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## E-mail Marketing Best Practices for Pharma

By John Mack

Several recent surveys indicate that pharmaceutical companies will put more emphasis on DTC e-mail marketing in 2005. In the "2004 DTC Industry Checkup," for example, e-mail marketing was most often cited as primed for an increase (see "DTC in 2005: Can You Teach Old Dogs New Tricks?"; [PMN Reprint #42-03](#)). A JupiterResearch study found that a majority (67%) of pharmaceutical companies will increase their 2005 DTC e-mail marketing budgets.

E-mail will likely be an important tool to drive compliance and adherence. "There seems to be a shift in strategic focus in pharmaceutical online marketing," said Monique Levy, a JupiterResearch analyst covering healthcare. "While acquisition and retention both remain important, the Web has appeared to date best suited to driving new customers to drug trials. Pharmaceutical companies know this, and have achieved a certain mastery at it. Now, they are shifting their sights to adherence, which in marketing language means loyalty and retention." (see "Pharmaceuticals Target Direct-to-Consumer Marketing in '05," <http://www.clickz.com/stats/article.php/3451121>).

The most important issues confronting e-mail marketers are privacy, security, and spam. Your e-mail campaigns will be more effective if you develop and implement best practices that protect the privacy of consumers, keep their personally identifiable information secure, and distinguish your e-mail from spam. Privacy issues have been dealt with in other articles (see, for example, [Pharma Marketing News Privacy Reprints](#)), so I won't say much about that here.

### Security Breaches

Paraphrasing a line in a memorable Seinfeld TV episode, "you may know how to obtain sensitive consumer information, but do you know how to keep it secure?" That's really the most important part of the privacy commitment to consumers and essential for any e-mail marketing campaign.

Recently, several major data brokers, banks, universities, hospitals, etc. have had security breaches and either lost millions of consumer records or compromised the privacy of those records. This has become such a concern that the United States Congress is considering a national notification law similar to the law passed in California in 2003, which requires companies doing business in the state to notify consumers of security breaches.

No pharmaceutical company has had more experience with security problems than Eli Lilly (see "The FTC-Lilly Consent Decree: What it Means for PHARMA Vendors and Partners," [PMN Reprint #211-03](#)). By now, every pharmaceutical marketer should know about the inadvertent e-mail message that led to Eli Lilly becoming the first major pharmaceutical company to settle an online consumer privacy complaint with the FTC.

Lilly has implemented a security program to comply with the FTC decree. This 4-point program, which should serve as a model for all pharmaceutical companies and agencies (especially agencies that want to do business with Lilly), requires Lilly to:

1. designate appropriate personnel to coordinate and oversee the program (i.e., a privacy officer or someone with privacy officer responsibilities),
2. perform a risk analysis to identify internal and external security risks, including "any such risks posed by lack of training,"
3. conduct a yearly annual written review to monitor and document compliance with the program, and
4. adjust the program in light of any findings and recommendations resulting from reviews or ongoing monitoring, and in light of any material changes to Lilly's operations that affect the program.

## Vendor Critical Self-Assessment

Pharmaceutical companies will typically engage the services of an e-mail vendor to acquire lists and manage at least some aspects of their e-mail marketing campaigns. Vendors working on behalf of pharmaceutical companies are subject to the laws discussed above, but ultimately pharma companies will suffer the consequences of any security breaches.

Vendors should have written Standard Operating Procedures (SOPs) that address privacy and security issues regarding the personally-identifiable information (PII) of consumers, including e-mail address. Policies should address the following:

- **Access to and Use of PII:** Only employees that need PII to perform their jobs should have access to consumer PII. Consumer PII should be used only for purposes allowed by the data subjects.
- **Security:** There should be policies and procedures designed to protect consumer PII from external threats and PII should be stored and transferred in a secure manner. Any subcontractors employed by the vendor should protect PII in an equivalent manner.
- **Employee Training:** Vendors should have training policies in place for all employees, temporary workers, and subcontractors who have access to PII.

