



## Chief Electoral Officer Guidelines for Election Surveys

Sections 135.1, 135.11, 135.2, 135.3 and 135.4 of the *Election Act* (the *Act*) prescribe the rules for the conduct and transmission of election surveys by persons or organizations during an election period. The rules ensure that electors are aware of who is responsible for conducting the surveys so they may direct questions and concerns about the survey appropriately. These statutory provisions should be reviewed thoroughly, in conjunction with the guidelines that follow, prior to conducting a survey.

Also appended to these guidelines, for information only, are the relevant CRTC Guidelines. The Chief Electoral Officer does not administer CRTC rules, and the CRTC does not administer Election Act rules. However, both sets of laws may apply. For further information on CRTC Guidelines, visit [www.crtc.gc.ca](http://www.crtc.gc.ca).

### **The *Election Act*:**

In Section 135.1 and sections 135.11 to 135.4,

*(a) “election period” means the period commencing with the issue of the writ and ending at the end of polling day;*

*(b) “election survey” means an opinion survey of how electors voted or will vote at an election or respecting an issue with which a registered political party or registered candidate is associated;*

*(c) “person” includes a group as defined in Part 6.1 of the Election Finances and Contributions Disclosure Act.*

*135.11(1) No person or organization may, during an election period, conduct an election survey unless*

*(a) the following information is provided, in accordance with the guidelines established by the Chief Electoral Officer, prior to the start of the survey:*

*(i) the name and contact information of the person or organization on whose behalf the survey is being conducted and whether the person or organization has approved the content of the survey;*

*(ii) the name and contact information of the person or organization conducting the survey if the person or organization is not the person or organization referred to in subclause (i);*

*(b) in the case of an election survey transmitted to a telephone, whether in the form of a live call or automated pre-recorded call, the telephone number of the person or organization conducting the survey must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed.*

*(2) The Chief Electoral Officer shall establish guidelines respecting the content of the information required under subsection (1) and the manner in which the information is to be provided.*

*(3) The guidelines must be published on the Chief Electoral Officer's website.*

*135.2(1) The first person who transmits the results of an election survey, other than a survey described in section 135.3, to the public during an election period and any person who transmits them to the public within 24 hours after they are first transmitted to the public shall provide the following together with the results:*

*(a) the name of the sponsor of the survey;*

*(b) the name of the person or organization that conducted the survey;*

*(c) the date on which or the period during which the survey was conducted;*

*(d) the population from which the sample of respondents was drawn;*

*(e) the number of people who were contacted to participate in the survey;*

*(f) if applicable, the margin of error in respect of the data obtained.*

*(2) In addition to the information referred to in subsection (1), the following must be provided in the case of a transmission to the public by means other than broadcasting:*

*(a) the wording of the survey questions in respect of which data was obtained,  
and*

*(b) the means by which a report referred to in subsection (3) may be obtained.*

*(3) A sponsor of an election survey shall, at any time during an election period after the results of the survey are transmitted to the public, provide, on request, a copy of a written report on the results of the survey, as transmitted under subsection (1).*

*(4) The written report must include the following, as applicable:*

*(a) the name and address of the sponsor of the survey;*

*(b) the name and address of the person or organization that conducted the survey;*

*(c) the date on which or the period during which the survey was conducted;*

*(d) information about the method used to collect the data from which the survey results were derived, including*

*(i) the sampling method,*

*(ii) the population from which the sample was drawn,*

*(iii) the size of the initial sample,*

*(iv) the number of individuals who were asked to participate in the survey and the numbers and respective percentages of them who participated in the survey, refused to participate in the survey, and were ineligible to participate in the survey,*

*(v) the dates and time of day of the interviews,*

*(vi) the method used to recalculate data to take into account in the survey the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the survey questions, and*

*(vii) any weighting factors or normalization procedures used in deriving the results of the survey;*

*(e) the wording of the survey questions and, if applicable, the margins of error in respect of the data obtained.*

*(5) A sponsor may charge a fee of up to \$0.25 per page for a copy of a report provided under subsection (3).*

*135.3 The first person who transmits the results of an election survey that is not based on recognized statistical methods to the public during an election period and any person who transmits them within 24 hours after they are first transmitted to the public shall indicate that the survey was not based on recognized statistical methods.*

*135.4(1) No person shall knowingly cause to be transmitted to the public, in an electoral division on polling day before the close of all of the polling places in that electoral division, the results of an election survey that have not previously been transmitted to the public.*

*(2) No person shall transmit to the public, in an electoral division on polling day before the close of all of the polling places in that electoral division, the results of an election survey that have not previously been transmitted to the public.*

## Chief Electoral Officer Guidelines for Election Surveys:

Section 135.11(2) of the *Act* prescribes that the Chief Electoral Officer shall establish guidelines regarding the content of the information that is required and the manner in which it must be provided. These guidelines follow below, and appear online in accordance with section 135.11(3) of the *Act*.

