate legal requirements.

Penalties/Enforcement:

[The Federal Trade Commission](#) is the main enforcer and regulator of commercial emails. Each separate email in violation of the law is subject to penalties of up to \$43,792 and more than one person may be held responsible and in violation. Emails that make misleading claims about products and services may also be subject to Section 5 of the FTC Act. Criminal penalties can also be imposed.

Resources:

- [Full text of the law](#)
- [CAN-SPAM Rule](#)
- [CAN-SPAM Act: An FTC Compliance Guide for Business](#)
- [ReportFraud.ftc.gov](#): to report fraud, scams, and bad business practices.
- [ANA Guidelines for Ethical Business Practice \(as developed by DMA\)](#): Digital Marketing

Legislative Activity in the States:

The preceding overview covers CAN-SPAM only. Please check state laws for more stringent data privacy requirements like California, Virginia and Colorado (among others) which require “Do Not Sell My Personal Information”, access, and child protection requirements, etc.

- California: [California Consumer Privacy Act \(CCPA\)](#) and [The California Privacy Rights Act \(CPR\)](#) (<https://iapp.org/resources/article/the-california-privacy-rights-act-of-2020/>)
- Nevada: [Nevada Privacy Law](#)
- Virginia: [Consumer Data Protection Act](#)
- Colorado: [Colorado Privacy Act](#)
- Utah: [Utah Child Protection Registry Law](#) and [Utah Child Protection Registry](#)
- Michigan: [Michigan Child Protection Registry Law](#) and [Michigan Children’s Protection Registry](#) Other states to watch for pending and enacted legislation: [U.S. State Privacy Legislation Tracker](#) (IAPP)

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