

OPC issues warning: Affiliate marketing industry must comply with privacy requirements

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The Office of the Privacy Commissioner of Canada (OPC) published a [warning for affiliate marketers](#) after an international study found significant violations of privacy law and the rules regarding unsolicited communications. Given the OPC's warning, franchisors would be wise to review their affiliate marketing practices to ensure compliance with applicable laws.

The [Unsolicited Communications Enforcement Network \(UCENet\)](#), a global network that promotes international spam enforcement cooperation, investigated hundreds of international websites and thousands of consumer complaints related to affiliate marketing. In its [2017 Sweep Report](#) [PDF], UCENet found the following:

- Most publicly available terms of service between affiliates, merchants and affiliate platforms did not include guidelines for an appropriate approach to unsolicited communications.
- Affiliates generally did not obtain the consumer's consent for electronic communications, even in countries where such consent is required.
- Misleading advertising is "prevalent" in the affiliate marketing ecosystem.
- Some affiliate marketing platforms had short lifespans or operated in different countries, complicating enforcement.

Two hundred and twenty-one websites were identified by UCENet for follow-up action. Notably, the 2017 Sweep Report indicates that participating agencies (which include the Canadian Radio-Television and Telecommunications Commission and the OPC) may pursue further analysis, investigation and enforcement actions against the targets identified.

If you have any questions about the application of Canada's privacy laws to your marketing practices, Osler's [Privacy Group](#) is ready to assist you.