

To Avoid Kerfuffle, Canada Suspends Private Right to Sue Under Anti-Spam Law

As indicated in my June 6 blog post, the private right of action under Canada's anti-spam law (CASL) was scheduled to take effect July 1, 2017. But on June 7, the Canadian government announced it is suspending that private right to bring suit. The suspension continues indefinitely while a parliamentary committee reviews the legislation. The private right of action would have allowed any person allegedly affected by a CASL violation to sue for actual and/or statutory damages. The marketing industry and others had filed objections fearing it would generate costly, frivolous class actions lawsuits based on trivial or inadvertent noncompliance, causing disruption that could bankrupt businesses, waste resources and harm Canada's economy.

The Canadian government acknowledged those concerns, stating:

Canadians deserve to be protected from spam and other electronic threats so that they can have confidence in digital technology. At the same time, businesses, charities and other non-profit groups should have reasonable ways to communicate electronically with Canadians. We have listened to the concerns of stakeholders and are committed to striking the right balance.

—The Honourable Navdeep Bains, Minister of Innovation, Sciences and Economic Development

Suspension of the private right of action does **not** mean suspension of enforcement. Government enforcement of CASL remains intact and violations can carry heavy penalties. Enforcement is active. So, don't celebrate with a two-four just yet. With the threat of heavy administrative penalties, businesses should remain diligent about compliance. See my [June 6 blog post](#) for a checklist of actions to consider before the implied consent transition period ends July 1. Lori Beam chairs the firm's Advertising, Marketing and Promotions practice group. Contact her at lbeam@sb-kc.com or 816-265-4110. * This article is general in nature and does not constitute legal advice. Readers with legal questions should consult with an attorney prior to making any legal decisions.