

Canadian Anti-Spam Legislation (CASL) Guide: CASL & King's

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This is intended as a guide to the CASL legislation and how it affects The King's University. For more information, go to <http://www.fightspam.gc.ca>

Canadian Anti-Spam Legislation (CASL) came into effect July 1, 2014

[CASL](#) generally prohibits individuals and business from sending Commercial Electronic Messages (CEMs) to Canadians without their consent. CASL also prohibits the unauthorized altering of transmission data, installing computer programs without consent, and providing false or misleading information either in the content of the message or regarding the sender of the information.

Penalties for the most serious violations of the legislation can range from a maximum of \$1 million for individuals and \$10 million for businesses.

How King's is affected

Most of The King's University's electronic messaging is **not** subject to CASL. This is because King's is a not-for-profit educational institution, not a commercial entity; therefore, any electronic messages that communicate, support, or promote King's [mission and vision](#) are not of a "commercial character."

King's has taken the position that alumni are members of a "club, association, or voluntary organization" within the meaning of CASL, giving the university automatic implied consent to send CEMs to alumni members until that consent is withdrawn.

What are Commercial Electronic Messages (CEMs)?

A CEM is any electronic message (e.g. email, text message social media message) that encourages participation in a **commercial** activity. A commercial activity includes any particular transaction, act, or conduct of a commercial nature whether or not there is an expectation of profit. Examples include messages to purchase, sell, barter, or lease products, goods or services, or land; provide a business, investment, or gaming opportunity; or advertise or promote any of these activities.

Exemptions from CASL

Electronic messages that are exempt from CASL include the following:

- King's educational activities: continuing education, recruitment.
- Communications about King's research, teaching, community outreach, and other core activities.
- Student recruitment, or promotion of courses or academic programs to prospective or current students.
- Faculty or staff recruitment, or promotion of courses or King's educational programming for the purposes of professional development.
- Promotion of King's-run concerts, plays, art exhibits, summer camps, and athletic events

- Promotion and sale of products and services that are connected to student life and educational programming.
- Promotion of student housing services or campus food services.
- Promotion of events, activities, and goods that are specifically designed to raise funds for King's
- Solicitations for donations to King's.

Messages that are subject to CASL

Key examples that are likely considered commercial and therefore *subject* to CASL:

- Promotion of third-party commercial products, goods or services (e.g. preferential credit card rates for alumni, computer discounts).
- Promotion of products and services by the King's U Bookstore that are not connected to student life and a student's education (e.g. branded merchandise).
- Promotion or recruitment of students for programs run by non-King's organizations.
- Promotion of conferences, workshops or events offered or organized by non-King's entities.
- Promotion of King's-sponsored events or services that are not related to the university's core education and research mandate.
- Messages relating to the licensing and commercialization of discoveries of King's researchers.

"Mixed purpose" messages

If any electronic communication includes a commercial activity, the whole communication becomes "commercial" and subject to CASL. Examples of mixed purpose messages include:

- newsletters with sponsor advertisements, partners, or non-educational King's merchandise.
- newsletters that promote third-party events, conferences, programs, etc.

Requirements to unsubscribe

All electronic messages must give recipients a way to unsubscribe from future CEMs. The unsubscribe mechanism must be valid for at least 60 days after you send the CEM. A request to unsubscribe must be followed within 10 business days.

Email CEMs must give one or both of the following methods:

- Unsubscribe by email specified by the sender
- Unsubscribe by clicking on a link that takes the user to a web page where he or she can unsubscribe

Text message CEMs must give both of the following methods:

- Unsubscribe by replying to the text with the word "STOP"
- Unsubscribe by clicking on a link that takes the individual to a web page where he or she can unsubscribe

Types of consent

CEMs can be sent to those who have given implied or express consent. An electronic message that contains a request for consent to send a CEM is considered a CEM and must meet the consent and content requirements set out in CASL.

Implied consent: is given when the recipient begins a business, volunteer, or donor relationship with King's. Implied consent exists for the duration of the relationship plus an additional two years, unless the consent is revoked. If and when that relationship ends, King's has two years after the date of termination to receive express consent. If express consent is not given, communication of CEMs must stop.

Express consent: is not time-limited but must be formally sought from the individual, recorded, and stored to show proof that express consent has been received. Express consent is best secured in writing, but can also be collected orally. Individuals may provide their consent by signing a document, sending you an email, entering information into a webform, or clicking on an "I Accept" button. Once you secure someone's express consent, you may continue to send them CEMs indefinitely unless the individual "unsubscribes" from further messages.

What to include in CEMs

All CEMs must include:

- a clear way to unsubscribe from the list.
- the name of The King's University department sending the message.
- contact information for the sender or department, such as an email address, telephone number, or a link to a website containing this information.

This information should be included in non-commercial electronic messages as well.

Securing express consent

Express consent must be presented as an "opt-in" option, not an "opt-out." To secure somebody's express consent, you have to identify:

- the specific purpose for which you are seeking their consent.
- the name of The King's University department seeking consent.
- the contact information for the King's department seeking consent, including mailing address, telephone number, or email address (or a link to a website containing this information).
- a statement indicating that the person can withdraw their consent.

If oral consent is obtained, the same information set out above needs to be obtained from and/or provided to the person whose consent is being sought. To establish that you have properly obtained the person's consent, oral consent must:

- be capable of being verified by an independent third party, OR
- be contained within a complete and unedited audio recording of the consent

In addition to requesting the individual's consent, you must provide a privacy statement explaining why you are collecting their personal information.

Frequently Asked Questions

If someone graduated from King's five years ago, does the university have their consent to send them a CEM?

No, you do not have implied consent to send them CEMs because the individual has not been in a business relationship with The King's University within the last two years. Generally, you have two years after graduation to obtain express consent; however, alumni email newsletters that relate to the core mission of the university are not CEMs and do not require express consent.

Do you have to keep a record of the consents and consent withdrawal requests you have secured?

Yes. If you send a CEM without being able to prove that the recipient has consented to receive it, you are placing King's at risk of a potentially substantial fine under the CASL.

Does CASL apply to CEMs sent to people in the United States or other countries?

Yes. CASL applies to all CEMs that are sent by King's, including CEMs sent to individuals outside Canada. If you are sending CEMs to other countries, you may also have to comply with those countries' anti-spam laws.

Does CASL apply if we use a third party to send a CEM?

Yes. CASL applies not only to CEMs we send ourselves, but also to CEMs we "cause or permit to be sent" by third parties, such as direct mail services.

Where can I get more information about CASL?

If you have questions or concerns, please contact University Relations at webmaster@kingsu.ca. For general information on CASL and its requirements go to www.fightspam.gc.ca.