

**SIMPLE GUIDELINES THAT WILL PUT
YOU ON TRACK FOR RUNNING A LEGAL AND RESPONSIBLE
E-MAIL MARKETING CAMPAIGN**

by Maria E. Recalde

- (1) Plan your e-mail marketing campaign with care to make it not only relevant and interesting to recipients, but also as legal.
- (2) Build and manage your own e-mail list. Ideally, send e-mail to people who have consented to receive it from you (e.g., subscribers) and collect sufficient data to send subscribers only what they want. If you are running an e-mail marketing campaign, keep it in mind when creating your other marketing materials (e.g., put opt-in boxes for e-mail information of all of your paper-based marketing material, allow subscription through your website, etc.) If you decide to purchase e-mail addresses on a CD or online, for example, get a written guarantee that the people on the list are opt-in or permission-based (i.e., have agreed to receive e-mail promotions). Keep in mind that opt-in or permission based lists have a higher value than those that are not.
- (3) Do not expose your e-mail list to recipients.
- (4) Do not harvest e-mail addresses by either (i) automatic means from an Internet website or proprietary online service maintained by a third party that bans this practice; or (ii) an automated system that generates possible electronic addresses by combining names, letters and numbers in numerous permutations.
- (5) Refrain from sending a message with false or misleading header information. A message's "To," "From," and routing information must be accurate. Senders are prohibited from falsifying or disguising their true identity.
- (6) Refrain from sending any message with a misleading (i.e., fraudulent or deceptive) subject line. Use a subject line that accurately reflects the content of your e-mail.
- (7) Include a valid reply e-mail address and a working "unsubscribe" link or other opt-out mechanism in every e-mail you send. Designate a central authority to receive and act on opt-out requests from recipients, and to control, update and maintain e-mail address lists on an ongoing basis. If you have a large list, you may need software or an ASP to manage opt-out requests.

- (8) Honor all opt-out requests within ten (10) business days of their receipt.
- (9) Refrain from selling, exchanging or otherwise transferring the e-mail address of any recipient who has made an opt-out request, except as necessary to comply with the law.
- (10) Include your company's physical mailing address in the body of the e-mail.
- (11) If your e-mail list is not opt-in or double opt-in, for all commercial e-mail messages (i.e., any e-mail messages the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content or an Internet website operated for a commercial purpose) include a clear notice that states the e-mail is an advertisement or solicitation.
- (12) Create a standard format for all commercial e-mail messages you send (or that any third party sends on your behalf) and implement internal controls to ensure that each e-mail campaign complies with the prescribed format. To the extent you already have a template, update it, as needed, to ensure compliance. Brief your staff on compliance issues.
- (13) Monitor the effectiveness of your e-mail marketing to ensure that you are getting value from the time and effort you are spending on it and in order to improve future e-mail marketing campaigns. Keep track of the recipients who open your e-mails. Most e-mail software can send you notification when the recipient opens the message. Alternative, an ISP can provide this information. Keep a record of the number of responses you receive and follow up.
- (14) Ensure that no other entity is promoting your business by e-mail messages that contain false or misleading information.
- (15) Stay educated about e-mail marketing and spam laws, which are changing. Check out www.spamlaws.com.

Maria E. Recalde is a partner in the Boston office of Sheehan, Phinney, Bass + Green, PA. She is a member of the firm's Business Litigation and Intellectual Property and Technology Practice Groups. She may be reached at mrecalde@sheehan.com or 617.897.5620.

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