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# The rise of right-time marketing

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**Abstract** The way marketers communicate with customers is being irrevocably altered. The proliferation of channels, customer touch points and product offerings is creating unprecedented marketing opportunities. At the same time, response rates are decreasing, privacy regulations are tightening and consumers are looking for technologies to enhance their ability to filter marketing efforts. Customers are demanding that marketers communicate when and how it is convenient for them.

No matter where in the world companies are based, their business managers and marketers must be aware of the growing consumer backlash that is driving governments to support regulations to protect individuals' privacy. Regardless of the channels used, marketers cannot ignore the effect this growing privacy movement will have on marketing strategy. New regulations and customer attitudes will require a shift in marketing strategies across all industries and will result in fewer, more restrictive avenues for acquiring and communicating with customers.

Knowledgeable marketers can use these events to differentiate their companies. This paper discusses the key privacy and technology initiatives that affect both business-to-consumer (B-to-C) and business-to-business (B-to-B) marketers, and outlines the forces and regulations driving the privacy movement. Most importantly, it presents breakthrough, effective strategies that marketers can use to bridge the gap between companies and customers in this new marketing age.

## THE CHANGING MARKETING LANDSCAPE

The way marketers communicate with customers is being irrevocably altered by a confluence of factors. Technology advances have created a number of powerful new communications channels

for marketers, but ineffective use or abuse of those channels by some has created a customer backlash that is rapidly manifesting itself in the form of reduced response rates, government privacy regulations and yet more new technologies designed to impede

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marketing's use of many channels. Customers are sending a clear signal about their privacy preferences and the way they want to be communicated with — but many marketers are not listening. To excel in this dynamic marketplace, marketers must understand the drivers behind the changing landscape and create new strategies to take advantage of the interaction opportunities customers do provide.

### **What's behind the privacy movement?**

There has always been some level of concern about how marketers have used personal information. For example, before the internet, when a college student received a pre-approved credit card application in the mail, he or she knew that a marketer had enough information to target them with a mailing. The fact that they were identified as a college student and potentially a good credit risk was not always cause for concern. In fact, it may have been considered convenient.

With the introduction of technology and the acceleration of information sharing that the internet has brought, however, many consumers have become sceptical about what's 'convenient' and what represents an invasion of privacy. According to a 2002 Harris Interactive<sup>1</sup> survey, consumers do not trust that companies will handle their personal information properly. They're concerned that companies will provide their information to other companies without permission (75 per cent), that their transactions may not be secure (70 per cent), or that hackers could steal their personal data (69 per cent).

Still, whether they admit it consciously or not, most consumers understand that the 'convenience' of receiving communications that meet their

particular preferences or needs means relinquishing some anonymity. Consumers are willing to exchange personal information for products or services they value. Critical to this exchange is trust. Trust is a fragile yet extremely valuable commodity that must be nurtured. It must be developed not only with existing customers, but also with those who would spend money with a new vendor. In today's fast paced world, the familiarity that used to result from face-to-face interactions has been replaced with distrust of face-to-faceless — an imbalance that has caused many consumers to recoil.

The response may not be unwarranted, given the preponderance of unscrupulous website operators pushing pornography, youth-targeted scams, financial cons and overzealously marketed consumer products. It may, in fact, be this broad spectrum of what 'privacy' abridgement implies — from protection against predators on minors to marketers who send completely irrelevant offers — that causes confusion in the first place and is at the root of a lot of the legislation that is emerging. Unfortunately the spillover from criminal activity to just-plain-sloppy marketing practices is causing difficulties for well-respected marketers and their brands.

In addition, the sheer annoyance of repetitive promotions, especially if they aren't appropriate to the recipient, has become unbearable for many consumers, forcing them to seek ways to block unsolicited messages. And the desire to keep unwanted messages from interrupting daily life doesn't stop at e-mail and spam. While the amount of paper mail may have declined, consumers are still subject to — and fed up with — phone call solicitations during the evening and at weekends. Home and office fax machines are still besieged with

unsolicited faxes, the cost of which is borne by owners. Silent for a long time about these incursions into their personal space, consumers are no longer willing to sit idly by; they are taking action by calling for stronger government regulation and new technologies to help them preserve their privacy.

