

Memorandum of Understanding on *CASL* between the Commissioner of Competition, the CRTC, and the Privacy Commissioner

On January 23rd, the Competition Commissioner announced that it had entered into a [Memorandum of Understanding for Cooperation, Coordination and Information Sharing](#) (MOU) with the Canadian Radio-television and Telecommunications Commission (CRTC) and the Privacy Commissioner. This MOU was signed in anticipation of Canada's Anti-Spam Legislation (*CASL*), whose provisions and regulations come into force on July 1, 2014.

Each of the three participants has a different but potentially overlapping role with respect to *CASL*:

- The Competition Bureau will investigate and take action against false or misleading representations and deceptive marketing practices;
- The CRTC will ensure that consent is received prior to sending commercial electronic messages, altering transmission data, or installing computer programs. The agency will use administrative monetary penalties (AMPs) of up to \$1 million per violation by an individual or \$10 million dollars per violation by a corporation; and
- The Privacy Commissioner will enforce applicable legislation with respect to harvesting bulk email lists and collecting personal information through a computer system.

CASL requires the three participants to consult each other and to coordinate their enforcement activities. The act creates a private right of action for persons to seek redress, and a new framework for information sharing with foreign counterparts of the three participants. In order to resolve potentially overlapping enforcement responsibilities the MOU clarifies the role of each participant as follows:

- The participants will notify each other where enforcement activities may affect one another and where a private action under CASL has been initiated or discontinued. The participants will also consider parallel enforcement activities, where their mandates overlap;
- The participants will consult with each other, to the extent appropriate. However, the Privacy Commissioner will only share personal information to the extent necessary for the enforcement activities of each participant; and
- If the Commissioner of Competition decides to pursue enforcement, the Commissioner will notify the other participants and then cease all cooperation and information sharing with respect to that enforcement activity.

CASL will have far-reaching implications for businesses and non-profit organizations in Canada. For an overview of these changes, see "[CASL Update #4 – Final Anti-Spam Regulations and In-Force Date Published](#)." For details on B2B businesses and consent requirements under CASL, see "[B2B Business Relations and Consent Requirements under the New Canadian Anti-Spam Law](#)."

by Éloïse Gratton, Janine MacNeil
and Paul Pereira, Student-at-Law

For more information on this topic, please contact:

Montréal	Éloïse Gratton	514.987.5093	eloise.gratton@mcmillan.ca
Toronto	Janine MacNeil	416.307.4124	janine.macneil@mcmillan.ca

[a cautionary note](#)

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