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## Overview

Hospitality brands frequently ask whether marketing content can be included in transactional emails such as booking confirmations, itinerary updates, RFP acknowledgments, or folio receipts. In the United States, these messages fall under the CAN-SPAM Act, and compliance depends on the primary purpose of the email.

Transactional emails may include limited marketing content, but only if the transactional purpose remains dominant. If promotional content becomes prominent, the message is reclassified as a commercial (marketing) email, which triggers full CAN-SPAM requirements.

This article outlines what is **allowed**, what is **not**, and *how* hospitality organizations can remain compliant while still enhancing the guest experience.

## Can transactional emails include marketing content?

Yes, but only minimally.

Under CAN-SPAM, email classification is determined by the primary purpose of the message. Transactional emails are permitted to include some marketing content as long as the transaction-related information is clearly central to the message.

## Key Principles

Based on Current Industry and Regulatory Guidance

### A. CAN-SPAM Act Requirements

The Federal Trade Commission (FTC) defines a commercial email as one whose primary purpose is advertising or promoting a product or service. If a transactional email contains too much promotional content, it is reclassified as commercial and must follow all marketing requirements.

- Transactional emails do not require an unsubscribe link.
- Transactional emails may include minor, non-dominant marketing content.

If promotional content dominates the message, the email becomes commercial and must:

- Identify itself as an advertisement
- Include a physical postal address
- Include a clear opt-out mechanism
- Honor opt-out requests within 10 business days
- Use truthful headers and subject lines

## **B. The “Primary Purpose Test”**

Mixed-content emails—those containing both transactional and promotional elements—are evaluated based on whether the transactional purpose is the dominant, most prominent content.

If promotional material is more visually prominent or occupies more space, the message is treated as a marketing email.

## **C. Current Best Practices (2025–2026)**

Email compliance and deliverability experts advise that transactional emails can lose their exempt status if they include too much promotional content. Allowed elements include:

- One small cross-sell module
- A low-key banner placed at the bottom
- Light loyalty-program messaging

However, adding multiple promotions, large hero images, or discount offers increases the likelihood the email will be treated as marketing and must include an unsubscribe option.

# **Recommendations for Hospitality: What is Safe vs. Risky**

## **Safe to Include in a Transactional Email (Compliant)**

These items are acceptable as long as they are secondary to the transactional content:

- A single small “Enhance Your Stay” or “Book Spa Reservations” module
- A subtle footer banner for loyalty sign-ups
- Property photography that is non-promotional (no offers or discounts)
- A link to general resort amenities or information pages

These additions are considered supportive content, not promotional.

## Risky or Non-Compliant

The following elements risk shifting the message into “commercial email” territory:

- Multiple promotional offers or upsells
- Discount codes, package deals, or rate promotions
- “Book Now,” “Save 15%,” or other strong marketing CTAs
- Large promotional hero images
- Any design element that visually competes with or overshadows the transactional content

These should be included only in dedicated marketing emails that contain opt-out links and the required CAN-SPAM disclosures.

**Rule of Thumb:** If you removed all transactional details and the email **still feels like marketing**, it will likely be classified as a marketing email under CAN-SPAM.

## Summary for Hospitality Marketers

Transactional messages—such as booking confirmations, RFP acknowledgments, and itinerary updates—may include light marketing content only when it is secondary and visually unobtrusive. Maintaining transactional dominance ensures the message remains compliant and avoids the need for marketing-email disclosures.

When in doubt, keep promotional content:

- Minimal
- Clearly secondary
- Below the core transaction information

This maintains compliance while supporting guest engagement.

*Sources:*

1. [\*FTC CAN-SPAM Business Guidance\*](#)
2. [\*MailMonitor\*](#)
3. [\*Suped\*](#)