



## 15 Tips to Manage Social Media Risks

by Lawrence Savell

Social networking presents many opportunities for companies that use it properly. But those that don't may face reputation damage, defamation cases and intellectual property lawsuits. So, armed with the following tips, try a little role-play. Pretend you are a plaintiff's lawyer and take a fresh look at your company's social networking activities. Think about the potential claims an attorney could raise on behalf of a client. Then, think about how you can apply these guidelines to minimize your risks.

### **#1: Don't Be Fooled by Informality**

Horror stories persist about how the perceived informality of email caused employees to think there was latitude to say things that would be inappropriate in formal contexts. That same trap lurks in the social media. Employees must know they are subject to traditional legal principles.

### **#2: Know the Implications of Employee Posts**

Employers are generally held responsible for all employee's actions that are performed as a part of their job. Remind staff that existing employee guidelines also apply to online posts -- and create a social media policy that unambiguously formalizes acceptable behavior.

### **#3: Think Twice About Outside Submissions**

Risks arising from posts or comments by third parties can be avoided by simply not allowing them. Not allowing posts or comments by others can have practical downsides, however. Chief among these is limiting opportunities for interaction with potential customers.

### **#4: If You Make a Mistake, Fix It**

Should you determine that a mistake was made and that what you posted was a false, derogatory statement, a prompt correction or clarification should help reduce potential damages. Plus, it furthers the goal of providing accurate information to your audience.

### **#5: Never Make Promises You Can't Keep**

If you say you will do something, make sure you follow through. This will help avoid potential liability for claims such as misrepresentation or breach of contract. It will also help keep you from earning the unwanted ire of disappointed customers.

### **#6: Monitor Your Online Presence**

Regularly monitor your online pages and profiles so that you can promptly detect if your page or profile has been hijacked or modified by an outside party without permission. They may send messages you did not create and attribute them to you.

### **#7: Comply With Regulatory Requirements**

If your business is in a heavily regulated industry, be sure you are not violating applicable requirements. If your business is a publicly traded entity that is subject to SEC regulations, do not run afoul of rules such as those regarding public statements.

### **#8: Follow Advertising Restrictions**

To the extent that your social networking efforts may be viewed in whole -- or

even in part -- as an advertising method, you will need to comply with all applicable advertising, "deceptive practice" and "unfair competition" laws and regulations.

**#9: Appreciate Social Media's Global Reach**

Facebook reports that about 70% of its half a billion users are outside the U.S. The laws of many jurisdictions may potentially apply, which, among other things, may not be as protective of certain rights as U.S. laws are -- and may not provide the privileges that U.S. laws do.

**#10: Labeling It "Opinion" Doesn't Make It So**

Statements may be protected from constituting defamation if they are not capable of being proven true or false. But merely labeling something an opinion does not necessarily give it a free ride, and words like "I think" or "I believe" do not assure protection for what follows.

**#11: Qualify Your Language**

You may obtain some insulation from certain claims by appropriately qualifying language. If there is doubt, use less-than-absolute words like "may" or "might" rather than "will." Terms like "alleged" or "reported" may also reduce certain liability risks.

**#12: Use Appropriate Disclaimers**

You may obtain some insulation from liability by posting disclaimers. A disclaimer is not perfect or ironclad by any means, of course, and the degree to which courts uphold them is not absolute, but it is always better to have one than not. They can definitely help.

**#13: Maintain Confidentiality**

Businesses that receive client or patient confidences must maintain that confidentiality. Possible sanctions for breach may include termination of employment, loss of professional license, significant civil liability -- or even criminal liability.

**#14: Purchase Sufficient Liability Insurance**

Review your policies to determine if the types of potential risks described in this list are covered. Consider obtaining additional coverage if they are not, such as third party media liability coverage for infringement and liability costs associated with internet publishing.

**#15: Retain Counsel Before You Have a Problem**

Be sure to consult with experienced counsel about all social media matters before you begin to leverage all the opportunities it offers. Receiving legal advice from an expert about the specific online activities you plan to engage in will provide the best protection.

---

**Lawrence Savell** is counsel at Chadbourne & Parke LLP.