## Spam

The more pharmaceutical marketers can do to distinguish their e-mail from spam, the better.

Spam—"unsolicited commercial e-mail"—is a burden on the Internet. Some studies suggest that as much as 87% of all e-mail messages are spam. Surprisingly, however, a new Pew Internet & American Life Project study found that while there may be more spam, it bothers people less, perhaps because more of it is getting filtered and never reaching peoples' inboxes. The Pew study found that 53% of e-mail users say spam has made them less trusting of email, compared to 62% a year ago. It also found that less email users this year than last (22% vs. 29%, respectively) claim that spam causes them to reduce their use of email.

There will always be consumers who perceive ALL commercial messages as spam. In a 2002 Harris Interactive survey, 16% of respondents said there is no difference between e-mail marketing and spam. As a consequence, some consumers may block your email messages using spam filters or, worse, may lodge a complaint with the FTC. As the Lilly case demonstrates, it only takes one

disgruntled e-mail recipient to initiate a suit and tarnish your public reputation.

E-mail marketing best practices focus on (1) distinguishing your e-mail from spam, and (2) protecting the privacy of consumer recipients of your e-mail communications.

## Permission

As a first step, pharmaceutical marketers should practice "permission-based" e-mail marketing. This simply means that consumers first "opt in" or give their permission for the marketer to communicate with them via e-mail. Consumers can opt in via Web sites, call centers, or via BRCs. Usually the permission is given in exchange for a perceived benefit such as a discount coupon, free newsletter, or participation in a compliance program.

Permission must also be revocable at any time. This is usually referred to as "opting out." This will be discussed in more detail below.

Some pharmaceutical companies employ a corporate-level "blanket opt-in" option through which the consumer can opt in to receive information about all the products offered by the company. This seldom is beneficial to the consumer unless the products are related. With a blanket opt-in the frequency of e-mail increases and the consumer is more likely to consider the sender a spammer. Frequent e-mail also may cause recipients to opt out from further communications. It is much better to solicit opt ins for specific purposes and limit your communications to fulfill those specific requests.

It should be noted that aside from distinguishing your e-mail from spam, "permission-based" marketing may help you achieve a higher return on your DTC marketing investment. For more on this subject see "Out-of-the-Box Marketing: Will It Work for Pharma?" ([PMN Reprint # 27-02](#)).

## Double Opt-In

Some marketers use a "double opt-in" approach. The marketer collects opt-ins as discussed above and then automatically sends a welcome e-mail message that requires the recipient to confirm the request to opt-in. Usually, this is easily done by clicking on a link in the message.

There are pros and cons to using a double opt-in. The consumer can miss the message and never send a confirmation and hence not receive the requested communications from you. However, double opt-in ensures that the consumer is the intended recipient and reminds the consumer of the benefits of the communications to follow. Double opt-in should be the standard when using 3rd party e-mail lists.

## Some State and Federal Laws Impacting E-mail Marketing

**Online Privacy Protection Act of 2003**, which became effective on July 1, 2004, states "an operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service shall conspicuously post its privacy policy on its Web site..." The law also specifies what the privacy policy should say. For example, the privacy policy shall "identify the categories of information that the operator collects through the internet about individual users of, and visitors to, its commercial Web site or online service and the categories of persons or entities with whom the operator may share the information."

This law affects every business that uses a Web site to collect personally-identifiable information—including e-mail address for newsletters. Most pharmaceutical company Web sites have compliant privacy policies, so this law should not pose a direct problem for pharmaceutical companies doing their own e-mail marketing. However, if a third-party Web site is used to collect e-mail addresses on behalf of a pharmaceutical company, a critical assessment by the pharma company of the third party should require that the site "conspicuously" post a privacy policy that is compliant with this law.

**California Security Breach Information Act**, which became effective July 1, 2003, requires companies based in California or with customers in California to notify them whenever their personal information may have been compromised. This law applies to every pharmaceutical company that has customers in California, which means every pharmaceutical company, period. Recent security breaches at ChoicePoint and LexisNexis, according to the Financial Times, "have only come to light because of [this law]." Additional states have introduced legislation requiring that companies and/or state agencies disclose to consumers security breaches involving personal information. Legislation modeled on the California law is likely to be introduced in this session of Congress.

