

**MEMORANDUM OF UNDERSTANDING BETWEEN THE  
UNITED STATES FEDERAL TRADE COMMISSION AND THE  
CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS  
COMMISSION ON MUTUAL ASSISTANCE IN THE ENFORCEMENT OF  
LAWS ON COMMERCIAL EMAIL AND TELEMARKETING**

The United States Federal Trade Commission (“FTC”) and the Canadian Radio-television and Telecommunications Commission (“CRTC”) (collectively, “the Participants”),

RECOGNIZING the importance of developing a global and coordinated approach to address unlawful commercial email and telemarketing, and the threats that they pose to consumers and their confidence in these critical communication systems;

RECOGNIZING that the Participants serve together on the Secretariat of the London Action Plan; have worked closely in connection with numerous investigations and enforcement actions relating to unsolicited commercial email (spam) and automated telephone calls (robocalls); have collaborated on promoting technological solutions to robocalls; and have engaged in staff exchanges;

RECOGNIZING that the U.S. Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, as amended by the U.S. SAFE WEB Act, authorizes the FTC to disclose information to law enforcement authorities from other countries

## **I. Definitions**

For the purposes of this Memorandum,

- A. "Applicable Law" means the laws and regulations identified in Annex 1, and such other laws or regulations as the Participants may from time to time jointly decide in writing to be an Applicable Law for purposes of this Memorandum.
- B. "Covered Violation" means practices that would violate the Applicable Laws of one Participant's country and that are substantially similar to practices prohibited by any provision of the Applicable Law of the other Participant's country.
- C. "Person" means any natural person or legal entity, including corporations, unincorporated associations, or partnerships, existing under or authorized by the laws of the United States, its States, or its Territories, or the laws of Canada.
- D. "Request" means a request for assistance under this Memorandum.
- E. "Requested Participant" means the Participant from which assistance is sought under this Memorandum, or which has provided such assistance.
- F. "Requesting Participant" means the Participant seeking assistance under this Memorandum, or which has received such assistance.

## **II. Objectives and Scope**

- A. This Memorandum of Understanding sets forth the Participants' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with Covered Violation m:4[erm20 >>BDC 18446(du)-0-1.154 TD [(5 Tm6j8a)]TJ [(n)-0.6(w)



## 5. coordinate enforcement against cross-border Covered Violations

possible contraventions of laws that do not have consequences that would be considered penal under Canadian law;

4. civil penalties provided under Applicable Laws are not considered to be penal as that term is used in CASL section 60; and

5. consistent with Section V.A., a request for assistance is to confirm that the Requesting Participant is to maintain the confidentiality of each request for assistance, the existence of any investigation related to the request, all materials related to each request, and all information and material provided in response to each request, unless the Participants reach a different understanding.

C. Participants should use their best efforts to resolve any disagreements related to cooperation that may arise under this Memorandum through the contacts designated pursuant to Section III.A, and, failing resolution in a reasonably timely manner, by discussion between appropriate senior officials designated by the Participants.

#### **IV. Limitations on Assistance**

A. The Requested Participant may exercise its discretion to decline the request for assistance, or limit or place conditions on its cooperation, including where it is outside the scope of this Memorandum or, more generally, where it would be inconsistent with domestic laws or important interests or priorities.

B. The Participants recognize that it is not feasible for a Participant to offer assistance to the other Participant for every Covered Violayatsienn

D. Participants intend to share confidential information pursuant to this Memorandum only to the extent that it is necessary to fulfill the purposes set forth in Section II.

## **V. Confidentiality, Privacy, and Limitations on Use**

A. To the fullest extent possible, and consistent with their respective laws, each Participant certifies the confidentiality of information to be disclosed under this Memorandum, including the existence of an investigation to which the information relates. Subject to Section V.C, the Participants plan to treat the shared information, the existence of the investigation to which the information relates, and any requests made pursuant to this Memorandum as confidential, and do not intend to further disclose or use this information for purposes other than those for which it was originally shared, without the prior written consent of the Requested Participant.

B. The Participants recognize that material exchanged in connection with investigations and enforcement often contains personally identifiable information. If the Requesting Participant wishes to obtain confidential information that includes personally identifiable information, then the Participants understand that they are to take additional appropriate measures to safely transmit and safeguard the materials containing personally identifiable information. Protective measures include, but are not limited to, the following examples and their reasonable equivalents, which can be used separately or combined as appropriate to particular circumstances:

1. transmitting the material in an encrypted format;
2. transmitting the material directly by a courier with package tracking capabilities;
3. transmitting the materials by facsimile rather than non-encrypted email;
4. maintaining the materials in secure, limited access locations (e.g., password-protected files for electronic information and locked storage for hard-copy information); and



into force of such enactments, to determine whether to modify this Memorandum.

## **VII. Retention of Information**

A. Participants do not intend to retain materials obtained through this Memorandum for longer than is reasonably required to fulfill the purpose for which they were shared or than is required by the Requesting Participant's country's laws.

B. The Participants recognize that in order to fulfill the purpose for which the materials were shared, the Participants typically need to retain the shared materials until the conclusion of the pertinent investigation for which the materials were requested and any related proceedings.

## **VIII. Costs**

Unless otherwise decided by the Participants, the Requested Participant is expected to pay all costs of executing the Request. When the cost of providing or obtaining information under this Memorandum is substantial, the Requested Participant may ask the Requesting Participant to pay those costs as a condition of proceeding with the Request. In such an event, the Participants should consult on the issue at the request of either Participant.

## **IX. Duration of Cooperation**

A. The Participants intend cooperation in accordance with this Memorandum to become available as of the later on the date it is signed by the Participants.

B. The Participants intend that assistance in accordance with this Memorandum is to be available concerning Covered Violations occurring before as well as after this arrangement is signed.

C. This Memorandum may be discontinued, but a Participant should provide 30 days written notice of such discontinuation. However, prior to providing such notice, each Participant should use best efforts to consult with the other Participant.



D. On discontinuation of this Memorandum, the Participants are to, in accordance with Section V, maintain the confidentiality of any information communicated to them by the other Participant in accordance with this Memorandum, and return or destroy, in accordance with any methods prescribed by the other Participant, information obtained from the other Participant in accordance with this Memorandum.

E. This Memorandum may be modified by mutual consent of the Participants. Any modification is to be in writing and signed by both the FTC and the CRTC.

## **X. Legal Effect**

Nothing in this Memorandum is intended to:

A. Create binding obligations, or affect existing obligations, under international or domestic law.

B. Prevent a Participant from seeking assistance from or providing assistance to the other Participant pursuant to other agreements, arrangements, or practices.

C. Affect any right of a Participant to seek information on a lawful basis from a Person located in the territory of the other Participant's country, or preclude any such Person from voluntarily providing legally obtained information to a Participant.

D. Create a commitment that conflicts with either Participant's national laws, court orders, or any applicable international legal instruments

E. Create expectations of cooperation that would exceed a Participant's jurisdiction.

Signed at Washington, D.C., United States of America, and Ottawa,  
Ontario, Canada on March 24, 2016, in duplicate.

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Edith Ramirez  
Chairwoman  
Federal Trade Commission  
United States of America

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Jean-Pierre Blais  
Chairman  
Canadian Radio-television and  
Telecommunications Commission  
Canada

