



Marketing Messages

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Privacy legislation raises public issues for business

Customer information is critical to a solid marketing strategy. Does your business maintain a database of names, addresses, telephone numbers, and demographic information or past buying behaviour of customers? Do you utilize direct mail or email as part of your marketing efforts? Do you plan to use the information you currently have about customers for any other purpose than it was collected initially? Have you ever allowed a third party, such as a supplier, mailing house or research firm to utilize or maintain a copy of your customer information? If you have answered "yes" to any of these questions, you need to familiarize yourself with the new **Personal Information Protection Act (PIPA)** coming into effect January 1, 2004. For businesses that have not been involved in the evolution of the legislation, the changes in practices required may come as a surprise. Considering that a failure to comply can result in a fine up to \$100,000, it's financially prudent to educate yourself. And since the very success of your business may hinge on the leveraging of data about your customers, this is important stuff! No business wants negative customer relations, or compliance costs of responding to complaints.

At a recent BC American Marketing Association presentation, *Mary Carlson, Director of Compliance, Office of Information and Privacy Commission, BC* outlined the privacy compliance issues.

As of January 1, 2004, PIPEDA the (Personal Information Protection and Electronic Documents Act) will apply to the non-federally regulated private sector. As of January 1, 2004, PIPA the (Personal Information Protection Act), which is provincial legislation will apply to the collection, use, disclosure of personal information by businesses, non-profits and private sector organizations in BC, except when PIPEDA applies. As a business owner, here's what you need to know:

1. You must identify the purpose for collecting information, and collect only the information necessary for that purpose. You must inform the person you are collecting information from the reasons why you want it, and you must obtain their consent if you decide to use the information for a different purpose than originally collected. Do you plan on conducting research from your database? If you haven't obtained consent in the past, you're going to have to get it before you can use your database for this purpose.
2. You must obtain consent before or at time of collection to use the information. This may be verbal, written, or by an opt-in or opt-out option. You should never obtain consent by deceptive or coercive means, and consent may not be a condition for supplying a product or service. You would need consent on a contest entry form to use the information for anything other than to inform the winner of their status. You can not withhold a product or service from someone unwilling to supply personal information.
3. You should limit the collection of information to what is reasonably appropriate to fulfill your identified purpose. Asking for a customer's age income or marital status to complete a warranty would be unreasonable.
4. You must limit the use, and disclose it only for purpose which it was collected. You should retain information only as long as necessary to fulfill the purpose it was collected for. Customers shouldn't be subjected to offers from another company who accessed the list.
5. Your data should be accurate and you should provide appropriate security to make sure it is not accessed by another party. Access to customer lists should be limited to individuals who understand the new legislation.
6. You must be able to provide access to personal information that you hold. Upon request you must be able to access an individual's personal information for them, explain how it is used, and list the organizations that have had access to their information.
7. You must provide individual recourse and remain open and accountable. Have a policy for how to deal with complaints, and keep use and access transparent.

PIPA legislation does have a grandfather clause. *Cappone D'Angelo, Lawyer with McCarthy Tétrault*, notes that although the legislation does apply to information collected before January 1/2004, an organization may continue to use and disclose such information to fulfill the purpose for which it was originally collected. *Drew McArthur, VP Privacy Officer, Telus*, notes if you purchase lists for your marketing efforts, you may want to get a signed document to warrant that the list has been "permission based" gathered to meet the new guidelines. You might want to check these two web sites for further information: www.oipcbc.org (Officer of Information and Privacy Commissioner of BC) or www.mserr.gov.bc.ca/foi_pop/Privacy/default.htm (Corporate Privacy and Information Access Branch). If you have specific questions or concerns, you should seek legal council.

All this needn't take the wind out of your direct marketing and sales efforts. In addition to making you compliant, it may cause you to increase your overall efficiency in the long turn. If it's good for your customers, ultimately it's good for your business. You just need to learn to work within the new guidelines.

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