



CASL Compliance isn't Only for Companies! \$75,000 Penalty Imposed on an Individual

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On March 29, 2021, the Canadian Radio-television and Telecommunications Commission (CRTC) released a [Notice of Violation](#) setting out a \$75,000 administrative monetary penalty against an individual for various violations of Canada's Anti-Spam Legislation (a.k.a. CASL). This is the largest penalty to date imposed on an individual.

Between December 2015 and May 2018, Scott William Brewer ("SWB") sent or caused to be sent approximately 671,342 commercial electronic messages (CEMs) without express or implied consent. Senders of CEMs must remember that the onus of proving that consent was obtained is on the sender. In this case, the CRTC investigator collected evidence from a variety of sources, both in Canada and abroad, and there was no evidence that SWB had obtained the necessary consent.

The investigation focused on three spam campaigns in which emails were sent using alias email addresses that investigators were able to attribute to SWB. These spam campaigns were categorized in to two themes: first, emails promoting online casinos that would compensate SWB through their affiliate programs and second, emails promoting SWB's services for online marketing and webpage development. SWB used a hailstorm-type spam technique to send a high volume of CEMs, sending 597,569 CEMs in less than one week. In hailstorm spam campaigns, a high volume of email messages are sent in a short period of time before traditional anti-spam defenses are able to update to block the CEMs. Investigators collected evidence which suggested that SWB may have been responsible for sending or causing to be sent several million non-compliant CEMs.

As a result of his violations of CASL, a \$75,000 administrative monetary penalty was imposed on SWB.

A person who is served with a Notice of Violation may pay the penalty, contest the Notice of Violation, enter in to an undertaking with the CRTC or bring an appeal to the Federal Court of Appeal.

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