CMA 2006 National Convention & Trade Show

ADDRESSING PRIVACY ISSUES FOR A SUCCESSFUL EMAIL MARKETING STRATEGY

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What is Spam?

• They are sent in a largely untargeted and indiscriminate manner, often by automated means.
  Their purpose is fraudulent or deceptive.
  They are in breach of privacy laws.
  The originator of such messages may send messages opting out of receiving spam messages.
Internet Privacy: Spam

- Intrusion of Privacy Issues
- Nuisance and Costs Relating to Spam:
  - Radicati Group: Spam cost US companies more than $20.5 billion in 2003
  - Message Labs: spam represents, on average, more than 73% of email messages Internet users get in 2004
- Technology Response: Anti-Spam Software
- Business Initiatives
International Response to Spam

Spam is an international issue

- Canada: No specific Anti-Spam Law
Canadian Response to Online Spam

- Governmental Response – Industry Canada:
  - Internet Report (1999)
  - Report of the Task Force on Spam (May 2005)
    *Best practices for email marketing*

- Industry Response:
  - CMA Guidelines
  - Canada e-Commerce Code of Practice of 2003
Canadian Privacy Legal Framework

- Canadian Privacy Legal Framework:
  - Federal: PIPEDA
  - Provincial legislation: QC, BC and Alberta
- What is personal information?
  - “information about an identifiable individual, but does not include the name, title or business address or telephone number of an employee of an organization.”
- Challenge on the Internet:
  - Business Email addresses (Michael Geist case)
Successful Email Marketing Strategy

ADOPTING ANTI-SPAM BEST PRACTICES USING THE STRINGENT PRIVACY AND ANTI-SPAM LEGAL AND INDUSTRY FRAMEWORK
1- Disclosing the Email Policy

• Openess Privacy Principle:
  ▪ Making readily available to individuals specific information about its personal information handling practices

• Implementing and Adequate Privacy Policy:
  ▪ Access without unreasonable effort:
    - Display of the website policy
  ▪ Using a form generally understandable:
    - Language and Length of the policy
  ▪ Content of the policy
2- Obtaining Consent Prior to Collection

- Identifying Purposes Privacy Principle:
  - The purposes of collection shall be identified at or before the time of collection

- Avoiding Illegal Collection / Use of Addresses:
  - Information Voluntarily Provided
  - Purchase of (or Merge With) Third Party Lists
  - Cookies, Spyware, Web bugs
  - Public Spaces on the Internet
  - Mail Server or Dictionary Attacks
2- Obtaining Consent Prior to Collection

• Identifying Purposes Privacy Principle:
  ▪ If Personal Information collected is to be used for a purpose not previously identified, new purpose shall be identified prior to use

• Depending on the Use Made of the Data:
  ▪ Internal Secondary Uses
    - Marketing Back
  ▪ External Secondary Uses
    - Transfer or Disclosure
3- Adequate Method for Obtaining Consent

- Consent Privacy Principle:
  - The way to seek consent may vary depending on the circumstances
- Method of Gathering a User’s Consent:
  - Opt-in vs. Opt-out
- Keeping a record of consents received
4- Contacting Only Certain Online Users

- Only With Online User’s Prior Consent:
  - Canada: Opt-out
  - United States: Opt-out
  - Australia: Opt-in
  - European Union: Opt-in
    - Czech Republic, Denmark, Finland, France, U.K. Netherlands, Norway, etc…
4- Contacting Only Certain Online Users

- The Notion of «Pre-existing Relationship»
  - Canada:
    - CMA Guidelines
  - United States:
    - U.S. Can-Spam Act
  - Europe:
5- Identifying Email

• Identifying the Email Subject
• Identifying the Email Content
• Identifying the Email Source
  ▪ Main physical postal address
  ▪ Certification
6- Providing a Removal Procedure

• Providing a Procedure to Opt-out in the Email
  ▪ Using a Simple and Easy-to-find Procedure:
    - CMA Guidelines
    - Report of the Task Force on Spam (May 2005)
6- Providing a Removal Procedure

- Honoring the Requests to Opt-out:
  - Building Lists
  - Web Bugs

- Honoring Within a Reasonable Period:
  - 10 business days?

- Honoring for a Reasonable Period:
  - No expiration?
Questions?

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