

Social Media: Promises. . .and Pitfalls

By John Wells King, Garvey Schubert Barer

It's likely that at least one of your employees, right now, is communicating with someone else on the computer at their workspace. They may be Tweeting, Facebooking, YouTubing, or using other "social media" that have become a major presence on the internet.



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Social media have unique value to broadcasters, who are in the business of engaging their audiences. They facilitate that engagement in new ways by strengthening the brand, and by heightening viewer and listener loyalty. They can be a valuable tool for the news reporter. But social media present broadcasters with risks as well as benefits.

Tension exists between the employer's right to control employee conduct in the workplace and the employee's rights to privacy and to freedom of expression. The tension is heightened by the risk of liability under the principle of respondeat superior, that an employer may be held responsible for the acts of its employees.

Employee postings could prompt claims such as copyright infringement, false advertising, discrimination, harassment, or defamation. These very real challenges are being tested in the workplace and in the courtroom, where the law in this area is unsettled and undeveloped.

Social media also present new and challenging ethical issues for the reporter, touching especially on principles of truth, fairness, and accountability.

The challenges underscore the need to adopt and implement a policy on use of social media. It is not a one-size-fits-all proposition. A policy should be carefully considered and thoughtfully implemented, and should not be a paper exercise tucked in a drawer.

Many issues surround the development and implementation of a policy on use of social media. Here are a few:

- Should personal use of social media be permitted in the workplace?
- If so, should access to certain sites be blocked entirely? Accessed with restrictions?

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- Should there be a distinction between company use and personal use?
- If unions are represented, is there a duty to bargain about use of social media?
- If the company is publicly-owned, is compliance with securities law assured?
- Who will monitor compliance with policy on social media use?
- What legal review will there be for a proposed termination for social media activity?

Additional considerations must be addressed when considering the use of social media in the newsroom. The Radio Television Digital News Association has published best practices guidelines at http://www.rtdna.org/pages/media_items/social-media-and-blogging-guidelines1915.php?g=37?id=1915.

Because of the breadth of issues raised by the use of social media, a company's policy should be developed by a working group that brings together human resources, marketing, PR/corporate communications, legal, and IT, with employee-user input. Once adopted and implemented, the social media policy must be clearly, emphatically, and regularly communicated to employees.

John Wells King is a partner in the Washington DC office of the law firm of Garvey Schubert Barer. He can be reached at jking@gsblaw.com.

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Source: Scarborough Research, Myrtle Beach, SC Metro Mid-Tier Spring 2008 Release

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