

Email is ubiquitous in modern life with billions of emails – wanted and unwanted – sent each day. Since its enactment, the CAN-SPAM Act has attempted to curb the number of unwanted emails and impose some rules on a largely unregulated frontier. When followed, CAN-SPAM’s restrictions give email recipients some control over their inboxes and also maintain fairness in how the emails present themselves. Failure to follow the CAN-SPAM Act can lead to penalties of up to \$16,000 per email, and more than one person may be held responsible for violations..

As a practical matter, many companies use vendors for their email marketing and other email services, and those vendors can assist in implementation of these requirements. Nonetheless, the party whose content is promoted via email must supervise the conduct of its vendors and employees in abiding by CAN-SPAM, or else the company will risk significant sanctions for each email sent in violation of the Act.

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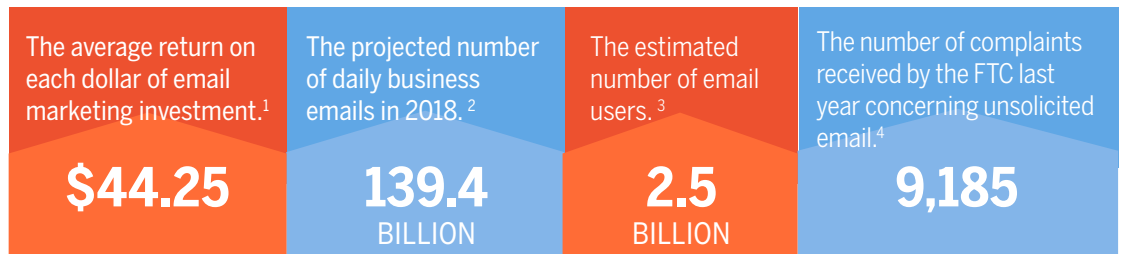
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The basic requirements of CAN-SPAM:

- ✓ Does your email message include (a) complete and accurate transmission and header information; (b) a “From” line that identifies your business as the sender; (c) a “Subject” line that accurately describes your message; and (d) an effective “opt-out” mechanism?
- ✓ Does your email either contain an email address, physical address, or other mechanism that the recipient may use for opting out of future emails from your business?
- ✓ Is your opt-out mechanism effective for at least 30 days after your email is sent?
- ✓ Do you honor all request to opt-out within 10 days?
- ✓ Does your mailing list include any recipient that has asked not to receive email from your business (opted-out)?
- ✓ Do you scrub your mailing list against your business’s “do not e-mail list”?
- ✓ Have you implemented procedures to test the effectiveness of your opt-out mechanism?
- ✓ Have you reviewed your vendor contracts to determine each party’s responsibilities with regard to CAN-SPAM compliance?
- ✓ Do you ensure that no address of someone who has opted out is transferred outside your organization?
- ✓ Does your organization ensure that it does not use open relays or open proxies without permission to send the emails?
- ✓ Does your organization ensure that emails only use accurate header information?

Notably, Religious and political emails are not covered by CAN-SPAM.

¹<https://www.salesforce.com/blog/2013/07/email-marketing-stats.html>

²<http://www.radicati.com/wp/wp-content/uploads/2014/01/Email-Statistics-Report-2014-2018-Executive-Summary.pdf>

³<http://www.radicati.com/wp/wp-content/uploads/2014/01/Email-Statistics-Report-2014-2018-Executive-Summary.pdf>

⁴FTC, Consumer Sentinel Network Data Book for January – December 2014 (Feb. 2015).