



EMAIL GUIDANCE FOR VOLUNTEER LEADERS: **CAN-SPAM Compliance**

1. Understanding "Commercial" Content vs. "Transactional/Relationship" Content

The CAN-SPAM Act primarily regulates *commercial* email messages. For chapters/councils, it's key to determine whether a message is "commercial" or "transactional/relationship."

- Commercial content includes any message that advertises or promotes a product, service, or other form of revenue generation. Examples include:
 - Emails soliciting donations;
 - Promoting paid events or selling tickets;
 - Advertising branded merchandise;
 - Encouraging purchases of products or services that generate income for the organization.
- Transactional/relationship content is intended to facilitate or maintain an existing relationship, such as someone's membership. Examples include:
 - Notifications about membership status or renewals;
 - Updates on upcoming paid events for *registered* attendees;
 - Providing access to content, resources, info on *free* events, or info a member has already signed up for (e.g., informational newsletters, etc.).

If a message contains both commercial and transactional/relationship content, the **primary purpose** of the email is key in determining whether the message is subject to CAN-SPAM.

- If the commercial content is prominent (e.g., highlighted in the subject line or placed at the top of the email, for example), the message's primary purpose is likely commercial.
- If the transactional/relationship content dominates the email and the commercial content is more of a minor element, the primary purpose is more likely to be considered transactional/relationship.

Examples re: Determining a Message's Primary Purpose

- An email with the subject line "Exclusive Offer: Buy Your Ticket for Our Annual Gala" is likely commercial, even if it also includes a reminder about membership renewal.
- An email titled "Membership Renewal Reminder" that includes a small mention of a paid event at the end would likely be considered transactional/relationship content.

2. Required Elements in Commercial Emails

All commercial emails must include:

- *Clear identification as an advertisement or solicitation.* This isn't always required for nonprofits if it's clear from the context, but best practice is to err on the side of transparency by including a small disclaimer at the bottom of the email.
- *A valid physical postal address* of the chapter/council. PO Boxes are acceptable as long as they're valid and regularly monitored.
- *A clear and functional opt-out mechanism*, such as an unsubscribe link that's easy to find and use—if you use TU's bulk email tool, there is a method to opt-out of emails at the bottom of each message.



3. Opt-Out Requirements for Commercial Emails

If a chapter/council sends commercial emails, they must honor opt-out requests. If using TU's bulk email tool, an opt-out link is provided to each recipient. If a member opts out, chapters/councils **cannot send further *commercial* messages** to that individual.

- The opt-out mechanism must be easy to use (e.g., an unsubscribe link).
- The nonprofit must comply with opt-out requests **within 10 business days**.
 - Be sure to review recipient lists to confirm individuals who have unsubscribed from chapter/council communications are *excluded* from chapter/council messages with a commercial primary purpose—TU's bulk email tool should automatically handle this for you.

However, remember that even if a member opts out, the chapter/council can still send transactional/relationship emails, such as event reminders (if the person has registered for an event) or membership status updates.

4. What Emails are Allowed After Opt-Out?

If a member opts out of commercial communications, chapters/councils can only email them non-commercial, transactional/relationship content. These can include:

- Updates on their membership;
- Announcements of upcoming board meetings;
- Volunteer or donor appreciation messages;

Be sure to clearly differentiate between commercial and transactional/relationship messages to avoid confusion and ensure compliance.

5. Consequences for Noncompliance

The Federal Trade Commission (FTC) oversees CAN-SPAM enforcement and has set the maximum penalty for violations at \$51,744 (*per email*) as of 2024. This applies to every email sent in violation of the law, so the penalties can accumulate quickly if not addressed. To assist with your compliance efforts, the FTC maintains an incredibly helpful "Compliance Guide for Businesses," with 8 quick tips for compliance, which can be found [here](#). We *highly recommend* that any chapter or council leaders who utilize bulk email review and understand this webpage.