## Consumers fight back

### Privacy regulations: An unambiguous signal

Governments around the world have heard — and responded to — the rallying cry of their voters on the subject of privacy. They have enacted, or are promoting the enactment of, legislation that will affect the way marketing is conducted and which will impact on the marketing industry for years to come. Voters are encouraging their elected representatives to enact laws that do everything from protecting personal medical and financial information to turning off the phone calls, e-mails and faxes that are flooding their communications channels. The popularity of these measures is evidenced by the unprecedented number of people who are joining state and national ‘Do Not Call’ (DNC) registries, as well as the numbers who are requesting their names and addresses be removed from direct mail lists.

For marketers, it is important to know what these new privacy laws, are as well as to understand the ramifications — for their companies and for themselves — of *not* adhering to them. Some stipulate stiff civil and criminal penalties — from hundreds of thousands of dollars in fines to significant jail time — for non-compliance. Many of the laws hold not only companies but also marketers themselves liable for negligent or intentional violations. More importantly,

these laws represent an unambiguous signal to marketers about how customers want to be communicated with. Companies must not fail to recognise the cost of lost customer trust and brand equity that results from not listening to this clear message.

At a minimum, what the new privacy laws have achieved is to make it more difficult for marketers to contact consumers — by impacting on the creation of lists, the number of lists available and the quality of names on the list. (See Appendix A for a partial list of current and pending legislation.) New and proposed laws have been given teeth by outlining damages for non-adherence. One bill currently before the US Congress, The Reduction in Distribution (RID) of Spam Act, 2003, goes so far as to suggest that whistle-blowers be rewarded a percentage of any directly attributable fines collected. One can only wonder at how popular a ‘Do Not E-mail’ list would be, if enacted. Recent research polls indicate that a large majority of people have asked to be removed from an e-mail list of one sort or another in the past year.

B-to-C companies *must* take note of the new legislation, but B-to-B firms should also pay attention. Even though in many countries regulations don’t apply to B-to-B marketing, individuals don’t always make a distinction between whether they’re being marketed to at home or at work. Attitudes carry over and expectations get raised about what the marketing experience is supposed to be like, so even B-to-B marketers need to prepare to respond appropriately in the new restrictive marketing climate. Plus, in some countries, such as the UK, privacy rights have been extended to businesses as well as consumers, restricting B-to-B marketing in much the same fashion as B-to-C.

The big question is: how will this affect the way marketers do business? The answer is: profoundly. While much of the current attention is on e-mail messaging and telemarketing, other means of communication are likely to — or have already — come under scrutiny. Marketers should anticipate that the prohibitions they are now experiencing will continue as new technologies emerge. Developing best practices that can be extended from one type of communications channel to another may be the most solid policy and the only way to ensure ongoing marketing success.

#### **Another weapon against unsolicited marketing: Technology**

Many consumers today are also turning to technology for solutions that can help them stop or at least limit the number and type of messages they receive. A whole industry has grown up around the idea of blocking unwanted messages. There are products and services on the market today that halt online pop-up advertisements, prevent the use of cookies meant to track website or page visits, block phone calls from unknown phone numbers and filter out e-mail messages from unwanted sources. The problem is that they are often indiscriminate, blocking legitimate or beneficial messages that warrant reaching a recipient.

One strident form of e-mail blocking is 'blacklisting.' Senders who have been put on a blacklist, like spews.org, spamhaus.org, or spamcop.com, are prevented from delivering mail to recipients and through internet service providers (ISPs,) who block blacklisted addresses. Unfortunately, such lists are maintained arbitrarily and legitimate mailers sometimes turn up on them. Marketers who do must plead their case

to be de-listed, which can take time. Moreover, some blacklists provide NO way to contact them to dispute the accusation.

Some people, companies and ISPs are also deploying 'whitelist' filters. These allow recipients to limit the e-mail they receive to only those on a pre-defined list. All other e-mail is sent to a separate mail file that can be checked periodically. If an unlisted sender is filtered out, it still has a second chance. If its message is something that can benefit the reader, it might still pass through. At least, it is only a temporary setback; the sender is not blacklisted and is free to try again.

Using such technologies, ISPs are entering the fray with high-profile campaigns targeted at satisfying their online subscribers' complaints about spam. Many are promoting as subscriber benefits their addition of tools that block pop-up ads or programs that stop spam. In February 2003, America Online Inc (AOL) announced that anti-spam filtering methods were blocking up to 780 million pieces of junk mail daily. Only a few months later, AOL reported that that number had reached 1 billion — and that is the number of messages rejected before reaching subscribers. AOL has reported that customers use the 'Report Spam' button about 4.1 million times a day to report problem e-mails.