**The California "Shine the Light" Law** (S.B. 27), operative January 1, 2005, is one of the first legislative attempts to address "list brokerage," the compilation and sale of individuals' personal information. Under this law, companies that do business with California residents have to either allow customers to opt out of information sharing, or make a detailed disclosure of how personal information was shared for direct marketing purposes. The law applies only when companies have not provided California residents with notice of privacy policies containing opt-out options. This means that companies that have created a privacy policy and opt-out that is compliant with S.B. 27 are not required to give a detailed accounting of information sharing.

When purchasing or renting lists from third party companies/brokers, the best practice is to assure that the company or broker is compliant with S.B. 27. The preferred vendor will have made known their privacy policy and opt-out procedures to list members.

**CAN-SPAM Act, Controlling the Assault of Non-Solicited Pornography and Marketing**, which became effective January 1, 2004, is the most important law affecting e-mail marketing. CAN-SPAM applies to all e-mail messages whose "primary focus" is commercial. Although the FTC has not yet established criteria for determining when this is the case, it is clear that all e-mail from pharmaceutical companies to consumers must be considered commercial and, therefore, subject to this law. See the article "What You Need to Know About the New 'CAN-SPAM' Law" ([PMN Reprint #31-01](#)) for a detailed review of the law and its impact on legitimate e-mail marketing. It's interesting that the law puts pornography and marketing on an equal footing.

Please choose one of the following options:

- By clicking here and submitting this form you also agree that Pfizer and companies working with Pfizer may:
  - Use your information to help develop new Pfizer products, services, and programs you may find useful.
  - In the future, provide you with materials you may find useful.
  - Contact you about health related topics.
- Or, by clicking here you indicate that you want us to use the information you are now providing only to send you the Lipitor information you requested.

Yes, send me information on NEXIUM and related health information.

Yes, send me information on all AstraZeneca products, programs, and services that may be of interest to me.

First Name\*  Last Name\*

Address\*

City\*  State\*  Zip\*

E-mail Address  [Privacy Statement](#)

Are you registering for yourself?\* Yes  No

Which medication do you primarily use for heartburn?

Free 7-day Coupon

step one

**FIGURE: Levels of Consent.** Pfizer’s Lipitor Web site (left) and AstraZeneca’s Nexium Web site (right) offer examples of how to obtain the appropriate level of consent during the opt-in process.

### Confirmed Opt-In

The confirmed opt-in technique is similar to the double opt-in process in that a welcome message is sent to the consumer. However, the message merely confirms that the recipient has opted-in and no further action is required. The confirmation message, however, should include the opportunity to opt-out. Confirmed opt-in should be the method of choice for pharma companies managing their own e-mail databases and sending their own bulk e-mail messages.

### The Message is the Medium

Many best practice principles for composing e-mail marketing messages have been codified in the CAN-SPAM law. By complying with this law, you will go a long way in distinguishing your e-mail from spam.

### Do not use false or misleading header information.

Spammers typically falsify e-mail headers to make it impossible to trace the source of the e-mail. Header information is usually not visible to the consumer receiving e-mail messages. It contains information, however, that e-mail servers use to route messages to and from computers. By using valid headers, you have taken the first step to distinguish your e-mail from spam.

For non-techie marketing folks, it is enough to say that the “From,” “To,” and routing information – including the originating domain name and e-mail address – should be accurate and identify the person or entity that initiated the e-mail. The pharmaceutical company “initiates” the e-mail whether it “sends” the message itself or hires a third party.

All e-mails should be sent from a legitimate, active e-mail address. Replies should go to an in-box that

is monitored in order to process opt-out and other requests.

