

REPUTATION.COM QUICK GUIDE

CAN-SPAM Act Compliance

(revised April 2018)

The CAN-SPAM Act, generally speaking, is a U.S. law that establishes rules for sending commercial email, gives recipients the right to have you stop emailing them, and spells out tough penalties for violations.

The Federal Trade Commission offers helpful descriptions of the law and the rules around it at:

<https://www.ftc.gov/tips-advice/business-center/guidance/can-spam-act-compliance-guide-business>

<https://www.ftc.gov/news-events/blogs/business-blog/2015/08/candid-answers-can-spam-questions>

It is important to note that it is not required under the CAN-SPAM Act to have the prior “consent” of the recipient before you may send them a commercial email: *i.e.*, an “opt-in” to receive a commercial email is not required. The FTC has given the following guidance:

"The CAN-SPAM Act doesn't require initiators of commercial email to get recipients' consent before sending them commercial email. In other words, there is no opt-in requirement. So in general, as long as you follow the “initiator” requirements of the Act, you can send email until the recipient asks to opt out. "

Moreover, even if you do have consent or a recipient has opted-in to receive commercial email, the CAN-SPAM law *still* requires that the elements below be met.

The main requirements of the CAN-SPAM Act are as follows:

1. **Don't use false or misleading header information.** Your “From,” “To,” “Reply-To,” and routing information – including the originating domain name and email address – must be accurate and identify the person or business who initiated the message.
2. **Don't use deceptive subject lines.** The subject line must accurately reflect the content of the message.
3. **Identify the message as an ad.** The law gives you a lot of leeway in how to do this, but you must disclose clearly and conspicuously that your message is an advertisement if it is an advertisement or marketing. Transparency is required.
4. **Tell recipients where you're located.** Your message must include your valid physical postal address. This can be your current street address, a post office box you've registered with the U.S. Postal Service, or a private mailbox you've registered with a commercial mail-receiving agency established under Postal Service regulations.
5. **Tell recipients how to opt out of receiving future email from you.** Your message must include a clear and conspicuous explanation of how the recipient can opt out of getting email from you in the future. This should be done in a way notice in a way that is easy for an ordinary person to recognize, read, and understand.
6. **Honor opt-out requests promptly.** Any opt-out mechanism you offer must be able to process opt-out requests for at least 30 days after you send your message. You must honor a recipient's opt-out request within 10 business days.

Reputation.com's review request and survey template emails comply these requirements.

DISCLAIMER: This Quick Guide is for informational purposes only. It is not intended, nor should it be relied upon as legal opinion or legal advice. It is not a substitute for obtaining professional legal advice from a qualified lawyer. We encourage you to consult with your legal counsel to discuss how the CAN-SPAM Act may apply to your organization and how to ensure compliance.