

e-mail and the new legal scenario: ... do I send spam?



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How to send commercial information by
e-mail **without legal risks** in 4 steps

The new legal scenario

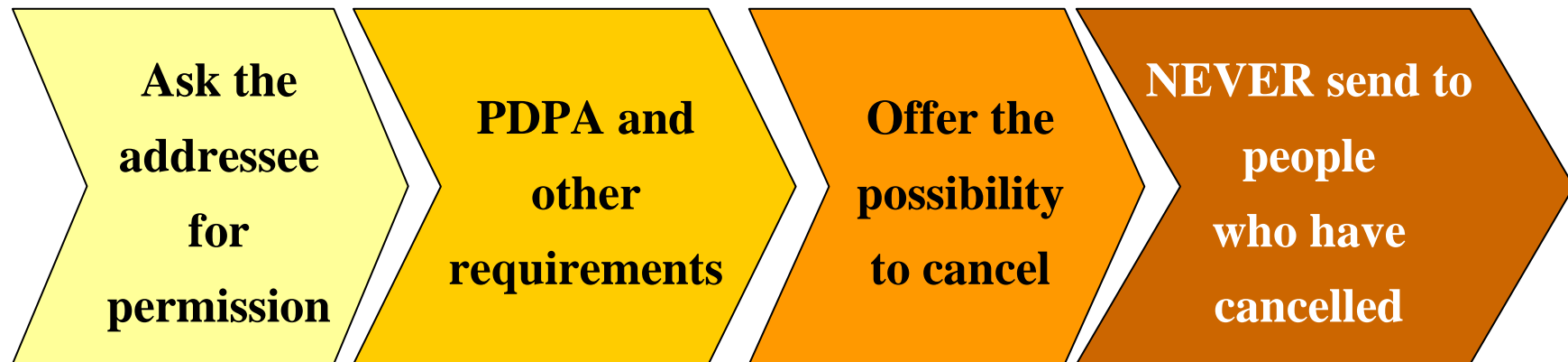
- Due to the new legal scenario in different geographic areas (EU, USA), the electronic transmission of commercial information is currently subject to strict laws. (European Directive 2002/58)
- In Spain, this law known as the LSSICE¹ and carries fines of up to €150,000.
- The question for any sales manager is now:

Can I continue to use e-mail as a sales tool?

- The answer is **YES**, if you respect regulations. This brief guide explains the steps to follow in order to send commercial mail without legal risks:
 - meeting all the requirements to ensure it is not SPAM²
 - taking the appropriate precautions to not breach the Personal Data Protection Act

1. LSSICE: Information Society and e-Commerce Services Act.
2. SPAM: these are unrequested messages normally containing advertising that are sent en masse

4-step guide to sending commercial information by e-mail without legal risks



Step 1: Permission?

- I must have the **explicit** consent of the addressee
- Methods:
 - Opt-Out: illegal.
 - Opt-In: careful with impersonations.
 - Double Opt-In: perfect.
- Mediums:
 - paper, website form, e-mail.

Step 2: Personal details and other requirements

- Implications of the PDPA when sending e-mail:
 - The right to inform of the storage of personal details must be respected.
 - The database must be registered with the Data Protection Agency.
- Other requirements:
 - Put the word “advertising” at the start of the message.
 - The PF / PJ on behalf of whom the commercial communication is sent must be identifiable.
 - Clear access to conditions for prizes, promotions and competitions, etc.

Step 3: What can be “cancelled”

- A "simple and free" cancellation mechanism must be offered in each of the commercial communications sent.
 - Recommendation: add a footnote to your messages containing text offering this possibility and indicating the procedure to follow.

N.B.: the word "advertising" must also be added

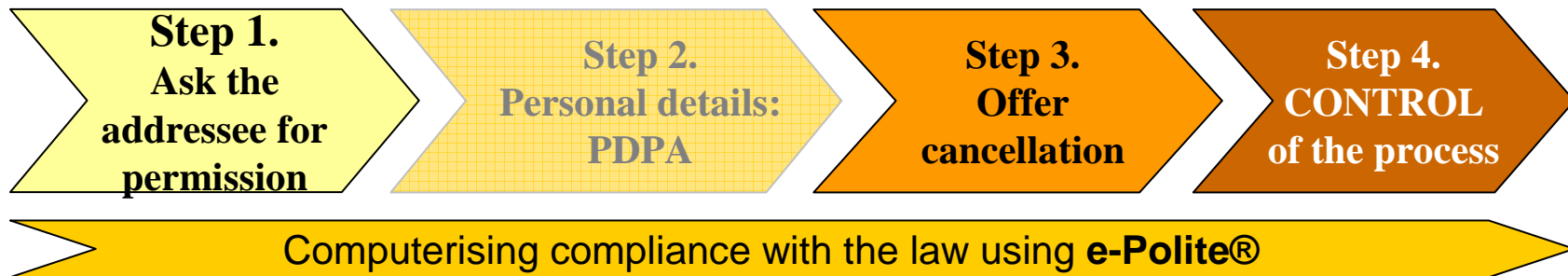
Step 4: CONTROL

- Make sure commercial e-mail is not sent to people who have cancelled their permission for it to be sent.
 - Save the "cancellation" requests in a transmission "blacklist".
 - Establish a procedure for dealing with the "blacklist".
 - Take care when training new staff, particularly sales staff.



Computerising compliance with the Information Society Services Act

- New outgoing e-mail filtering technologies offer the possibility of computerising these processes.
- ADICIONA manufactures an outgoing e-mail filter that can computerise steps 1, 3 and 4 of this guide: e-Polite®



Further information at www.e-polite.com or calling ADICIONA:

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