The following guidelines apply to Section 135.11(1) of the *Act*. They must be followed in the conduct of all surveys, and the information must be provided prior to the start of the survey.

1. The contact information of the person or organization on whose behalf the survey is being conducted (the subject of the survey) must include either the telephone number including the area code, or the full physical address. In each case, the information provided must allow for contact with the subject of the survey during normal business hours, so concerns and questions regarding the survey can be addressed.
2. If the person or organization conducting the survey (survey service provider) is not the subject of the survey, the contact information of the survey service provider must include either the telephone number including the area code, or the full physical address. In each case, the information provided must allow for contact with the survey service provider during normal business hours, so concerns and questions regarding the survey can be addressed.
3. The survey must clearly identify the name of the subject of the survey and the survey service provider, if different than the subject of the survey
4. If the survey is conducted by a telephone or broadcast method, the name and contact information (as defined above) of the subject of the survey and the survey service provider must be clear and audible. They must be provided to the recipient in the same volume and style as the election survey content to ensure consistency and clarity in the messaging

## **Example:**

The following survey introductions are provided in a form and manner that comply with the legislation and guidelines.

### **Sample Election Survey introduction:**

1. "Hello; this is John Black, your ABC Party candidate for Lethbridge-North. I have approved the contents of this election survey and I would appreciate if you would participate by answering six questions. You can reach me during regular business hours at 555-555-1234".
2. "Hello; I am calling on behalf of the GHI Party, located at 456 Centre Avenue, to ask you to participate in an election survey. The GHI Party has approved the contents of the survey."
3. "Hello; I am calling from Professional Communications, telephone number 555-555-5678. I'm conducting an election survey on behalf of Jane Brown, your XYZ Party candidate for Red Deer-East whose campaign office is open at 123 Main Street throughout the election period. Jane has approved the content of this survey."

## **Compliance:**

It is important that these provisions are followed. Non-compliance may be subject to administrative penalties or prosecution.



## CRTC Guidelines:

### Rules for unsolicited telecommunications made on behalf of political entities

This fact sheet summarizes the Canadian Radio-television and Telecommunications Commission's (CRTC) [Unsolicited Telecommunications Rules](#) (the Rules) for unsolicited telecommunications made by or for political entities, including riding associations, candidates and their official campaigns.

The Rules include the:

- National Do Not Call List (DNCL) Rules (Part II),
- Telemarketing Rules (Part III), and
- Automatic Dialing-Announcing Device (ADAD) Rules (Part IV). [Footnote 1](#)

Communications made by or for political entities are exempt from the National DNCL Rules, but the Telemarketing Rules and the ADAD Rules may apply.

### Definitions

- “Automatic Dialing-Announcing Device” or “ADAD” means any automatic equipment capable of storing or producing telecommunications numbers. This equipment may be used alone or with other equipment to send a pre-recorded or synthesized voice message to a phone number. ADAD calls are also known as “robocalls.”
- “Candidate” means a candidate as defined in subsection 2(1) of the [Canada Elections Act](#) or a candidate whose nomination has been confirmed, for the purposes of a provincial or municipal election, by a political party that is registered under provincial law.
- “Solicitation” means sales or promotion of a product or service, or requests for money or money's worth, directly or indirectly, on behalf of another person or group.

### Information about live voice calls

**The Telemarketing Rules *do not* apply** to live voice calls that are not made for the purpose of solicitation.

For example, if an exempt political party or candidate, or an organization representing such a party or candidate, calls people to learn about voter preferences or to inform people about the location of polling stations, the Telemarketing Rules do not apply. [Footnote 2](#)

**The Telemarketing Rules *do* apply**, however, to calls that are made for the purpose of solicitation.

For example, if an exempt political party or candidate, or an organization representing such a party or candidate, calls people to request campaign donations, the Telemarketing Rules apply (see below for a sample of the relevant rules).

**The National DNCL Rules *do not* apply** to any calls made on behalf of exempt political entities. Accordingly, exempt political parties and candidates are not required to purchase a subscription to the National DNCL and can call people whose numbers are registered on the list.