As AOL and other ISPs increase their anti-spam efforts, legitimate marketers will continue to be affected. According to a recent study conducted by Return Path Inc, in the first half of 2003, 17 per cent of permission-based e-mail was incorrectly blocked or filtered by the top 12 ISPs.

At home, consumers are also fighting common programme advertising. Through the use of digital video recorder (DVR) services like TiVo, television viewers can pre-record the shows they want to watch and simply

fast-forward over the ads. TiVo subscribers can watch a 60-minute 'live' programme in about 40 minutes, leaving 20 minutes of advertising and network identification unviewed. Today there's even TiVo for radio.

Essentially this all points to an important shift in the balance of power — away from marketers and towards consumers, most of whom want better to control when, how and from whom they receive marketing offers. They also want control over the information marketers share, who it's shared with, and for what purpose. The Catch-22 is that while consumers don't want to be bothered by irrelevant marketing offers through any channel, many also don't want to give marketers the personal information that would allow the creation of targeted messages and offers.

### Implications for marketers

Companies trying to develop ongoing relationships with customers — and who isn't? — need to recognise that how they handle the new regulations and satisfy consumers' desires for privacy and control can be a brand differentiator. By viewing privacy rules and customer preferences as an impetus for creating strategies that offer true value in exchange for customer information, marketers may actually reduce the 'trust gap' between themselves and consumers, thus increasing their chances for business success.

Without such an approach, and with more restrictive legislation looming, companies' marketing efforts are sure to fail. Marketers need to enact practices that ensure consumer trust by creating a fair exchange of value for personal information and access. Without consumer buy-in, marketers will find it impossible to reach their targets with relevant offers.

## THE RISE OF 'RIGHT-TIME' MARKETING: STRATEGIES FOR SUCCESS

With regulations and consumer behaviour limiting the vehicles marketers have to at their disposal for acquiring new customers, companies need to look at fresh ways of meeting their goals. For a long time, the industry has talked about the nirvana of hitting the right target with the right message at the right time; but until the recent confluence of regulatory and consumer pressures, the right time for 'right-time' marketing was often *sometime* in the future. With tight restrictions on the collection, retention and use of customer data imminent, the time for 'right-time' is *now*.

The META Group, a top industry research group, advises companies to respond to the effects of privacy regulation and anti-spam technology by 'increasing their efforts to engage customers and prospects when they are most receptive to receiving messages — when they contact the company for information or make requests for products or services.' Elizabeth Roche, Vice President Technology Research Services at the META Group continues: 'companies will not suddenly cease telemarketing or e-mailing existing customers and individuals who have "opted in" to e-mail lists. However, during the next three years, customer- and context-specific inbound marketing communications will assume an increasing importance in the marketing toolkit, enhancing (and in some cases replacing) unsolicited or non-personalized mass outbound communications.'

### What is right-time marketing?

While not always instantaneous or immediate, right-time marketing is about

delivering the *best* marketing at the *right* time. By delivering the right offer or the right information where and when it's needed, whether or not in real-time, right-time marketing promises great value to customers and organisations, alike.

Companies practicing right-time marketing recognise the importance of moving away from 'interrupt-driven' driven practices to customer-driven marketing. These companies are reaching customers when they are most receptive to information — such as when the customers contact them or when they are delivering e-mail order confirmations or account status updates. These latter two forms of e-mail are the most valued and most read, according to a 2003 survey conducted by Nielsen/NetRatings and Quris.<sup>2</sup>

Underlying right-time marketing are analytic and predictive capabilities that determine the optimal interaction strategies, automation and incorporation of repeatable best practice processes. Right-time marketing demands integrated real time reporting so marketers can analyse results and rapidly refine their approach.

For enterprises that have implemented right-time marketing practices, the results are encouraging. According to Gartner, a leading industry analyst firm, highly targeted marketing communications, triggered by analysis and identification of prospect or customer life events and interactions between individuals and the enterprise, typically have response rates that are four-to-ten times higher than those of conventional direct marketing efforts.<sup>3</sup> In fact, according to the MarketingProfs.com website, Fidelity Investments has seen response rate improvements of 200 per cent using right-time marketing practices.<sup>4</sup> Fidelity worked to identify over 100 event triggers that signalled when customers would need (or want) to make trades,

shift to different investments or move their assets outside of the Fidelity family. It used advanced technology to sort through millions of daily customer transactions to identify when life and market events were happening, and target situations where customers would need advice or new products or be receptive to a particular offer.

