

Building an email list

I'm super excited that you are joining me for this third session of the summer workshop series!

In this session, we are going to cover how to build your email list by adding those you meet/interact with:

- online
- IRL

Before we dive in, a couple of housekeeping items...

First, in a minute, we'll switch over to the slide presentation and I'll walk you through the content. At the end of the presentation, I'll have some action items for you (and a resource to help you prioritize any tasks that get added to your list based on the session materials).

Second, as you are going through this, down below is a link to the live Q&A session we'll be hosting on Thursday, July 11th. Click the link to head to Crowdcast where we are hosting the session. Once you hit the "Save my spot!" button, you'll be in. And then you can use the "Ask a Question" button to leave your questions while you are watching (or later)!

Finally, there is some overlap between the laws around online privacy and email marketing. In this session, we won't be covering *exactly* what you'll include in your privacy policy. This will be covered in our next session.

With that housekeeping out of the way, let's dive in!

Email marketing laws boil down to four simple things

Email marketing allows you to demonstrate that you:

- are worth doing business with
- respect them, even if they never purchase from you
- take the ethical route, rather than skirting by with the bare minimum

It's a way for you to show that you respect people's time, money, and resources.

And by following the four basic principles of email marketing laws, you have the opportunity to stand out, be different, and delight and surprise. (And as a bonus, comply with the laws!)

#1: Ask first

We all hate it when we get a marketing email that we don't remember subscribing to. Sometimes it's because we downloaded a freebie that we never opened. (I know I'm guilty of this one.) But other times, we didn't specifically sign up for someone's email list.

And with all the pressure of having a "big" email list, it's not surprising that people do this.

But there's zero value (and likely negative value) of adding people without permission when you look at it from their perspective.

How do you feel when this happens to you? Irritated? Do you mark it as spam? Do you delete it or unsubscribe? Regardless of what you do, it leaves a yucky taste about that business in your mouth.

So the first step is to ask first *before* collecting information.

#2: Be transparent

We know that businesses need information about us. But we want to know what they know and how they are using it.

We'll be covering Privacy Policies in detail in the next session. But they really are just about pulling back the curtain telling website visitors exactly that.

Your policy doesn't have to be long and stuffed with legal jargon. But it does need to explain to website visitors things like:

- You and who else is collecting information on me?
- What information is collected automatically?
- What information is collected based on something I do?
- When do you share this information?
- Where do you use this information?
- How do you protect my information?
- How can I ask you questions about what you know about me?

So your second step is to create a policies page and share your answers to these questions.

#3: Explain the benefits of data collection

Intellectually we know nothing is private on the Internet, but that doesn't mean we want businesses knowing intimate details about us.

But this goes out the window if we think the exchange is worth it. If we think we are getting something equally valuable in return.

For example, I recently took the Thirdlove FitFinder® quiz. And I was happy to give them extremely personal details to avoid the horrors of bra shopping and have a bra that fit arrive on my doorstep.

So your third step is to stand in the shoes of your customer and tell them why handing over this information helps *them*, not you.

#4: Don't collect more than you use

Finally, when you stand in your customer's shoes, this one is obvious. You only should collect information on your customers that you need and will use.

You don't need to collect their postal mailing address if you never are going to mail something to them or calculate sales tax.

You don't need Google Analytics installed if you never use that data to improve your website, create content, or design new products.

So your final step is anytime you collect data you have a reason to and follow through on that reason.

So know that you know the goals of these laws, it's time to get into the nitty-gritty.

I'm based in the U.S. so do I need to care about any other countries' laws?

If you are a small creative business and you are based in the United States, then which email marketing laws do you need to care about?

What surprises many creative business owners is that when it comes to email marketing laws, where your business is based doesn't matter.

That's right, where you sit to create your emails means zip. What matters is where your email subscriber is from.

But having a random email subscriber from Cuba doesn't automatically mean you need to comply with Cuban law.

What matters is if you are targeting and hoping to attract email subscribers from Cuba. And if you are, then you need to comply with Cuban email marketing laws.

For example,

- If I wrote an article about Cuban copyright law and had an opt-in form on that article, then I'd need to comply.
- If I shipped products to Cuba, then I'd need to comply.
- If I accepted payment in the Cuban peso, I'd need to comply.
- If I wrote articles in Spanish, then I *might* need to comply.

Which means if you'll accept the local currency and will ship to a country, then you'll need to care about the email marketing laws of that country.

U.S. email marketing laws AKA CAN-SPAM Act requirements

For most of us based in the United States, the majority of our email list also is based in the U.S.

