



Not just for kids anymore

Bad behaviour is bad behaviour in real life or online

Create social media policies to guide your staff

By **Luigi Benetton**

BEING SOCIAL HAS NEVER BEEN A FAD. We're all social creatures. We naturally reach out to others, whether in person, on the phone or by using technology such as social media.

We're also litigious creatures, so it's little wonder that certain instances of "reaching out" can elicit lawsuits and other problems.

Avoiding litigation resulting from social media faux pas sounds easy enough. Just block social networking sites on your company network and draft draconian policies forbidding their usage.

Easier said than done. Digital natives — kids born with a digital device in their hands and most likely to use social media — may simply do an end run around your policies by using their smartphones while they look for another employer, one who allows reasonable use of social media on the job. (Even today, some employers offer staff a choice between coffee/smoke and social media breaks.)

In addition, judicious use of social media can hugely benefit savvy organizations. So instead of setting

rigid global rules, consider the issues that social networking might cause and work to prevent them.

Common social media issues

About the only thing newer than social media are the laws that specifically govern their usage. Precedents exist, particularly when equivalent online and offline actions don't materially differ in nature, but don't be surprised to find plenty of legal grey areas.

Here's a short list of issues your social media policy must cover.

Copyright — your company's Your company might create an information product — such as an e-book, instructional video or blog post — for customers, news media or other audiences. But what happens when another business simply copies it and presents it as their own work, without attribution?

All you need to do to establish copyright and prevent theft is (1) create work with some originality, and (2) set the work down on a fixed medium.

If or when the need arises, your corporate lawyers will be able to pursue parties who violate your copyright, if it's worthwhile to do so.

Here's a caveat. Posting material on third-party sites such as a Facebook fan page, Twitter feed, YouTube channel or *Huffington Post* can muddy copyright claims. Check out each site's fine print to determine ownership of posted

content. That fine print might influence your social media policy.

Copyright — other people's In the same way you want copyright on your company's original works respected, make sure you don't violate other people's copyright.

Product endorsements Does your company pay bloggers for product endorsements? Evolving laws might make that practice legally risky. Should your company send bloggers free products to evaluate, ask that the fact be mentioned in the resulting post.

Guilt by association The city of Vancouver suffered from rioting after the Canucks' 2011 Stanley Cup Game 7 loss. This event differed from a similar 1994 post-Cup riot because this time people took pictures of the rioters and posted them to sites such as Facebook.

Certain employers recognized their employees taking part in the riot and chose to discipline them. The problem: laws dealing with evidence acquired from social media sites are still under development. Once this area of law evolves, employers will be able to fine-tune their policies to deal with such cases of "guilt by association."

Defamation Whether it occurs in conversation, a tweet or a reply to a

blog post, defamation is defamation. Add the casual nature of social media, and employers may find themselves drawn into lawsuits over unauthorized comments made by their employees.

Even if employees defame others using personal devices while away from work, any connection made between such employees and their employer could cause the employer problems.

If your company runs a blog or other social media presence that enables other people to add comments, consider having all comments held for moderation (wherever possible) so that you can avoid lawsuits in your role as the forum provider, especially if the original commenter can't be found.

Most social media – related landmines explode because people don't look where they step.

Develop your own social media policy

Researching other people – business partners, prospective employees or opposing litigants in a lawsuit – is just a Google search away thanks to Facebook pages, Twitter streams, blog posts and other information people make publicly accessible.

Most social media – related landmines explode because people don't look where they step. Once employees receive policies and training on said

policies, they can buy in to smarter use of social media.

- 1) **It's faster to draft a document if you use a pre-existing template, so do the same thing with your policy. Check out**
 - existing policies from a variety of organizations at the Online Database of Social Media Policies (<http://socialmedia.governance.com/policies.php>); and
 - 10 Must-Haves for Your Social Media Policy (<http://mashable.com/2009/06/02/social-media-policy-musts>).
- 2) **Make sure all departments get involved. Social media don't exist in a silo and neither should your social media policy.**
- 3) **Educate employees on the need for policies. Use case studies that emphasize specific mistakes that led to problems.**
- 4) **Draft policies that can be easily understood to prevent your company from becoming a case study for others.**
- 5) **Make policies and enforcement measures easy to understand and find. ■**

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