

West Virginia Executive Branch Privacy Tip of the Week

Unsolicited Commercial E-mail

Question:

I've been on vacation for a few days and came back to a packed e-mail inbox (please, take me back to the beach!) Is there some kind of regulation about what Departments can send and what they can't send?

Answer:

We use e-mail every day for all kinds of communications. Most of these e-mails are routine, day-to-day business interactions with our co-workers and responding to messages we receive. However, if you ever send unsolicited commercial communications, your message needs to comply with the CAN-SPAM Act. What types of e-mails trigger this law?

The CAN-SPAM Act generally regulates the transmission of "commercial electronic mail messages." These are e-mail messages whose primary purpose is advertising or promoting a commercial brand, product or service, such as sharing information about special rates at State Parks.

The Act does not regulate "transactional messages," which are messages whose primary purpose is to:

- Facilitate or confirm an agreed-upon commercial transaction, such as sending a confirmation to someone who has made a purchase or set up an appointment;
- Provide warranty or safety information about a product purchased or used by the recipient;
- Provide certain information regarding an ongoing commercial relationship, such as account statements;
- Provide information related to employment or an associated benefit plan, or
- Deliver goods or services to which the recipient is entitled under the terms of an agreed-upon transaction.

Consider the e-mails you send. If you think that you may be sending unsolicited commercial e-mails, you need to comply with the CAN-SPAM Act. If you have any questions, please contact your Privacy Officer.