



# LOSS CONTROL BULLETIN

## *Social Media & the Entrepreneur*

The Internet is no longer just a place where you visit Web pages to obtain information with one-way interaction. Now, the Internet is a tool that allows people to interact with each other via social media on an ever-increasing scale. Facebook, Twitter and YouTube are among the popular outlets for social networking, which is a major component of social media.

Contemplate these numbers:

- Facebook had 206.9 million unique visitors in December 2009.
- The U.S. has the largest number of social media and blog users with 142.1 million unique visitors to these websites in December 2009. Following the U.S. is Japan, Brazil, the U.K., Germany, France, Spain, Italy, Australia and Switzerland.

Businesses are not only advertising on these sites, they are also creating their own accounts and fan pages as a way to distribute custom content and interact directly with their customers. With these new opportunities come new risks that must be identified and managed.

### WHAT ARE THE RISKS?

- Businesses cannot **control** all of the messages being distributed about their company or products via social media; therefore, their brands and reputations are at risk.
- Social media presents new opportunities for **employee disclosure** of confidential company information, privacy violations or inappropriate posts that could contribute to a hostile work environment.
- There are more opportunities for unauthorized **disclosure of market sensitive or insider information.**
- As with other forms of advertising, social media presents another avenue for potential **defamation** exposure.
- Businesses can unknowingly violate FTC **consumer protection** guidelines.

### FTC GUIDELINES

Effective December 1, 2009, the Federal Trade Commission implemented new guidelines for advertisers utilizing social media. The purpose of these new guidelines is to protect consumers from misleading, confusing or false information about products marketed in social media forums. Some common violations include paying Internet users to post disingenuous positive product reviews and creating “flogs”, which are fake blogs that appear to be objective but are merely designed to promote a product. “Astroturfing” is another deceptive tactic where advertisers pretend to be unaffiliated consumers and post misleading or false information about the competition.

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The FTC expects transparency from advertisers utilizing social media and expects them to make reasonable efforts to communicate FTC guidelines to those promoting their products (i.e. celebrities, bloggers, employees, etc.). Anyone receiving compensation to promote a product must disclose their connection to the advertiser. Social media makes it difficult to determine whether a product is commercially endorsed or receiving genuine praise from peers and celebrities.

The entire FTC guidelines, entitled Federal Trade Commission 16 CFR Part 255, Guides Concerning the Use of Endorsements and Testimonials in Advertising, can be found at <http://www.ftc.gov/os/2009/10/091005endorsementguidesfnnotice.pdf>.

## HOW DO YOU MANAGE THE RISKS?

It would be unwise to think that the use of social media will eventually diminish. Aside from choosing not to communicate with their customers in this arena (which may also be unwise), companies should develop ways to manage the risks.

- **Develop a social media policy.** This policy should include rules for all employees with respect to any form of online communication.
- **Designate a social media point person.** This person or team should be in charge of monitoring the company's social media activities to ensure adherence to the policies. They should be equipped to respond quickly in the event of a crisis.
- **Understand and adhere to laws** related to social media.
- **Understand and adhere to the FTC guidelines** discussed above.
- **Review and understand your applicable insurance coverages** regarding advertising and personal injuries. Typically, injuries arising from the distribution of known false material are not covered under most policies. Additionally, the distribution of goods, products or services that fail to meet advertised quality or performance may not be covered.

Companies can employ additional practices to ensure proper management of their online risks, such as affiliation with organizations such as the Word of Mouth Marketing Association ([www.womma.org](http://www.womma.org)) or the Children's Advertising Review Unit ([www.caru.org](http://www.caru.org)).

We cannot ignore the new and unique risks presented by social media. However, when dealt with responsibly, social media can provide immense opportunity for businesses to reach new and existing customers.



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