

Standards



CASL and the Private Right of Action

The federal government just announced on June 7 that it was indefinitely suspending the 'private right of action' (PRA) provisions in CASL, which were to come into force on July 1, 2017.

The PRA clause would have given individuals the right to sue persons or organizations that were violating the anti-spam law. If the suits were successful, CASL allowed courts to award both statutory damages (up to \$1,000,000 for each day on which a contravention occurred) and actual damages suffered.

PRA has been a major concern for marketers, charities and other groups as similar provisions in US legislation have resulted in a slew of class action lawsuits with extraordinarily high penalties and no onus to prove that violations have resulted in actual harm. Given that recent surveys indicate that many businesses in Canada have been struggling to understand and comply with CASL, the government intervened to suspend the PRA provisions in order to limit the exposure of these businesses to major litigation risk.

MRIA will continue to monitor developments related to CASL, notably as Parliament will conduct a review of the law, likely in 2017.

Note that CASL does not apply to legitimate market and survey research where there is no attempt to solicit. As such, CASL helps to create a better environment for online research by prohibiting Mugging and Sugging (Marketing/Soliciting Under the Guise of research) practices.