These event triggers fed a wide range of e-mail, website, agent and call centre programmes that reacted quickly to put the right offer in front of the right person at the right time. The 'event triggers' generated by this system created twice as many qualified leads and doubled the chance that a particular offer was relevant to a customer's need — and this improved the campaign response rate by 200 per cent.

Another large regional bank in North America has reported additional revenue of US\$63m as a result of event-triggered campaigns based on customer deposit patterns. When a significant change in account balance is detected, targeted offers and communications are sent through to the branch management system by the next morning, and branch bank representatives then follow up with each customer with personalised offers.

In another industry, a leading resort and hotel chain is using predictive modelling and analysis to better understand its customers and to determine the most effective up-sell offers for each customer. Reservation confirmations, as well as pre-stay and post-stay interactions, are automatically executed via e-mail with integrated marketing messages and targeted offers to encourage customer to make reservations at the hotels' restaurants or take up special offers at the hotel spas. Post-stay e-mail communications encourage repeat visits by offering special discounts and offers for return visitors. All of this right-time activity has contributed \$22m

in post-stay incremental yearly revenue. The resort reports response rates to these pre- and post-stay messages are five times more successful than other e-mail communications. These e-mails add zero incremental cost to the company since they were already sending the confirmation e-mails — now they just leverage them with more targeted content and offers.

Clearly, in these examples both the end-user customers and the companies benefited from the responsive right-time marketing approach.

### **The roadmap to successful right-time marketing**

As marketers struggle to address the challenges and opportunities afforded by today's dynamic landscape, they should consider the roadmap below.

#### **Moving to right-time marketing**

- 1 *Determine strategic objective(s) and policies.* Before committing to right-time marketing, companies must determine their strategy and position regarding data privacy and customer-centric marketing. Is the goal simple compliance, or will the company move towards customer-centricity? Regardless, corporate-level privacy and marketing practice policies must be developed in response to privacy legislation and the company must have an ongoing way to update and maintain them.
- 2 *Create a path to success.* A customer-centric transformation will not happen overnight. Establish and document measurable and achievable milestones leading towards the company's goal.
- 3 *Develop a data strategy and processes to support right-time marketing.* Data-driven decisions are the key to effective right-time marketing — and good data are needed to make good decisions. Ensure privacy law compliance, capture only the data needed to improve marketing and customer service, develop processes for keeping data clean and up-to-date, and use the latest preference lists to ensure that data is appropriately secured both internally and externally.
- 4 *Train employees on regulations and corporate policies.* Ensure marketing processes support privacy-related policies and that messaging is consistent across all customer touchpoints.
- 5 *Make it easy for customers to express their preferences.* Offer more options for opting in and opting out. Capture preferences for communications channels, timing (daily, weekly, monthly) and content (information, offers, products etc).
- 6 *Develop deep customer understanding.* Understand the segments the company serves, what differentiates them, how they view privacy and marketing and what motivates and interests them; listen to customers.
- 7 *Think of marketing as a service.* Take advantage of customer-driven marketing opportunities such as website visits, inbound calls, confirmation and operational e-mails and communications. Increase the number and methods of contacts requested by customers by offering them additional valued information and services.
- 8 *Improve your responsiveness.* Put appropriate operational processes and technologies in place to decrease time to market and ensure creative execution complies with key regulations for the company's industry and markets.
- 9 *Drive a customer-centric strategy*

*throughout the organisation.* Provide the leadership, skills and knowledge necessary to ensure that all customer-facing operators understand privacy regulations and the company strategy.

- 10 *Continually improve.* Test, measure and evaluate the effectiveness of the company's approach and marketing. Don't assume just because the customer's initial preferences are being followed they are being effective. If a customer is not opening any e-mail messages, it is necessary to re-evaluate the relevance of the information and communications.

