

NO-SPAM POLICY

This policy further defines some of the prohibited actions as found in Agility's Acceptable Use Policy, a part of the master agreement you executed when you subscribed to Agility's services and which outlines the acceptable and prohibited actions on your hosted account.

Owners of Agility hosted accounts are responsible for the complaints and consequences arising from use of the hosted account.

Upon discovery or notification of these service abuse, Agility will investigate and, without prior notice to you, may disable any account in order to protect the security, integrity and usability of the hosting services and the Agility servers and shared network.

WHAT IS SPAM?

Agility defines SPAM, also known as Unsolicited Commercial Email (UCE) or Unsolicited Bulk Email (UBE), as any email message the recipient considers unsolicited and of a commercial nature or email sent in bulk. Agility expressly prohibits the sending of SPAM through its network and servers.

If you believe that you have received SPAM (as defined above) through Agility's network, please send a signed complaint along with the message you received, including its complete email headers, to abuse@agility-network.com.

Agility does not investigate or take action based on anonymous SPAM complaints.

PROHIBITED EMAIL ACTIVITIES

Sending UCE/UBE, also known as SPAM

Defined as the sending of email to recipients who consider the message unsolicited email of a commercial nature or the sending of email in bulk to recipients who consider the message unsolicited email of any nature. It is one of the most serious account abuses.

UCE or SPAM Response collection

Defined as the collection of responses, directly or indirectly, from UCE or UBE sent by you or UCE or UBE sent on your behalf.

Web Site Advertising via UCE and UBE, also known as SPAMvertising

Defined as the sending of email which:

- is UCE or UBE as defined above; and
- contains direct or indirect link or references to one or more Websites.

This also includes the use of third-party email accounts, servers or services to SPAMvertise the site(s).

Mail Bombing

Defined as the sending of an unreasonably large number of electronic mail messages to a single system, person or email address.

Mail Harassment

Defined as sending email in a manner or with content that is perceived as threatening or harassing by the intended or actual recipient.

Letter Bombing

Defined as sending email with content that will or could potentially harm the recipient's computer.

PROHIBITED MAILING LIST ACTIVITY AND ADDRESS LIST MINIMUM REQUIREMENTS

The following is a list of minimum requirements for the permitted use of mailing list by way of Agility services and networks. They are guidelines to minimize the probability of complaints. However, you will still be responsible for any complaints in relation to your account despite having implemented all of the requirements.

If you send out bulk email, your email will be conclusively labelled as SPAM unless you implement all of the following requirements, either under Option A or Option B below.

Option A. Listserve-style Email Lists

(All members add themselves to the list by sending email from their email address to the list owner)

1. In the initial message to the member:
 - a) there is clear and conspicuous notice that the member is signing up for a mailing or address list
 - b) there is a simple, effective method of list removal outlined in the message
 - c) a non-internet method of contacting the list owner is provided (phone number and/or mailing address)
 - d) terms and conditions of email address used by the list are provided
2. Prior to any subsequent mailing to the list, list owners must remove all addresses for list members who have chosen to be removed from the list and all addresses from which emails have bounced back as undelivered.
3. Lists are not used for purposes or in a manner which are harassing, abusive, illegal, and/or will create liability for you, Agility or third parties.
4. Email to the list members is only from the entity with which the member signed up and only on the topic for which the recipient agreed to receive information.
Emailing to a list which contains members of a list which was purchased, rented, leased, or lent to you is prohibited. Email to list members on a subject which is not on the topic or product for which the member agreed to receive messages is SPAM and is prohibited.

Option B. General Mailing and Address List

(Members added by means other than member sending a subscribe email from their email address to the list owner)

1. Provide clear and conspicuous notice that the prospective member is signing up for a mailing or address list and such notice must appear near the email address collection point.
2. Require prospective members of the list to take some non-passive action to request sign-up for the list.
3. Provide conspicuous, comprehensive terms and conditions of address use that are posted or linked near the email collection point and available to the list member to print or download after sign up. Include subject matter of the list and anticipated mailing frequency, sharing/trading/selling of the address.

4. An address is added to the list using only Double Opt-In Procedures, with the address confirmed and permission-to-email before mailings begin.

