

Canada's Anti-Spam Law Update: Private Right of Action Suspended

June 8, 2017

By Ralph Kroman

A private right of action under Canada's Anti-Spam Law (CASL) was scheduled to become law on July 1, 2017 (see recent WeirFoulds Newsletter, [Canada's Anti-Spam Law has New Teeth on July 1, 2017](#)). CASL generally provides that commercial electronic messages cannot be sent by organizations unless express or implied consent exists. Under the private right of action, organizations who breach CASL would be exposed to lawsuits for statutory damages equal to \$200 for each breach to a maximum of \$1,000,000 for each day of breach regardless of the amount of actual damages suffered.

In a [News Release](#) dated June 7, 2017, the Government of Canada announced that the implementation of the private right of action is suspended in response to broad-based concerns raised by organizations. According to the Government, "Canadians deserve an effective law that protects them from spam and other electronic threats that lead to harassment, identity theft and fraud" but at the same time, "Canadian businesses, charities and non-profit groups should not have to bear the burden of unnecessary red tape and costs to comply with the legislation".

The Government indicated that it supports a balanced approach and will ask a parliamentary committee to review CASL.

Although the private right of action is no longer on the immediate horizon, organizations are nonetheless at risk of incurring administrative monetary penalties if they do not comply with CASL (a maximum of \$1,000,000 for individuals and \$10,000,000 for businesses). A robust compliance program will avoid exposure to penalties.

Ralph Kroman is an experienced business lawyer with an emphasis on contract negotiations, intellectual property, technology and commercial transactions. He has been commenting on CASL and how it will affect business since 2012. Any questions regarding Canada's anti-spam law may be directed to him at 416 947-5026 or rkroman@weirfoulds.com. His CASL publications include:

["Canada's Anti-Spam Law has New Teeth on July 1, 2017". WeirFoulds LLP Client Newsletter, June 2017](#)

["Canada's Broader Anti-Spam Law: US Communications Are at Risk". 2015 Lexpert/ALM 500 Directory, January 2015](#)

["Client Newsletter – Fall 2014". WeirFoulds LLP Client Newsletter, September 2014 \(with Bronwyn Roe, Wayne Egan, Bradley McLellan, and Ryan Morris\)](#)

["How the New Anti-Spam Act Will Affect Your Business". WeirFoulds LLP, April 2014](#)

["Canada's New Anti-Spam Act Moves Forward". WeirFoulds LLP, Client Update, January 2013](#)

["How the New Anti-Spam Act Will Affect Your Business". Commercial Times Newsletter, part of Canadian Commercial Law Guide.](#)

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