### **Right-time marketing: Technology as an enabler**

Right-time marketing is a part of a customer-centric business transformation. This transformation requires not only business process changes, but also the technologies to support those changes. Right-time marketing technology enables marketers to understand the optimal way and time to react to a customer behaviour or event, such as a new order or an information request, with the right action to stimulate cross-selling and up-selling opportunities. It can automate the process of contacting customers and prospects to share information and make 'just right' offers, either outbound or in real time. It can integrate all customer touchpoints — web, call centre, interactive voice response (IVR), branch system, wireless devices, automated telling machines (ATMs) and so forth — so that both real-time and periodic marketing efforts are integrated across the board. Importantly, it can also help companies to integrate privacy compliance regulations to reduce business risk, while at the same time meeting customer preferences for how personal

information should be used.

Technologies needed to support right-time marketing include:

- Data cleansing and update tools
- Predictive modelling tools
- Cross-channel campaign and interaction engine
- E-mail marketing software, capable of event-triggered, real time delivery
- Marketing resource and content management
- Cross-enterprise collaboration tools
- Real time recommendation software
- One-to-one optimisation software
- Real time reporting and analysis tools

The first technical challenge to right-time marketing, is 'data hygiene': getting data resources so that the company can track who *is* a customer; who is not; what kind of preferences they have; what information can be stored; what cannot; who it can be shared with and for what purposes; when someone opted in or opted out; and who has authorised access to read, review and change information on record. Useful data is a prerequisite to leveraging the power of data mining and analysis tools to help you better understand and predict customer behaviours.

A flexible and scalable technology framework is critical to facilitating right-time marketing, especially in today's regulatory climate. An open architecture allows organisations to dynamically add or remove data sources at any point in time as the environment, customer needs or privacy requirements change. A scalable architecture is important because right-time marketing, by its nature, must support increasing campaign volumes and complexity.

As marketers refine targeting based on customer understanding, the results are more frequently executed campaigns directed at smaller audiences. These

'campaigns-of-one', or personalised interactions with the customer, often occur in real- or near-real time. With increased campaign volumes and better-defined targets, optimisation and resource management across campaigns becomes a challenge. Right-time solutions that are part of larger enterprise marketing management (EMM) suites, with planning, workflow, resource management and cross-campaign optimisation, provide more complete solutions than stand-alone products. These planning and resource management tools are critical to gaining the operational efficiencies required to drive a customer-centric transformation throughout the organisation.

Open EMM suites are especially beneficial because they allow organisations to integrate data from multiple touchpoints, systems and data sources simultaneously in order to generate complete — and current — customer profiles. Being able to trigger and manage processes between systems — for example, triggering a cross-check of a customer's privacy preferences when an online order is initiated — is a clear advantage of such systems for companies who want to take a right-time marketing approach.

Right-time solutions also need the ability to centralise the creation, management and execution of business logic, allowing marketers to create configurable rules and business logic once and deploy them across multiple touchpoints — and EMM technologies provide this. This makes it easy for marketers to update interaction logic and respond to customer trends, competitive issues, market conditions or changing government regulations without having to rely on IT. Additionally, such solutions offer marketers the ability to build, view and execute comprehensive marketing

strategies that treat each customer holistically across channels and operational modes.

Finally, as with traditional direct marketing, right-time solutions should provide built-in testing, reporting and analysis features. Right-time marketing is not static. It is a constant process of adapting to customer preferences and actions. Effective testing and analysis tools allow marketers to understand and react to customer shifts quickly.

### **AN OPPORTUNITY NOT AN IMPEDIMENT**

Consumers are sending a clear message about how marketing should be done. Some will choose to look at this message as a constraint, others will embrace it as an opportunity to embark on a customer-centric transformation. Right-time marketers will leverage the interaction opportunities customers give them. Outbound marketing will be highly targeted and permission based, resulting in much higher response rates. Inbound channels will become up-sell, cross-sell and retention enhancing opportunities. Marketing will become a seamless part of the customer experience, and will be perceived as a valued service, not an intrusive annoyance.

With right-time marketing, companies will be poised to take greater advantage of existing customer relationships, which, if managed correctly, will enable a virtual 'protected channel' through which marketers can communicate with customers without being affected by the new privacy laws and the 'hands-off-my information' attitude. Right-time marketing will also help prepare marketers for the shift to digital video recorder (DVR) television, micro-marketing events and the continued fragmentation of marketing channels. By implementing EMM-based,

cross-channel management systems to coordinate and drive programmes and campaigns, companies can establish effective right-time marketing strategies that will help them excel even in tightly-regulated marketing environments.

