

CLUB ALERT NETWORK

IMPORTANT UPDATE:

Understanding New Federal Regulations and Legislation Governing Fax and Email Communication:

The CAN-SPAM Act and What It Means for Your E-mail Communications

On Tuesday, December 16, President Bush signed the CAN-SPAM Act which imposes restrictions and penalties for the sending of unsolicited 'commercial' emails. The bill does impose some immediate restrictions that may effect your club while also directing the Federal Communications Commission to develop more detailed guidelines to take effect late in 2004.

What is the Can-Spam Act?

The Can-Spam Act is a new law signed by President Bush that requires the sender of a 'commercial e-mail' to have the affirmative permission of the recipient before sending the it. Failure to do so could result in fines. Although the law is targeted at senders of mass junk emails, the provisions can apply to emails sent out by clubs.

When does this new law take effect?

The CAN-SPAM Act becomes effective on January 1, 2004.

What is covered by the CAN-SAPM Act?

Currently, any email whose primary purpose is commercial in nature requires that the sender have prior permission from the recipient to send such messages.

Are there exemptions?

Yes, the act only covers email messages that are primarily commercial and specifically exempts messages that relate to a transaction or certain elements of an existing relationship.

The Transactional/Relationship Exemption:

This exemption applies to any email that is part of an ongoing transaction or relationship. This would include emails related to membership in the club like a renewal notice, a monthly account statement, or assessments. It also exempts emails to employees that discuss such topics as benefit plans in which the employees are currently enrolled.

Examples of e-mails where no prior permission is required:

An email notifying a member of their annual dues. This would be allowed under the transactional/relationship exemption.

A monthly email newsletter that may contain advertisements would not require prior permission because it is not 'primarily commercial.'

Examples of e-mails where prior permission would be required:

An e-mail notice of a sale at a pro-shop.

An e-mail notice of a special sales event, or social event for which there is a fee charged.

Fines:

Fines of up to \$250 per e-mail can be levied for non-compliance.

FAX COMMUNICATIONS:

As reported by NCA over the summer, the Federal Communications Commission has also issued regulations governing the use of fax machines for the transmission of unsolicited communications. Originally scheduled to go into effect in August of 2003, these regulations have been pushed back and are now scheduled to take effect in January 2005.

How do new federal regulations regarding faxes impact my club: As of January 1, 2005, any organization sending any fax that is 'commercial' in nature or contains a solicitation must have prior written permission from the recipient before sending it. This rule will apply even if the person to whom you are sending the information is a current member of your club.

Examples of faxes that are commercial in nature include: Advertisements for an upcoming dinner dance at the club for which there is a charge; promotions for upcoming golf tournaments (if a charge is involved); any fax touting club services, a fax promoting a sale at your club's pro shop; member invoices or billing statements.

Faxes not included in the new rule: Announcements for upcoming meetings, an alert about important club business, club schedules, or any other communication that does not contain an offer that could be considered commercial in nature.

Penalties: The new regulations will impose a minimum \$500 per fax penalty for unsolicited faxes sent without prior written permission. Violation of the new federal

regulation may also create liability under state law. The regulation allows the recipient of an unsolicited fax to bring action against your club.

How does my club comply with the new regulations: NCA recommends that clubs which communicate to their members through faxes and email obtain blanket written permission from their members to do so. This permission can be obtained either with the sample form attached, or by having the member send an email. These forms should be kept on file.

CLUB FAX & E-MAIL AUTHORIZATION FORM

President Bush has recently signed into law provisions that limit our ability to communicate with you via email. As of January 1, 2004 our club will no longer be able to e-mail you information about events at our club that involve extra charges, such as dinner-dances, club tournaments, etc. In order to continue to be able to send you this information, club management will be required to keep a written authorization from you on file. This authorization form can be faxed or you may email permission to our offices.

NAME: _____

MEMBERSHIP NUMBER: _____

FAX NUMBER(S): _____

E-MAIL ADDRESS(ES): _____

Please Check One Box:

_____ **Yes**, the club has my permission to fax or email me at the number or address above information about programs and services available to me as a club member.

_____ **No**, pursuant to the new FCC rules, I do not give the club permission to email or fax me information about club events or offerings that may be considered “commercial” under the new regulations.

NAME: (Please Print): _____

TITLE: _____

SIGNATURE: _____ DATE: _____

**Please fax this information to _____ at _____, or
email your permission to _____ at _____.**