

CAN-SPAM & Email Compliance

Contributed by VinterActive Research

Disclaimer

VinterActive LLC does not offer legal advice and strongly encourages anyone seeking an opinion on compliance matters to consult with a qualified attorney. The information provided here is intended only to help interested readers learn more about some of the significant issues facing wineries and wine retailers on the internet.

Summary

Email marketing is a popular and effective tool for a growing number of U.S. wineries and their customers. Although emails are easy to create and inexpensive to transmit, wineries sending more than 100 commercial emails per day, 1000 emails per week or 10,000 emails per year are regulated by both Federal and State law.

All U.S. wineries exceeding these emailing thresholds are subject to the requirements of the Federal CAN-SPAM act, and any winery sending email to individuals in the states of Michigan or Utah are subject to additional compliance regulations.

Fortunately it's easy to comply with these laws if you understand what they require and use an email system that's designed with these regulations in mind.

How to Comply

The Federal Trade Commission (FTC) has posted an excellent overview "The CAN-SPAM Act: Requirements for Commercial Emailers" on their website at: <http://www.ftc.gov/bcp/online/pubs/buspubs/canspam.htm>

The condensed version is that all commercial emailers must:

- 1) Provide accurate information about the sender in the "from", "to", and header/routing portions of any emails they send (no pretending to be someone else...that's what spammers do).

- 2) Avoid deceptive subject lines. The subject line cannot mislead the recipient about the contents or subject matter of the message (see note about spammers).

3) Provide recipients an opt-out method. You must provide a return email address or another Internet-based response mechanism that allows a recipient to ask you not to send future email messages to that email address, and you must honor these requests within 10 days of receipt.

4) Never sell, rent or transfer the email addresses of people who were told their information would not be shared...same for those who opt-out of lists.

5) Include a valid postal address as part of every email sent.

These regulations effect all commercial mailings, including those sent to existing customers and people who have subscribed to your email list.

Further CAN-SPAM requirements apply to unsolicited commercial email:

1) The subject line must include a label clearly identifying the email as ADVERTISING

2) You cannot use email lists that were gathered by automated means or collected in a deceptive way (i.e., saying you won't share an email address, then renting/selling/sharing it anyway.)

While Federal CAN-SPAM legislation supersedes most existing State regulation of commercial emails, Michigan & Utah have enacted "child protection registries" that further restrict email marketing by requiring mailers to "scrub" their lists against each state's official "do-not-email" registry before sending age-restricted content, including information about wine.

More can be learned about complying with the Michigan & Utah state laws here:

<https://www.protectmichild.com/senders/?vid=p7li6tp1tfpm8m9c5uc3d29h60>

<https://www.utahkidsregistry.com/>

The VinterActive Solution

VinterActive LLC helps wineries and wine retailers comply with email regulations using our powerful PreferencePro™ email marketing system. Email headers comply with CAN-SPAM requirements and each email can be set to automatically include a working unsubscribe link.

PreferencePro's ability to capture and act on specific customer details can also be used to support email compliance by restricting list membership to customers over 21 or identifying and exporting customers living in MI or UT for special handling.

Because of the additional regulations facing senders of unsolicited emails, the fact that no one likes to receive them and because they generally don't work, VinterActive recommends against the practice of using outside or "rental" email lists and prohibits the use of outside lists within the VinterActive network.

PreferencePro™ is designed to help wineries build lists of customers who want to hear from them via email. These lists can be further refined with built-in techniques such as confirmed opt-in, automated list hygiene and banning of selected subscribers.

Learning More

Federal Trade Commission: <http://www.ftc.gov/bcp/online/pubs/buspubs/canspam.htm>

Michigan Information for Emailers: <https://www.protectmichild.com/senders/?vid=p7li6tp1tfpm8m9c5uc3d29h60>

Utah Child Registry Information: <https://www.utahkidsregistry.com/>