



Government agencies clarify roles under Canada's Anti-Spam Legislation

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[David Elder](#)

In an effort to coordinate their potentially overlapping mandates, the three agencies charged with enforcement of Canada's new anti-spam law have signed a [Memorandum of Understanding](#) (MOU) dealing with cooperation and sharing of information among the agencies.

On January 23, 2014, the Competition Bureau [announced](#) that the Commissioner of Competition, the Privacy Commissioner of Canada and the Canadian Radio-television and Telecommunications Commission (CRTC), have signed an MOU regarding the implementation of their respective mandates under [Canada's Anti-Spam Legislation](#) (CASL).

The agreed framework for cooperation and coordination of enforcement activities will come into effect on July 1, 2014, [the date on which most of the new law and related regulations come into force](#).

The MOU intends to clarify the potentially overlapping enforcement roles of each of the three agencies under their respective legislative mandates, powers and processes. When CASL comes into force, it will allow:

- The CRTC to issue administrative monetary penalties for (a) sending non-compliant commercial electronic messages, (b) altering transmission data without express consent, and (c) the installation of a computer program on a computer system or network without express consent.
- The Competition Bureau to seek administrative penalties or criminal sanctions under the [Competition Act](#) in relation to false or misleading representations and deceptive marketing practices with specific reference to the electronic marketplace, including false or misleading electronic messages and website content; and
- The Office of the Privacy Commissioner to enforce CASL with respect to (a) the collection of personal information through access to computer systems contrary to the [Personal Information Protection and Electronic Documents Act](#), and (b) electronic address harvesting where bulk email lists are compiled through mechanisms.

Key provisions of the MOU address the following:

- Notification – Under the new framework, the government agencies are required to notify the other agencies with respect to its enforcement activities in their respective jurisdictions, including when it has initiated or discontinued a private action under CASL.

- Cooperation – The MOU provides that the government agencies will work to keep each other informed of significant enforcement developments in their jurisdictions, and establishes a framework for technical cooperation. The MOU also recognizes that when the government agencies are investigating related matters, it may be in their common interests to cooperate.
- Coordination – The MOU establishes a framework for the government agencies to consult on matters of CASL enforcement and policy, and may share non-confidential information obtained in the course of their enforcement activities. It also contemplates periodic meetings among officials to exchange information on policy and enforcement priorities.
- Criminal Enforcement – The MOU creates a caveat to government cooperation and information sharing where the Commissioner of Competition decides to pursue enforcement under the criminal provisions of CASL. Once the decision to pursue has been communicated, all cooperation and information sharing will cease between the Commissioner of Competition and the other government agencies.

Although the real effect of the MOU is somewhat limited in scope, it does signal possible intensified cooperation between the government agencies in question.

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