An **Opt-In Procedure** is defined as a list sign-up process where:

- a) the potential mailing list members are given a clear, conspicuous choice as to whether they want to receive such emails or not
- b) if the potential member chooses to receive such emails, they express this choice by undertaking some non-passive action

A **Double Opt-in Procedure** is defined as an Opt-In Procedure where:

- a) the potential mailing list members request an invitation to join the mailing list or address list;
- b) prior to receiving any other mailing from the mailing list or address list, the potential member receives an invitation email message to the email account that will receive the mailings
- c) to be added to the mailing list, the potential member must reply or click a link contained in the invitation email message; and if replies constitute a request to receive email, then you are responsible for reading the replies and taking appropriate action-i.e. if the reply says, "Do not send me emails", then the address must be removed from the list owner's databases
- d) if an invitation email is not replied to or confirmed by the link, that email address is not added to the mailing list and no further email is sent to that email address

5. The list removal method must be simple, effective, and conspicuously displayed in all messages including the invitation email message.
6. There must be both an automated and non-automated means of removal from the list.
7. The list must provide a non-Internet method of contacting the list owner.
8. Prior to any subsequent mailing to the list, list owners must remove all addresses from which emails have bounced back as undelivered and all addresses for list members who have chosen to be removed from the list.
9. Lists are not used for purposes which are harassing, abusive, or illegal or for purposes or in a manner which will create liability for you, Agility or third parties.
10. Email to the list members is only from the entity with which the member signed up and only on the topic for which the recipient agreed to receive information.
11. Email to a list which contains members of a list which was purchased, rented, leased, or lent to you is prohibited. Email to list members concerning a subject which is not concerning the topic or product for which the member agreed to receive messages is prohibited.

PROHIBITED NEWSGROUP ACTIVITIES

Newsgroup SPAMMING

Defined as posting content or messages which:

1. are posted to 15 or more newsgroups and which contain the same or similar information;
2. violates the rules of the newsgroup in which the posting is made;
3. is off the topic of the newsgroup and is not the topic of the current discussion in the group; and/or
4. is a commercial posting unless the newsgroup rules expressly permit commercial posting.

AGILITY COMPLAINT PROCESS

Agility prohibits SPAMMING, defined as the sending of Unsolicited Commercial Email (UCE) and Unsolicited Bulk Email (UBE), in order to protect the integrity of the Agility shared servers and network resources. Please review Agility's NO-SPAM Policy, below, for the full definitions of SPAM, UCE and UBE, in addition to other email guidelines.

Complaints of UCE and UBE, regardless of whether the email is actually solicited or not, are what trigger the blacklisting of Agility networks and services. Therefore, the sending of email which results in UCE/UBE complaints is conclusively a SPAMMING activity in violation of Agility's NO-SPAM Policy.

IT IS YOUR RESPONSIBILITY TO PREVENT ALL SPAM COMPLAINTS RESULTING FROM EMAIL ACTIVITIES ON YOUR AGILITY HOSTED ACCOUNT

Processing of reports of SPAM activity and SPAM complaints

Agility processes reports of SPAM activity and SPAM complaints in the manner described below.

1. If the email activity associated with your hosted Agility account poses an immediate threat to Agility's servers or network, Agility reserves the right to immediately disable the account and send an email notice to your account contact. An immediate threat includes Agility's receipt of five or more SPAM complaints in a 72 hour period.
2. Absence of an immediate threat to the servers or network, Agility will follow the steps outlined below for SPAM processing:
 - a) **First UCE/UBE Event** – Agility sends a "complaint received" message to the complainant and sends a **first warning** to your Agility account contact;
 - b) **Second UCE/UBE Event** – Agility sends a "complaint received" message to the complainant and sends a **second and final warning** to your Agility account contact;
 - c) **Third UCE/UBE Event** – Agility **immediately and permanently** disables the email capabilities of the account and then sends notice to your Agility account contact of this permanent email disablement.

A **UCE/UBE Event** is defined as either of the following:

- a) Agility's receipt in any 72 hour period of 3 or more complaints or notices of activity on your account that violates Agility's NO-SPAM Policy; or
- b) Agility's receipt in any 30 day period of 6 or more complaints or notices of activity on your account that violates Agility's NO-SPAM Policy.