



*"When it comes to privacy and accountability, people always demand the former for themselves and the latter for everyone else."*

-David Brin

## **MODULE 1** | Privacy and Liability

Outcome: Student will understand the ethical and legal consideration of protecting privacy in running social media campaigns. Student will learn common issues and pitfalls of utilizing staff to boost social media campaigns, sharing client information to boost credibility, and exposing company trade secrets through social media.



# Overview

## Module 1

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- Self-check: Liability and Privacy
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# Introduction



Professional social media management is about balancing the sharing of enough information to be credible, authentic, and “transparent,” against the legal and ethical risks that make the company liable for physical, emotional or financial harm to a person or a business.

## - PRIVACY -

There are privacy considerations for technical and trade secrets, customer privacy, co-worker privacy, and the general public's privacy. For example: social media content could accidentally expose the location of a person hiding from an abusive partner, or perhaps the thanking of major donors or customers seems innocent enough but could backfire and cause them loss of revenue. How about the usage of a wonderful photo of a celebrity or child, without permission of that person to promote your brand or cause, which can cause ethical and legal issues, or the intricate photo of the manufacturing process which might expose a trade secret or strategy that is a key competitive advantage. Even a social media “relationship” (as in commenting on posts, or following accounts, listing a name, using an image) could create privacy issues that might become public relations issues or legal issues for violating privacy of a person or entity.

The safest and most restrictive approach for protecting privacy would be to have a legal release, signed by each individual or business, that would allow images or names to be used in social media content for the brand or cause. However, that level of “protectionism” is not only time consuming, but it's socially off-putting in an Internet world that is about making social connections, often in real time. A more realistic approach is to silently create social media content that is consistent with a company or organization's human resources policies (that has an articulated social media policy), corporate culture, as well as the non-disclosure policies that govern revealing supplier names and customer names. From those policies, social media actions range from absolutely no visible social media relationship, to a first name only, to fully connected accounts that are hyperlinked. These privacy responsibilities apply to all types of connections in an organization, including staff, suppliers, customers, membership organizations, charitable giving, and political causes.

Finally, the general public has a legal right to privacy. Without their permission, a brand or cause cannot use someone's face, voice, or name as an endorsement. Buying a product or attending an event is NOT a clear legal agreement that they will promote this product or cause. Having signed photo and endorsement releases is the clearest way to show that you are making the effort to protect the public's privacy.



## OTHER LIABILITY CONCERNS

In providing interesting, relevant, and helpful content, there is the risk of providing inaccurate advice that causes physical or financial harm. A social media marketer needs to know enough about the business or cause to not stray into creating content that could result in harming someone. Get expert review and authorization for any technical advice, including “re-shared” content.

A best practice to reduce legal liability risks would be to generate social media content ahead of time and submit it to an organization's management for review and approval before using it. A time saving alternative is the social media marketer learning the basic products, services, and legal issues for the brand or cause. The social media marketer is always weighing the liability risks of making a costly content mistake against the hourly costs of using experts to create content. A mistake in a “how-to” piece, or a customer service promise or cost statement can create a public relations nightmare. It can trigger a legal liability firestorm and/or fines for false advertising. If you are an independent social media marketer and publish unapproved content, your company could be pulled into the legal battles as well. This is where it is important to remember your four controlled message outlets. Using these outlets to state legally important corporate issues is a good way to validate your intention around a subject matter. Once a post has been made on social media, it can be shared and regurgitated with a different meaning than your original intent. This why having a controlled message outlet where these statements reside is a best practice for any organization.

Companies often have General Liability insurance to help them financially if a legal liability issue arises. The terms of that insurance often have very specific “best practices” that must be implemented for that coverage to be effective. Reviewing the liability insurance policy can reveal record keeping and practices that must be followed for the liability insurance.

Social media marketing requires being responsible for that social media environment 24/7. Responses or comments from others can re-frame the intent or understanding of any social media post. The amount of social media monitoring necessary varies with the brand and the current social media environment. The daily plan for monitoring notifications, newsfeeds, and who to contact if a “red flag” issue arises should be defined. The management and experts (technical, customer service, human resources, public relations, legal) are a critical part of the tools to limit liability issues that might arise in social media. Red flags for liability issues can be a negative review, a technical “how-to” question, customer service issue, or an unqualified staff person providing a follow up response in social media. If something on social media could harm a business or a person physically, financially, or emotionally do not take additional social media action without connecting with management and other experts. And remember, social media response for a privacy or liability issue should consider that a screen capture was done of the content and was saved for use in a legal case or a public relations attack. The company is legally liable even if the questionable content was only posted for a few seconds. Get direction from the management and/or legal team for the social media follow up.