“What really matters,” says Paul Buta, COO at Optas, a provider of privacy-safe marketing solutions, “is that there is a valid return address and that the recipient has a range of options for opting out of future messages: opt-out links, monitored postal addresses, call center, etc. A responsible 3rd party e-mailer should be able to handle this for the pharmaceutical company.”

### Be transparent.

CAN-SPAM requires that commercial e-mail be identified as an advertisement and include the sender's valid physical postal address.

Your message should contain a clear and conspicuous notice in the body of the e-mail that the message is an advertisement or solicitation and that the recipient can opt out of receiving more commercial e-mail from you.

Recipients of your e-mail marketing messages may not remember signing up to receive such communications from you. Consequently, experts recommend that a reminder be included at the top of each e-mail message informing recipients that they have signed up for the service. Also, be sure to direct recipients to the opt-out instructions, which should be included at the end of each message.

An example of this reminder might be: “You are receiving this e-mail communication because you requested this information. If you prefer not to receive future messages from us, please follow the instructions at the bottom.”

### Don't use deceptive subject lines.

Spammers frequently use deceptive subject lines to fool recipients into opening their messages.

All e-mails should have accurate subject lines that do not mislead recipients about the contents or subject matter of the message. "ADV:" or "Advertisement" is not required to be included in the subject line.

This is probably a "no brainer" for most pharmaceutical e-mail marketers. However, unless there is a standard procedure for reviewing subject lines, an enthusiastic marketing associate at your agency may insert a "cute" subject line designed more to improve open rates than to convey the contents of the message.

### **Honor opt-outs within 10 business days.**

CAN-SPAM requires that each commercial e-mail message include instructions for opting out. You must provide a return e-mail address or another Internet-based response mechanism that allows a recipient to opt out of future e-mail messages. You must honor these requests within 10 business days. You may create a "menu" of choices to allow a recipient to opt out of certain types of messages, but you must include the option to end any commercial messages from the sender.

Provide a valid return e-mail address or a link to a Web site that allows recipients to unsubscribe (opt-out) from future e-mail messages. If you used multiple levels of opt-in, you should provide a "menu" of choices that allows recipients to select the types of messages they do not wish to receive (selective opt-out). In any case, you must include the option to opt-out from all e-mail communications from the sender.

Finally, do not sell or transfer the e-mail addresses of people who have opted out, even in the form of a mailing list, unless you transfer the addresses so another entity can comply with the law. For example, if you use multiple lists from various 3rd party sources, you should maintain a "suppression file" containing all the e-mail addresses of people who have opted out of receiving communications from you. You must provide this suppression list to the 3rd party to "scrub" or remove the opt-out e-mail addresses from their lists.

This process can be quite complicated if you have recipients who have opted in for different kinds of communications and who subsequently opted out from one or another, but not all communications.

### **As Common as Brushing Your Teeth**

A 2001 America Online study found that consumers with Internet access check their e-mail about as often as they brushed their teeth (13.1 and 14.5 times per week, respectively). This may say more about the dental hygiene of Internet

users than their e-mail habits. Nevertheless, e-mail is an important channel for reaching consumers. Care should be taken by marketers not only to use this channel with the above best practices in mind, but also to use it effectively in combination with other channels like TV, Web sites, call centers, and direct mail.

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### **Summary of E-mail Best Practices Principles**

- All e-mails should be sent from a legitimate, active e-mail address. Replies should go to an in-box that is monitored in order to process opt-out and other requests.
- Your message should contain a clear and conspicuous notice in the body of the e-mail that the message is an advertisement or solicitation and that the recipient can opt out of receiving more commercial e-mail from you.
- All e-mails should have accurate subject lines that do not mislead recipients about the contents or subject matter of the message. "ADV:" or "Advertisement" is not required to be included in the subject line.
- Provide a valid return e-mail address or a link to a Web site that allows recipients to unsubscribe (opt-out) from future e-mail messages. If you used multiple levels of opt-in, you should provide a "menu" of choices that allows recipients to select the types of messages they do not wish to receive (selective opt-out). In any case, you must include the option to opt-out from *all* e-mail communications from the sender.

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