## **Relevant Telemarketing Rules**

See the [Unsolicited Telecommunications Rules](#), Part III. This section describes some of the Telemarketing Rules that apply when a call is made for the purpose of solicitation:

### **Curfew (Part III, sections 23 and 24)**

Calls can only be made from 9:00 a.m. to 9:30 p.m. on weekdays (Monday to Friday) and 10:00 a.m. to 6:00 p.m. on weekends (Saturday and Sunday) unless provincial legislation specifies more restrictive hours.

### **Identification information (Part III, section 16 and Part III, section 31)**

- The call must begin with the name or fictitious name of the individual making the call, the name of the telemarketer and the name of the political entity on whose behalf the call is made (if different from the telemarketer's name).
- The telemarketer must provide a local or toll-free number upon request. This number, when called, must provide access to an employee or another representative of the telemarketer so the caller can ask questions, make comments about the call, or make a do-not-call request. Also, upon request, the name and email or postal address of an employee or another representative of the telemarketer must be provided.
- The screen on the called-person's phone must display a number where the telemarketer can be reached, except where number display is unavailable for technical reasons.
- The contact information must remain valid for a minimum of sixty (60) days.

### **Sequential dialing (Part III, section 26)**

Sequential dialing is prohibited.

### **Emergency lines and healthcare facilities (Part III, section 27)**

Telecommunications must not be made to emergency lines or healthcare facilities.

## **Internal Do Not Call Lists (Part III, sections 8 to 15)**

- Every telemarketer or its client must maintain an internal do not call list, and refrain from calling anyone who has requested no further calls.
- Telemarketers must process do not call requests immediately.
- Telemarketers or clients must update their internal do not call lists within 14 days and keep numbers on lists for 3 years and 14 days from the date of consumers' do not call requests.

## **Information about ADAD calls**

See the [Unsolicited Telecommunications Rules](#), Part IV. This section describes the ADAD Rules, including:

### **Prohibition and exemption (Part IV, section 2)**

Political entities are not allowed to use ADADs for the purpose of solicitation, unless the called person has expressly agreed to receive that specific political entity's ADAD solicitation calls.

## **Information about ADAD calls where there is no solicitation**

ADADs can be used to make calls that are not for the purpose of solicitation. There are certain rules that apply to these calls:

### **Identification information (Part IV, section 4 a through j)**

- ADAD calls must begin with a clear message identifying the person or group on whose behalf the call is made. The message must also:
  - briefly describe the purpose of the call, and
  - include an email address or a postal mailing address and a local or toll-free number where representatives of the organization that sent the message can be reached. The numbers and addresses must be valid for at least 60 days after the call has been made.
- If the ADAD message is longer than 60 seconds, the identification information must be repeated at the end of the call.
- The screen on the called-person's phone must display the originating calling number or an alternate number where the political entity can be reached, except where number display is unavailable for technical reasons.

### **Curfew (Part IV, section 4 b and c)**

ADAD calls can only be made from 9:00 a.m. to 9:30 p.m. on weekdays (Monday to Friday) and 10:00 a.m. to 6:00 p.m. on weekends (Saturday and Sunday) unless provincial legislation specifies more restrictive hours.



### **Disconnection (Part IV, section 4 h)**

Anyone initiating ADAD calls must make all reasonable efforts to ensure that the equipment disconnects within 10 seconds after the person receiving the call hangs up.

### **Sequential dialing (Part IV, section 4 f)**

Sequential dialing is prohibited.

### **Emergency lines and healthcare facilities (Part IV, section 4 a)**

ADAD calls must not be made to emergency lines or healthcare facilities.

## **Footnotes**

#### Footnote 1

This fact sheet does not constitute advice regarding compliance with the Rules. Parties should consult the *Telecommunications Act*, the Rules, and relevant CRTC Decisions such as *Telecom Decision 2007-48*, *Telecom Decision 2008-6-1*, *Telecom Regulatory Policy 2009-200*, and *Compliance and Enforcement Regulatory Policy 2014-155* prior to engaging in unsolicited telecommunications.

[Return to footnote 1 referrer](#)

#### Footnote 2

Note that the *Telecommunications Act* imposes certain obligations in respect of calls made on behalf of exempt political entities (see ss. 41.7(3) and 41.7(4)).