And when it comes to sending emails to U.S. subscribers, you must follow the CAN-SPAM Act whenever sending emails containing commercial content. And this law applies both to messages sent to individuals and businesses.

What is the message type?

To decide if the law applies, you have to figure out the why behind sending the message. According to the law, there are three categories:

- commercial
- transactional
- other

Commercial

Your message is a commercial message, [according to the FTC](#), if your why is to:

advertise or promote a product or service or to direct people to a business' website

And when you have a commercial message, you must follow the requirements of the CAN-SPAM Act.

Transactional

Your message is a transactional message, [according to the FTC](#), if your why is to:

update or help a customer with a new or ongoing transaction

Examples of this include:

- providing a purchase confirmation
- delivering the digital download purchased
- providing a receipt
- providing information on a product's warranty
- giving information on changes in terms or features
- for memberships, subscriptions, or loans providing account balance information

If you have a transactional message, you are exempt from most of the CAN-SPAM Act requirements. The only requirement you must follow is providing a valid reply email address.

Other

If the why isn't one of these, then you don't have to follow the CAN-SPAM Act. (E.g. emails you send to friends and family.)

What about mixed messages?

Often in our businesses, we send messages that have more than one why.

For example, if a customer purchases a product and you send a shipping confirmation but also encourage them to head to your website to see how other customers are using the product.

In that case, you've sent both a:

- transactional email (shipping confirmation)
- commercial email (directing them to your website)

If your message contains more than one why you should assume that the CAN-SPAM Act applies and follow the rules.

What the CAN-SPAM Act prohibits

The CAN-SPAM Act only requires that you:

- not use a false or misleading subject line
- give them the option of opting out
- identify your message as an advertisement
- provide a valid reply email address
- provide a postal mailing address

EU email marketing laws AKA GDPR

If you are targeting those in the EU by shipping there or accepting their currency, then you'll also need to comply with GDPR, which is the online privacy law (that includes email marketing) in the EU.

There are two big differences between the CAN-SPAM Act and GDPR.

These are:

- You must document that consent was given
- You can't "bundle" signing up for your email list with another offer (e.g. a content upgrade, coupon code, sign up upon purchase)

But GDPR has a few other requirements as well. To create a GDPR-compliant opt-in you must:

- have proof that they've consented to your email marketing
- not include any pre-checked boxes on your forms
- have a link to your privacy policy on your form
- be clear and specific about what they are signing up for
- not group things together (the bundling concept)

You must document that consent was given AKA have proof

Most lawyers will tell you that GDPR means that you *really should* do a double-opt-in. Most marketers will tell you that GDPR doesn't *require* a double-opt-in.

And it's true, the marketers are technically correct, GDPR doesn't *require* a double-opt-in. But a single opt-in runs the risk of adding someone to your email list that didn't give you permission.

Before we dive into why let's make sure we are on the same page about the difference between the two.

A single-opt-in is a one-step process. Someone enters their email in your opt-in form and they are automatically added to your list.

Business owners (and marketers) love single-opt-ins because they can grow your email list much quicker. Because it just takes entering an email to be added to your list. The downside of this rapid growth is that you have a higher bounce rate (from incorrectly typed emails) and more unsubscribes (because people didn't really want to be on your list).

A double-opt-in is a two-step process. Someone enters their email in your opt-in form. Then they get an email via your email marketing service provider and they must click a link/button within that email to confirm. Only once they click are they added to your list.

The downside of a double-opt-in is that some people find them annoying and/or don't realize that they need to click the link to be added to the email list. Because of that, your list grows slower. But you know that those that are on your list want to be there. So the upside is that double-opt-in lists usually have higher engagement and a lower unsubscribe rate.

In the resources section, I've included a [blog post that outlines the pros and cons of each option from a marketing standpoint](#).

But from the legal standpoint, my friend Jill is the perfect example of why a double-opt-in assures that you have proof that someone has consented to be on your list. (Any why lawyers think you *should* do it.)

Jill's last name is Stafford. And there are several other Jill Stafford's out there in the world. And just this week, my friend Jill posted her regular update of what the *other* Jills are doing. (These updates happen every few months.)

Jill can post these updates on the other Jills because she gets emails intended for them in her inbox regularly.

Some of these emails are trivial. The other Jills have taken art classes, got fancy dinner reservations, or flowers delivered to them.

But other emails contain some not so trivial information. She's gotten medical forms, travel confirmations, and elementary school notices.