All marketers, but especially direct marketers who rely on mass outbound communications as their primary means of acquiring new customers, must be prepared to move to right-time marketing. They need to develop effective means of engaging customers when they are most receptive. Right-time marketing is the most effective way of meeting this challenge,

it creates new avenues for revenue generation and success and is the best way to rise to the challenges posed by regulation and new consumer trends.

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**APPENDIX A: CHART OF RECENT PRIVACY LEGISLATION AND ITS AFFECTS ON MARKETERS\***

**Table A1:** Predominant privacy rules affecting marketers

Location covered	Regulation	General overview	Impacts	Penalties
USA	Fair Credit Reporting Act (FCRA)	Limits how consumer information, collected by consumer reporting agencies, is shared with other agencies, including marketers	List brokers, marketers, cross-state and in-state marketers	Civil liability for wilful and negligent non-compliance. Monetary penalties can include fines, actual damages, punitive damages and attorney fees
USA	The Children’s Online Privacy Protection Act (COPPA)	Protects children’s privacy by giving parents the tools to control what information is collected online from children under the age of 13	Website operators who target children under 13. B-to-B not impacted	Treated as an unfair or deceptive act or practice proscribed under the Federal Trade Commission Act
USA	Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act)	Prohibits false or misleading header information and deceptive subject lines in commercial e-mail (civil violation); requires opt-out opportunity, except for transactional or relationship messages; prohibits unsolicited commercial e-mail to those who have opted-out; requires labelling and physical addressing; prohibits dictionary attacks, harvesting of e-mail and relaying without	E-mail marketers	The FTC, states, and ISPs can bring civil suits; up to \$1 million in damages can be awarded. Triple damages awarded for intentional or aggravated violations. A criminal provision provides for a fine or up to one year of imprisonment, or both

Location covered	Regulation	General overview	Impacts	Penalties
		authorisation. Also outlines a timeframe for the FTC to implement a Do-Not-Email list as a follow up to the Do-Not-Call list		
USA	Stop Pornography and Abusive Marketing Act (SPAM Act) Pending legislation	Establishes rules around spam. Includes a national no-spam registry; requires 'ADV' in the subject line, links to an approved self-regulating organisation, clear means for e-mail recipients to make choices about the use of their addresses, including opting out, and information on how a recipient can file a complaint	Individual spammers, list brokers, list originators, marketers	Civil penalties of up to \$5,000 for each day of infraction and up to \$100,000 penalty for unauthorised use of the registry. For other infractions, state, federal and financial agencies, ISPs and individuals can seek awards of \$10 per e-mail address
USA	Health Insurance Portability and Accountability Act (HIPAA)	With limited exceptions, requires that individuals provide written authorisation before health information can be disclosed or used for marketing	Health plans, clearing houses and service providers who transmit personal health information in electronic form; financial institutions and business associates, list business overall. Will drastically reduce the names that are available or the lists that can be used for health and marketing. B-to-B not impacted	Establishes monetary penalties that scale up to \$250,000 and/or imprisonment for up to ten years
USA	Federal Trade Commission's Telemarketing Sales Rule Law	This law was amended in October 2003 to include the establishment of the national Do-Not-Call Registry. Prohibits telemarketers from initiating, or sellers from causing telemarketers to initiate, outbound telephone calls to individuals who previously opted out of receiving calls made by or on behalf of the seller whose goods or services are being offered	Teleservice industry providers, list brokers and owners, telephone marketers, call centre operators. B-to-B not impacted	In addition to injunctions, each violation can result in a court's assessment of civil penalties of up to \$11,000 per violation
USA	Gramm-Leach-Bliley Act	With limited exceptions, restricts financial institutions, including credit reporting agencies, from disclosing personally identifiable financial information to non-affiliate third parties unless it has provided notice of its privacy policies along with an opportunity for the consumer to opt out. Also	Financial institutions, list owners, list brokers, marketers. Non-profits, politicians and surveys (as long as they don't turn into sales solicitations) are exempt. B-to-B not impacted	Up to \$11,000 per day and \$10,000 per violation