[Return to footnote 2 referrer](#)

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## Compliance and Enforcement Information Bulletin CRTC 2014-326

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### Guidelines to help businesses develop corporate compliance programs

#### Introduction

1. The purpose of this information bulletin is to provide general guidance and best practices for businesses on the development of corporate compliance programs. These programs may help businesses facilitate compliance with the Rules<sup>[Footnote 1](#)</sup> and/or CASL.<sup>[Footnote 2](#)</sup> Specifically, the bulletin describes important components of an effective corporate compliance program and provides guidance to develop such a program. The tools outlined in the bulletin should not be seen as prescriptive, but rather as illustrative. The bulletin is also not intended to be exhaustive, since businesses may take other reasonable steps to comply with the Rules and/or CASL. Further, the content of this bulletin is not intended to serve as legal advice. Businesses seeking legal advice regarding the development of a corporate compliance program should obtain independent legal advice.
2. The Commission recognizes that each organization is different. Depending on the size and risk exposure of the organization, not all the components of a corporate compliance program described below may be necessary, particularly in the case of small and medium-sized businesses. The Commission also recognizes that small and medium-sized businesses do not have the resources that large corporations have. As such, while compliance is required regardless of the business's size, compliance programs will vary widely. The Commission will assess compliance with the Rules and CASL on a case-by-case basis. The Commission recommends that businesses adapt the components described below to their particular circumstances.

#### Why is a corporate compliance program important?

3. Non-compliance with the Rules and/or CASL may expose businesses to significant administrative monetary penalties (AMPs) and other costs, such as legal fees and reputational damage. The development and proper implementation of a documented and effective corporate compliance program is a useful risk-management strategy: it may (i) reduce the likelihood of businesses violating the Rules and/or CASL, and (ii) help businesses establish a due diligence defence in the case of a violation of the Rules or CASL.

4. Commission staff may take into consideration the existence and implementation of an effective corporate compliance program if the business presents the program as part of a due diligence defence in response to an alleged violation of the Rules or CASL. Although the pre-existence of a corporate compliance program may not be sufficient as a complete defence to allegations of violations under the Rules or CASL, a credible and effective documented program may enable a business to demonstrate that it took reasonable steps to avoid contravening the law. Thus, the program may support a claim of due diligence. As well, Commission staff can take the existence of such a program into consideration when determining whether a violation of the Rules or CASL is an isolated incident or is systemic in nature, and whether sanctions against a business should include AMPs.

### **Components of a corporate compliance program**

#### **Senior management involvement**

5. In the case of large businesses, the business's senior management should consider playing an active and visible role in fostering a culture of compliance within their organization. Rules and policies by themselves have a greater chance of success in preventing misconduct when senior management strongly conveys that violations of the Rules and/or CASL are not acceptable. In addition, a member of senior management could be named as the business's chief compliance officer, who is responsible and accountable for the development, management, and execution of the business's corporate compliance program.
6. In the case of small and medium-sized businesses, the business could identify a point person who is responsible and accountable for compliance with the Rules and/or CASL.

#### **Risk assessment**

7. The chief compliance officer or point person should consider conducting a risk assessment to determine which business activities are at risk for the commission of violations under the Rules and/or CASL. The chief compliance officer or point person should then develop and apply policies and procedures to mitigate those risks.

#### **Written corporate compliance policy**

8. After conducting a risk assessment, the chief compliance officer or point person should consider developing a written corporate compliance policy. The business should make this policy easily accessible to all employees, including managers. The business could update the policy as often as necessary to keep pace with changes in legislation, non-compliance issues, or new services or products. The policy may also

- establish internal procedures for compliance with the Rules and/or CASL;
- address related training that covers the policy and internal procedures;
- establish auditing and monitoring mechanisms for the corporate compliance program;
- establish procedures for dealing with third parties (for example, partners and subcontractors) to ensure that they comply with the Rules and/or CASL;
- address record keeping, especially with respect to consent; and
- contain a mechanism that enables employees to provide feedback to the chief compliance officer or point person.

### **Record keeping**

9. Good record-keeping practices may help businesses (i) identify potential non-compliance issues, (ii) investigate and respond to consumer complaints, (iii) respond to questions about the business's practices and procedures, (iv) monitor their corporate compliance program, (v) identify the need for corrective actions and demonstrate that these actions were implemented, and (vi) establish a due diligence defence in the event of complaints to the Commission against the business.
10. As a business, consider maintaining hard copy and/or electronic records of the following:

### ***Relating to the Rules***

- your telemarketing policies and procedures;
- all National Do Not Call List registration and subscription information (required by law for at least 36 months);
- all internal do not call requests and actions;
- all evidence of express consent (e.g. audio recordings or forms) by consumers who agree to be contacted via an automatic dialing-announcing device;
- call records/logs;
- call scripts; and
- scrubbing procedures to remove from calling lists numbers that also appear on both a company's internal do not call list and the National Do Not Call List.