She's also been signed up for all kinds of email lists and deal sites that the *other* Jills signed up for.

She never consented to those emails. So a single opt-in isn't proof that she gave consent. But a double-opt-in allows her to say that she doesn't consent. Her non-action allows them to know that she hasn't consented and therefore, shouldn't be added to their email list.

You can't "bundle" signing up for your email list with another offer

The second difference between the CAN-SPAM Act and GDPR is the trickiest. Because it means that under GDPR you must either:

- make your freebie available to those that don't sign up for your list
- make your freebie a benefit of joining your list

This "no-bundling" requirement was what resulted in the most hand-wringing in the Spring of 2018.

In a minute, I'm going to break down what this means a little more by showing you good and (not so good) opt-ins!

But for now, what's important to understand is that you can't require someone to:

- sign up for your emails in order to get your freebie/discount
- sign up for your emails and also agree to your terms/privacy at the same time

How to add website visitors to your list

To add website visitors to your email list, you'll need to create an opt-in form. Since the CAN-SPAM Act, doesn't touch on this aspect, you don't need to worry about your opt-ins from that angle.

However, GDPR does outline what you should and shouldn't include in your opt-in forms.

First, we've got an example of a not-so-good opt-in.

This opt-in has two things wrong with it.

First, it bundles. And that's because you have to agree to BOTH:

- signing up for their emails
- agreeing to their Terms of Service and Privacy Policy

And since you can't agree to one without the other, it's bundling.

The second thing it has going wrong is that the box is pre-checked.

Next, we've got another one that doesn't meet all the requirements.

On this one, we notice:

- that it's not clear what you are signing up for
- that there isn't a link to the Privacy Policy
- that it might be bundling because to get the discount, you have to be on the list (more on how to get around this one on the next opt-in!)

The third example of one that doesn't meet all the requirements is this one.

This one is a better attempt at avoiding bundling, but I'm not totally sold on the wording.

Instead, I'd like to see something like:

Receive exclusive updates, first dibs on new arrivals, VIP sale notifications, and we'll kick things off by giving you 15% off your first purchase.

The final example is my own opt-in!

You'll notice that it contains all the required elements:

- no pre-checked boxes
- a link to my privacy policy
- it is clear and specific about what they are signing up for
- it gives an option to get the freebie WITHOUT signing up for my list

In the Spring of 2018, I designed some experiments.

My hypothesis was that I could cultivate a more engaged email list if I gave website visitors a choice of:

- getting the freebie only
- getting the freebie and signing up for my list

Of course, there was a **huge** potential downside to this experiment, that the majority of people would get the freebie and not sign up for my list.

But I decided that having a smaller and more engaged list was worth more than this potential risk.

So I designed an experiment where I started offering the option on my most popular content upgrades.

And immediately the results were positive:

- my open rate started creeping up
- my click-through rate started creeping up
- my growth rate slowed but was still growing
- my unsubscribe and bounce rate dropped significantly

A year later, these experiments have resulted in:

- only 29% opting for the freebie only
- my open rate increasing 26% (from 38.6% to 48.6%)
- my click-through rate increasing 127% (from 3% to 6.8%)
- a consistent growth of my email list of about 30% YOY (with churn dropping to 0.3% including those that unsubscribe *and* those I delete during my quarterly list-cleaning of contacts deemed "Cold" by Convertkit)

It turned out, my fears about people just grabbing the freebie were unfounded. And overall, it was one of my most successful list-building experiments to date.

How can you avoid bundling?

- Turn your freebie into one of the benefits of signing up for your list. You could write something like:
 - Join our mailing list to get exclusive updates, discounts, and first dibs on new arrivals. We'll even kick things off by giving you 10% off your next order!
 - Join our mailing list to get tips and tricks for living your best creative life. And as a bonus, we'll give you a list of 10 ways you can be creative, even if you are sitting in your car waiting to pick your kids up from school.
- Allow people to get the freebie without signing up for your list.
- Make sure you aren't grouping email marketing with website policies

What should you do? It's up to you. But I'd think about these things when deciding:

- How active and engaged is your list?
- How many of your list subscribers have marked your emails as spam? (This often happens because get the freebie and then forget that they signed up for it.)
- How valuable is your freebie?
- How often do people get your freebie and then immediately unsubscribe?

Do you have to do anything if you switch email marketing service providers?

The good news is that if you decide to switch email marketing service providers, you don't have to do much!

All you need to do is transfer the information from one service provider to the other.