Location covered	Regulation	General overview	Impacts	Penalties
		prohibits the illegal gathering of personal financial information from third parties, such as banks		
European Union	Privacy and Electronic Communications Directive Law	Requires network operators to erase or make traffic data anonymous as soon as it is no longer needed for billing and traffic management purposes. Necessitates prior consent for unsolicited direct marketing by all forms of electronic communications including e-mail, SMS to mobile telephones, fax, and automated calling systems without human intervention; companies may continue on an 'opt-out' basis when there is an existing customer relationship. Stipulates that those who employ cookies and similar website tracking devices provide information on them and allow subscribers or users to refuse to accept them. Gives individuals the right to be ex-directory, to have a partial entry, or to specify that their entry not be used for direct marketing purposes. Requires subscribers to be informed of all usage possibilities of publicly available directories, eg reverse searching from a telephone number in order to obtain a name and address	EU member states including the UK; similar rules being enacted by non-member countries; US businesses marketing into EU member states	Breach is a criminal offence liable to a fine of up to £5,000 if handled in a magistrates' court or an unlimited fine if the trial is by jury. Also, anyone who has suffered damages can sue for compensation
Canada	Personal Information Protection and Electronic Documents Act	Gives individuals the right to: ask why information is being collected; refuse to give consent to organisations to collect personal information; have personal information used only for the purposes for which it was initially collected; request access to personal information; challenge accuracy and completeness of information; and have it. Personal health information such as medical treatment,	The law applies to businesses and organisations that collect, use or disclose personal information in the course of commercial activities. On 1st January, 2004, the law will extend to all interprovincial or international disclosures of personal information in the course of a commercial activity,	Offences are punishable by fines up to \$100,000

Location covered	Regulation	General overview	Impacts	Penalties
		prescription or insurance records are also covered by the law	as well as to all provincially regulated businesses not covered by a provincial law similar to the federal law	

\*The authors do not guarantee the accuracy of this table. The information contained in this table is not intended to constitute legal advice of any nature.

## APPENDIX B: GLOSSARY

**Blacklist:** a list of IP addresses known to be sources of spam or unsolicited commercial e-mails (UCE). Networks filter out undesirable traffic from these addresses before it gets to the end-user.

**Business to business (B-to-B):** a transaction that occurs between a company and another company, as opposed to a transaction involving a consumer. The term may also describe a company that provides goods or services for another company.

**Business to consumer (B-to-C):** a transaction that occurs between a company and a consumer, as opposed to a transaction between companies. The term may also describe a company that provides goods or services for consumers.

**Cookies:** software sent to and stored in a user's PC by a service provider; used to track website visits, page visits, navigation order, preferences, banner ads etc. They can also be used to track and facilitate online purchasing or security/identity checks.

**Customer interaction:** the process of communicating with a customer. This can be via any number of channels: call centre, web, e-mail, direct mail etc.

**Do-Not-Call (DNC) lists:** used typically in reference to the National Do Not Call Registry — a list of telephone numbers from consumers who want to limit the telemarketing calls they receive. The Federal Trade Commission manages

the registry. Many states also maintain Do-Not-Call lists.

**E-mail filtering:** e-mail filtering or blocking programs, also called spam filters, are intended to prevent most unsolicited e-mail messages (spam) from appearing in subscriber inboxes.

**False positives:** blocked legitimate e-mail.

**ISP:** internet service provider.

**Real-time marketing:** marketing that involves a near instantaneous response to a customer activity at the point of customer interaction. Real-time marketing is a subset of right-time marketing.

**Right-time marketing:** marketing that delivers the best marketing at the right time through the most appropriate channel.

**Spam:** unsolicited commercial electronic mail (see UCE).

**UCE:** unsolicited commercial electronic mail or spam.

**Whitelist:** a list of attributes, such as e-mail addresses or domain names, which can be used to match against incoming e-mail. Mail that matches a specified attribute is passed along to the recipient without further processing.

## APPENDIX C: RESOURCES FOR FURTHER INFORMATION: HELPFUL WEBSITES

<http://www.the-dma.org>

<http://www.bbbonline.org/>

understandingprivacy/  
<http://www.privacyalliance.org/>  
<http://www.privacilla.org/>  
<http://www.privacyexchange.org/>  
<http://www.privacyfoundation.com/>  
<http://www.privacyrights.org/>  
<http://www.ftc.gov/ogc/stat3.htm>  
<http://www.privacyknowledgebase.com/>  
<http://www.privacyweekly.com>

**Australia:**

Australia has a list of ten National

Privacy Principles (NPPs):  
<http://www.privacy.gov.au/publications/npps01.html>  
Federal privacy law history:  
<http://www.privacy.gov.au/act/history/index.html>  
Australian Direct Marketing  
Association:  
<http://www.adma.com.au>

**Korea:**

<http://www.privacyknowledgebase.com/>