**Relating to CASL**

- your commercial electronic message policies and procedures;
- all unsubscribe requests and actions;
- all evidence of express consent (e.g. audio recordings or forms) by consumers who agree to be contacted via a commercial electronic message;
- commercial electronic message recipient consent logs;
- commercial electronic message scripts; and
- actioning unsubscribe requests for commercial electronic messages.

**Relating to both the Rules and CASL**

- campaign records;
- staff training documents;
- other business procedures; and
- official financial records.

**Training program**

11. Effective training of staff at all levels on what constitutes prohibited conduct and on what could be done if they witness prohibited conduct is integral to the implementation of a credible corporate compliance program. Effective training helps employees determine roles and responsibilities, and when to seek advice from senior management. For the training to be effective, links should be made between the business's policies and procedures, and the situations that employees may face in their daily activities.
12. The chief compliance officer or point person should consider developing and implementing a training program, including refresher training, regarding the corporate compliance policy for current and new employees, including managers. After training, employees could provide written acknowledgment that they understand the corporate compliance policy, and these written acknowledgments should be recorded and maintained. The business could also monitor employee comprehension of the corporate compliance policy, and the training program could be adapted and re-administered accordingly. The business could re-administer training following important modifications or updates to the corporate compliance policy. The chief compliance officer or point person could evaluate the effectiveness of this training at regular intervals.
13. The chief compliance officer or point person should also consider monitoring any legislative or regulatory changes, and modifying or updating the corporate compliance policy and the related training accordingly.

14. When assessing what to include in the training program, consider the following:
- requirements and related liabilities – to provide an understanding of what is required in the legislation and the penalties for not meeting those requirements;
  - policies and procedures associated with the business; and
  - background information on the legislation and the Rules.

### **Auditing and monitoring**

15. Auditing and monitoring mechanisms help (i) prevent and detect misconduct, and (ii) assess the effectiveness of the corporate compliance program. The implementation of these mechanisms also reminds employees and managers that they are subject to oversight. The chief compliance officer or point person could be responsible for ensuring that audits are conducted at regular intervals with or without external help. Auditing may involve developing and implementing a quality assurance program that would, for example, monitor a statistically significant percentage of the business's telephone or email marketing campaigns. The results of all audits should be recorded, maintained, and communicated to senior management. Following an audit, the business should address any recommendations and modify or update the corporate compliance policy as appropriate.

### **Complaint-handling system**

16. The chief compliance officer or point person could put in place a complaint-handling system to enable customers to submit complaints to the business. The business should respond to and resolve complaints within a reasonable or predetermined period of time. The Commission notes that the complaint-handling system should not be confused with the requirements in the Rules and CASL regarding the withdrawal of consent.

### **Corrective (disciplinary) action**

17. Businesses could have an organizational disciplinary code to address contraventions. This code would help (i) demonstrate a business's credibility regarding its corporate compliance policy, and (ii) deter against possible employee contraventions of the corporate compliance policy. Businesses should consider taking corrective or disciplinary action, or providing refresher training, as appropriate, to address contraventions of the corporate compliance policy. Businesses could maintain a record of the contravention and the action taken in response to the contravention.

Secretary General

## Related documents

- *Review of the Unsolicited Telecommunications Rules, Compliance and Enforcement Regulatory Policy* CRTC [2014-155](#), 31 March 2014
- *Electronic Commerce Protection Regulations (CRTC)*, Telecom Regulatory Policy CRTC [2012-183](#), 28 March 2012
- *Unsolicited Telecommunications Rules framework and the National Do Not Call List*, Telecom Decision CRTC [2007-48](#), 3 July 2007, as modified by Telecom Decision CRTC [2007-48-1](#), 19 July 2007

## Footnotes

### Footnote 1

“The Rules” refers to the [Canadian Radio-television and Telecommunications Commission Unsolicited Telecommunications Rules](#).

[Return to footnote 1 referrer](#)

### Footnote 2

CASL, also commonly referred to as “Canada’s anti-spam legislation,” refers to *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*, S.C. 2010, c. 23, and the associated regulations made thereunder