

Code of Conduct for Marketing to Individuals by E-mail

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Introduction

SWEDMA's objectives for these guidelines are to:

- encourage the positive development of e-mail as an effective marketing device
- increase awareness of the ethical and legal matters that clients need to be conscious of when using e-mails for marketing purposes
- share examples and practice showing how clients can maximise their use of this means
- contribute to increasing quality in this sector and to discourage the increased incidence of undesired mass mailings (i.e. junk mail or spam).
- provide practical advice on the implementation of working methods and fulfilling standards for the internet.

These guidelines are chiefly concerned with marketing by normal e-mail, and not with marketing to mobile telephones via SMS or MMS. The guidelines have been compiled by Sweden's leading representatives of e-mail marketing, who have shared their knowledge to create a framework and guidelines for effective, ethically acceptable marketing by e-mail.

These guidelines summarise the most important points about e-mail marketing to individuals, and act as a complement to other relevant Codes of Conduct, such as SWEDMA's "General Code of Conduct for Direct Marketing by Mail" and the International Chamber of Commerce's (ICC) "Advertising and Marketing Communication Practice Consolidated ICC Code". SWEDMA's guidelines are not a replacement for relevant legislation, as for example the Personal Data Act (Personuppgiftslagen - PuL) and the Marketing Act (Marknadsföringslagen - MFL), details of which appear in the appendix. Additionally, contracts with internet service providers (ISP) and their guidelines for acceptable use of their networks must also be observed.

It is easier for you, the readers of these guidelines, to understand and take them on board if you start with the vocabulary at the end of this document, under item 9.

These guidelines are aimed at all who engage in sending e-mails to businesses. Please note that the rules for e-mail communications to organisations are different from those to private individuals, and that it is permissible to send relevant information or advertising by e-mail to persons connected to businesses that are not customers. It is essential always to operate with an updated address database and the message should be relevant to the recipients in their professional capacity. We list a number of items below which you need to be aware of, and which laws and recommendations we consider to be applicable.

1. COMMUNICATION OF RELEVANCE TO THE RECIPIENT

Personalising e-mails provide senders with the opportunity of communicating more closely with individuals. This is helped by the fact that most programs for e-mail distribution permit personal expression to be entered anywhere in the text, including the subject of the e-mail.

A number of relevant data is used to personalise e-mails; in addition to personal data this may include the purchase history, enquiries or personal preferences, some of which may be included in the data collected when positive consent is given. Advertisers can increase the relevance to the recipient by referring to this data.

2. OPT-OUTS

The Marketing Law requires that all e-mails must offer the recipients the opportunity to refuse further e-mails from the sender. The refusal is also known as an opt-out, which is normally done through an opt-out link that is clearly evident in the e-mail. The link should be a URL link that goes to an opt-out site.

3. SOURCE OF RECIPIENTS' ADDRESSES

If there is no established customer relationship and you send e-mails to individuals who have consented to contacts by others than those who collected their data, the Marketing Law requires that you provide the source of the recipients' addresses. The address source must contain the name of the organisation from which the addresses were sourced, their address or telephone number to ensure that the recipients may easily contact the source.

8.2 E-mails received outside Sweden

Do not forget that e-mails may be received outside Sweden, and that the laws and regulations for the content and distribution of commercial e-mails in the country of reception may differ from those in Sweden. For example, in the US there is no need for active consent to send marketing e-mails to individuals.

The EU Directive on Integrity and Electronic Communications (which has been transposed in Sweden through MFL) contains regulations governing how private individuals provide prior agreement before unsolicited commercial e-mails are sent.

EU member states are given some latitude in transposing the Directive's provisions in terms of whether they wish to extend the protection offered to persons. The outcome of these linguistic modifications and varying practices in the member states means there are small, although quite important differences in the approach to transposing the Directive into national legislation.

There are problems internationally, as some state law courts in the US have applied local laws on commercial e-mails received from other states in the US. They may adopt the same view of e-mails from Swedish advertisers.

In these cases it is wise to ask for guidance from SWEDMA, FEDMA, any other legal advisors or from the Swedish Data Inspection Board, as every country may have varying regulations.

9. VOCABULARY

<i>Term</i>	<i>Definition</i>
Advertiser	An organisation using their own data, or data from other sources for marketing purposes
Address owner	An organisation responsible for collecting, storing and maintaining e-mail data
E-letter	An individual e-mail message
EMD	E-mail distributor
ISP	Internet Service Provider
Customer	A person subject to personal data
Personal data	Information through which a person can be identified, either from the data alone or in combination with other data which is held, or will likely be held, by a data controller
Data controller	A person or organisation, which alone or collectively determines the purpose for which, and the ways in which, personal data, may or should be treated (including list brokers/handlers)
Data processor	A person who collects, stores or handles personal data for an address owner or for a data controller

Please contact us if you have any questions or observations about this Code of Conduct

Ett medlemskap
som ger effekt

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