The only caveat to this is if you have collected information about the preferences, you need to make sure that information is transferred.

For example, when people sign up for my email list, they have the option of getting:

- my weekly email
- the monthly blog round-up
- notifications of live workshops
- notifications of new Ask Kiff episodes

And each of these emails has the option for my subscribers to change their preference about which ones they get.

To accomplish this I change the way they are tagged in Convertkit.

Say you decide that you no longer want to get the monthly round-up. When you click the link in the monthly round-up email, Convertkit will add a tag to your profile that says WANT: Monthly Roundup-Do not send.

So if I switched providers, I'd also have to transfer the information about my subscribers' preferences.

The other thing that you'll need to do is update your Privacy Policy. As we'll discuss in the next session, you need to outline in your Privacy Policy what other service providers are holding data for you. And so you'll update the name of your current email marketing service provider, with your new one.

How to add people you meet IRL to your list

The basic process to collect and add those you meet IRL to your email list is to:

- create a sign-up form that indicates if you have permission to send a single email or sign them up for your list
- send them the welcome email
- delete them if they didn't sign up by the date in the email

Sign-up form

Before the event, you need to create a form that people will sign up on.

This form should:

- clearly explain what he/she is signing up to get (e.g. how often emails are sent, what kinds of content is sent, etc.)
- not bundle (e.g. they have the option of getting the freebie/discount without signing up for your list)

And so that you have proof of consent, you'll scan the forms and save them as PDFs after the event.

Welcome Email

Once you have the forms post-event, you need to get them into your email marketing service provider.

Here's my process:

1. Type them into two Google Sheets and export them as a .csv. There is:
 - a. One Google Sheets for those that said "Yes"
 - b. One Google Sheets for those that said "No thanks"

2. For those that said, “Yes” I upload the .csv to import them into Convertkit and:
 - a. Tag them with the name of the event.
 - b. Tag them with GDPR: Consent because they agreed to receive my email marketing.
3. For those that said, “No” I upload the .csv to import them into Convertkit and:
 - a. Tag them with the name of the event.
 - b. Tag them with GDPR: Content Upgrade Only because they DID NOT agree to receive my email marketing.

And once you’ve added them, you need to send them a welcome email.

I usually send two emails.

One email goes to those that said “Yes” out gives them the freebie and reminds them what to expect from here on out.

A similar version goes to those that said “No” it also gives them the freebie and includes a link they can click if they changed their mind and want to be added to my list. I explain, that if they don’t click this link by a specific date, I’ll delete them and never email them again. If they click the link, then their tag is changed to GDPR: Consent.

And then on the date outlined in the “No thanks” email, those that are tagged BOTH with the event name and GDPR: Content Upgrade Only are deleted from Convertkit.

What your email marketing template must include

The final step is to assure that your email marketing template contains all the required elements. The combined requirements of the CAN-SPAM Act and GDPR are:

- explain why you think you have consent to email them
- your name/business name and postal mailing address
- unsubscribe link
- privacy policy link

Additionally, when you send your campaign you’ll want to make sure that your subject line accurately reflects what’s included. Not only is this a requirement under the law, but you also don’t want readers to feel like you pulled a bait and switch on them.

You’ll also need to make sure that you have a valid reply to: email address. So if someone hits reply to your email, that it comes to your business.

And yes, a valid postal mailing address is a legal must. If you want to protect the privacy of your home address, make a small investment and rent a P.O. Box or a Private Mailbox.

What's the difference between a P.O. Box and a Private Mailbox? Just the location! P.O. Boxes are only at the USPS Post Offices. While Private Mailboxes are at businesses, like the UPS Store.

Your next steps

Whew! That was a lot. For some of you, this session might have created quite a few action items.

And it might be overwhelming to figure out what is and isn't most important. If so, then here's the order that I'd suggest tackling them:

1. Update your email marketing template.
2. Figure out which countries laws you need to comply with (AKA where you ship to/accept the currency from).
3. Decide if you want to go with a single- or double-opt-in.
4. Decide if you want to offer a freebie only option. And if not, modify your opt-in language so that it's not bundling.
5. Update your opt-in forms to make sure they contain:
 - a. all the required information
 - b. why it benefits the subscriber, not just you
 - c. only collects the information you need
6. Before your next IRL event, create a process to collect emails from those you meet.

Here are your action items for this session:

- Leave any questions about this material in the live Q&A session
- Create a to-do list of any items that this session created and sort it using the list above.
- Block off one hour on your calendar to begin tackling your list