CASL Email Compliance Technology Brief to The House of Commons Standing Committee on Industry, Science and Technology

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1.0   Challenges of CASL Compliance

The lack of a technological solution is no justification for non-compliance with CASL. Despite many obstacles and challenges, it is possible for all businesses to comply with all aspects of CASL as it pertains to email.

The email component of CASL compliance has been a significant focus of many companies that are attempting to comply with CASL. It is complicated by a number of variables that present unique challenges with respect to companies' abilities to comply with the law. Email is a ubiquitous piece of customer data that resides in many different databases and systems in any given company including, but not limited to, every single employee's contacts database along with a wide array of shared or global systems including CRM (customer relationship management), bulk mail, electronic billing, promotions, newsletters etc.

The requirement to track consent and honour unsubscribes across all systems, platforms and databases for all users in all instances presents significant challenges that are further exacerbated by companies that have multiple geographic locations, facilities and/or divisions. Mobile devices and dispersed workforces both contribute to further levels of complication for tracking consents and unsubscribes and even the relatively simple requirement to have proper corporate ID on every email.

2.0   The Solution

Full CASL compliance is achievable through the deployment of available technological solutions. CASL Cure is a software solution that allows companies to comply with all aspects of CASL at all times, irrespective of the source system, platform or database. It is the only fully integrated and automated system that can ensure full CASL compliance for all employees sending email individually as well as for all other systems/databases that send email.

2.1   The Smarthost

CASL Cure achieves this by virtue of the unique solution design we have developed. CASL Cure acts as a smarthost that is connected to the company's email server directly, domain to domain. In this capacity, all emails sent are routed through the smarthost, irrespective of the source system, database, device or location due to the direct, domain-to-domain connection between the corporate email server and the smarthost.

As a result, every sender's email is processed through the smarthost relay prior to delivery to the recipient(s). In every case, the recipient(s) is/are checked against a whitelist database that is built into the smarthost to confirm consent exists and then a record is also made in the database of this check having been made. Assuming consent exists, the email then has a footer added to it with both the automated unsubscribe link and proper corporate ID included.

If consent does not exist, the smarthost holds the email and sends an email notification to the sender requesting consent information for the recipient(s). The sender opens the consent notification and can press a button that opens up a drop-down menu wherein the various consent types can be assigned along with any relevant proof or reference.

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All types of implied consent as well as express consent are options to be selected and each has the relevant time frame of validity associated with it that is automatically tracked in the whitelist. Once the relevant consent type expires, the sender will be asked again to confirm the sender's consent status to update the whitelist for further communications when they next email that recipient.

This system and process ensures that all senders are complying with the laws of CASL for all emails they send and that the company has the ability to audit and prove compliance at any point in time using the powerful System Administration Portal. The Portal provides comprehensive and robust reporting on all aspects of CASL compliance. In addition, it gives companies the power to globally manage consents and unsubscribes as well as the ability to manage/modify corporate identification and unsubscribe messaging and functionality.

The unsubscribe capability built into the system can, at the company's discretion, be as simple or sophisticated as they choose. The basic, default unsubscribe option is for a recipient to choose to opt-out from either the individual sender or the company as a whole. That said, companies may easily choose to create a more refined approach that gives the recipient a preference choice that allows them to be very specific as to what sort of messaging they choose to receive and from which source in the company. An example might be to add onto the default standard the option to opt-out of the monthly newsletter and/or promotions and/or automated billing etc. In this capacity, both the company and recipients can manage their dialogues and interactions in a manner that suits both parties.

2.2 Master Data/System of Record for Consents and Unsubscribes

As discussed in 2.1 above, solving email compliance for every single, individual sender is achieved through the smarthost relay functionality. But companies often have many other systems designed to communicate via email with their customers and business partners. The whitelist functionality built into the smarthost allows CASL Cure to act as the system of record or master data for consents and unsubscribes for the entire company.

CASL Cure has very simple API interfaces built in such that we can connect with as many separate systems as required – the data set is limited to only a few variables so the integration is very easy. The APIs act as a two-way conduit for sharing consents and unsubscribes in both directions.

Let's use a bulk mail provider that is employed by Company A as an example. The bulk mail provider does not manage consents – it is the Company A's responsibility to provide a list that meets CASL consent requirements. Once that is done, the bulk mail provider will ensure proper corporate ID and unsubscribe functionality is attached to every email they send on Company A's behalf. If there are 5,000 email addresses and 10 of them unsubscribe, the bulk mail provider will ensure that only 4,990 emails are sent in the next mailing. A major issue arises when you consider where else in Company A's many email databases those 10 addresses reside.

The CASL Cure API will take the unsubscribe information from the bulk mail provider and will update Company A's whitelist accordingly. In addition, should an individual opt-out from one person in the Company A via a one-to-one Outlook email correspondence, the API will send a file from the whitelist to the bulk mail provider to ensure that the address that just opted out in the one-to-one correspondence is added to the 10 unsubscribes in the bulk mail provider database so that the next mailing will be 4,989.

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This two-way sharing of unsubscribes can also include consent information if, for example Company A also has a CRM system that tracks consents as well as unsubscribes. Like the bulk mail provider, the same issue will arise when consents and unsubscribes are updated in the CRM system – how do Company A's other databases (all Outlook databases, bulk mail provider, etc) get updated?

The exact same logic as described with the bulk mail provider will work in both directions with the CRM system. In addition, this will also ensure that the unsubscribe from the bulk mail provider will be shared with the CRM system and vice versa.

CASL Cure becomes the system of record or master data for all consents and unsubscribes and ensures that all other systems and databases are also updated accordingly. This centralization of data ensures it all happens automatically and in a fully integrated fashion thereby ensuring compliance across all systems, applications, databases and devices for Company A.

2.3   *Automated renewal of Implied Consent*

Using similar logic, CASL Cure can also automatically update implied consent. If Company A has a monthly billing system (or any other electronic record of commercial transactions), CASL Cure can interface through the exact same type of API interface such that every time the monthly billing system issues a bill, the API is triggered to renew the 2-year implied consent record in the whitelist database.

As long as any customer continues to commercially transact, the 2-year window will automatically renew in the background, thereby becoming an effectively perpetual consent, even though the database will always accurately reflect that the consent type is Implied and constantly renewed due to an existing commercial customer relationship for audit and proof-purposes. Should the individual cease to be a customer, then the last consent update will expire after two years – exactly as the law stipulates.

2.4   *Simultaneous Email Compliance Solution for CASL, CAN-SPAM and GDPR*

An additional benefit of CASL Cure for multinational corporations is that it can cover email compliance for CASL, CAN-SPAM and GDPR simultaneously in one deployment with different rules for different users depending on where they conduct business.

The centralization of consent and unsubscribe data further ensures effective compliance across the board, for all three laws, at all times for all users irrespective of their geographic location or the system, database, application or device used to send email.

3.0   Conclusion

The technology required for full email compliance with CASL exists and is universally available. All companies are in a position to comply and have access to the tools necessary to get in compliance, stay in compliance and prove compliance at all times.