

## BY-LINED ARTICLE

### Top Ten Rules to Avoid Legal Trouble in Social Media Programs and Campaigns

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Media and consumer product companies, among others, are engaged in intense formal social media efforts, some more sophisticated than others. Many media advisors provide strategic and tactical advice on these efforts. Each campaign, promotion or effort is different, but the legal issues are often similar, whether it is via Facebook, MySpace, LinkedIn or through a proprietary effort. Here is my top ten list to avoid legal trouble in social media programs, with all apologies to others before me who have created lists of ten (or 15 as Mel Brooks recalls). Feel free to post these wherever you desire.

1. Thou shall not bear false witness. Be truthful. Few problems are bigger than lies where ever they can be found. Reputations are sullied by falsehoods. No examples are necessary. Enough effort is already expended to find secret floggers, fake sites or false posters. Don't be a victim.
2. Thou shall not steal. While the Digital Millennium Copyright Act may prevent liability for copyright infringement from websites that permit postings so long as valid copyright owners can request removal, you should be vigilant in confirming that posters are not misusing copyrights. You should implement "crawlers" to periodically check for copyrighted material. Further, although the Communications Decency Act can prevent a website from exposure from defamation and other possible claims in certain circumstances, vigilance is necessary here too. In particular, websites that in whole or part create or develop contested information are deemed "content providers" that do not receive such protections from liability. Again these protections do not extend to users and posters. Keep in mind that federal and possibly state laws apply in these instances.
3. Feel free to collaborate. It is fair to have more than one god. In this internet age, every firm is both a collaborator and competitor. Do not be so narrow in your thinking as to miss opportunities to connect with others who may appear to be competitors. Confirm that these arrangements protect your firm and its intellectual property though.
4. Thou shall keep the commandments. Every site or program must have rules. And without enforcement there are no rules. Chaos should not rein in these programs. Adhere to your own program rules and terms of service.
5. Thou shall not covet thy neighbor's wife. It is acceptable to ogle what others are doing. Affirmatively seek out what others are doing. In fact it is a good business strategy. But be careful not to copy what others do too closely.
6. Honor your father and mother. Every company needs to develop and implement internal policies and procedures about employee and consultant communication related to their job and company. Can people complain about working there? Must posters identify themselves as employees? Employers may under certain circumstance be liable for an employee's posting. There are a host of issues to confront. In addition, training must accompany these policies and they must be monitored for compliance.

7. You shall not make for yourself an idol. If you give stuff away for free in the hope of a positive review, accept the consequences. Care should also be given to assure disclosure of posters who receive free goods or services.

8. On the seventh day, you shall not rest. These campaigns are a 24 hour, seven day a week effort. Someone needs to be responsible at all times in case of emergencies.

9. We have brought you out of slavery and the desert and therefore it is fair to ask you to register. A minimal amount of info often can prevent problems later. However even registration info does not protect you in all instances.

10. Don't forget to throw out or revise the rules from time to time. Any set of rules must be flexible. This media is constantly evolving and changing. New entrants are emerging and new products are being developed. The landscape will be dramatically different in one year and three years. Adapt and survive.

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