

Legally Compliant Online Promotions

Doing Online Promotions Without Getting Sued

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www.emedialaw.com



User Generated Content



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User Generated Content

What, Me Worry? What could go wrong with UGC?

- Liability for Defamation
- Violating Copyrights

User Generated Content

- Defamation –
 1. publication of a statement;
 2. that was defamatory concerning the plaintiff;
 3. with the requisite degree of fault.



The Communications Decency Act

Section 230

- No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.



The Communications Decency Act

- Immune?
- Provider of interactive computer service
- Content provided by another
- Plaintiff seeks to treat defendant as publisher

The screenshot displays the homepage of 'The Dirty' website. At the top, there is a navigation bar with city names: SCOTTSDALE, HOLLYWOOD, CHICAGO, VANCOUVER, DALLAS, NEWPORT, LAS VEGAS, MIAMI, and the date: THURSDAY 20TH FEBRUARY 2014, 04:14:20 PM. Below this is a banner for '2014 LINEUP' with the text 'CLICK TO SEE THE NEW MARQUEE NIGHTCLUB & DAYCLUB'. A secondary navigation bar includes links for HOME, CITIES, COLLEGES, DIRTY CELEBS, WOULD YOU?, DIRTY ATHLETES, and MORE. A 'SPOTLIGHT' section features a list of article titles: 'I Want Her Life... And Body', 'Houston's Hottest Girl Is Hayley', 'Hannah Sell Is The Definition Of Perfection', and 'W'. The main content area shows an article titled 'Why Yvonne Vera Is So Upset' dated February 20, 2014, with 7,439 views. Below the article title is a photograph of a nightclub scene. To the right of the article is a '+ SUBMIT POST!' button and a 'GOOGLE SEARCH' box. At the bottom right, there is an advertisement for 'LIGHT NIGHTCLUB' in Las Vegas for February, listing performers: AXWELL, BASSJACKERS, DANNIC, DIRTY SOUTH, DON DIABLO, DYRO, HOOKNSLING, NORMAN DORAY, OTTO KNOWS, and SEBASTIAN INGROSSO.

The Communications Decency Act



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The DMCA

Safe Harbor

- notice of policy;
- follow proper notice and takedown procedures;
- designate a copyright agent with the U.S. Copyright Office;
- no knowledge of infringement



The DMCA

The screenshot shows the YouTube homepage with the logo and navigation links. The video player displays a baby in a red shirt pushing a blue toy. The video title is "Let's Go Crazy" #1. The video information panel on the right shows it was added on February 15, 2006, by user KingLouLou71. The video is categorized as Music and has a duration of 00:16. The video player controls at the bottom show the video is at 00:16 of 00:29.

You Tube
Broadcast Yourself™

[Sign Up](#) | [My Account](#) | [History](#) | [Help](#) | [Log In](#)

Search

Videos | Categories | Channels | Community | Upload Videos

"Let's Go Crazy" #1

Added February 15, 2006
From [KingLouLou71](#)

A nice video of @lur performing "This..." (more)

Category: Music

Tags: @lur, @lur, @lur, @lur (more)

URL: <http://www.youtube.com/watch?v=04jwq2Dn8p0>

Embed: `<object width="421" height="250"><param name="`

Related | More from this user | Playlists

Showing 1-25 of 26 [See All Videos](#)

- ["Jen on David" Jen on David](#)
Liftman 12:57:50
00:28
From [KingLouLou71](#)
Views: 30796
- ["Ella 'Tied of A Cord' Video](#)
00:46
From [KingLouLou71](#)
Views: 34422
- [Coffee & TV](#)
00:12
From [Bardwick](#)
Views: 18600

Sweepstakes, Contests and Lotteries

- What does each one mean?
- The Fine Print
- A Variety of Platforms
- Laws in Texas
- Laws in Different States

Sweepstakes, Contests and Lotteries

Lottery



- You are offering a prize, which can be anything of value.
- The game is based solely on chance, with winners selected at random.
- To participate, the consumer has to provide some consideration.

Sweepstakes, Contests and Lotteries

Sweepstakes

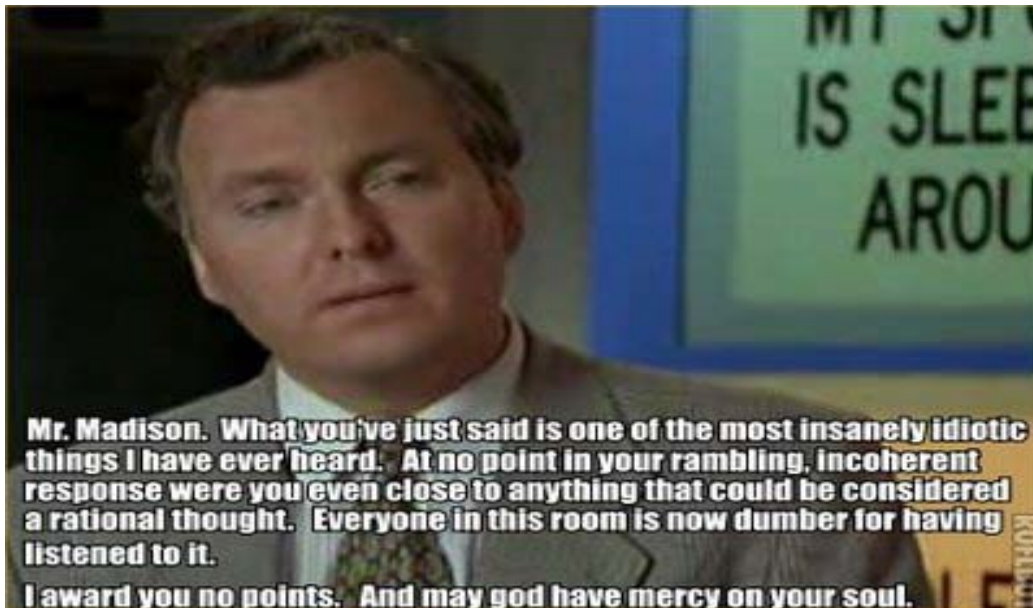
- Game of chance
- Do not have to give anything of value to play



Sweepstakes, Contests and Lotteries

Contest

- Game of skill
- May have entry fee
- Different levels of allowable “chance”



Sweepstakes, Contests and Lotteries

The Fine Print

- Deadline
- Odds of Winning
- Value of Prize
- Judging criteria, if a contest
- Age or residency restrictions
- The AMOE
- Limitations of liability



Sweepstakes, Contests and Lotteries

Facebook



- Can use “likes”
- User is responsible for legal compliance
- Release of Facebook
- Notice that not sponsored by Facebook
- Can’t make people share on their timeline or tag if they are not involved

Sweepstakes, Contests and Lotteries

Twitter

User is responsible for legal compliance



Offers Tips

- Promotions should bar the use of multiple accounts to obtain more entries
- Avoid allowing multiple entries per day to prevent the posting of duplicate or near-duplicate updates or links by users
- Hashtags should be relevant to updates
- Sponsors should require a reply back to the sponsor as part of any entrant's update to ensure the sponsor can locate all entries.

Sweepstakes, Contests and Lotteries

Pinterest



- Prohibits promotions from requiring the pinning or re-pinning of contest rules
- Promotions should not require the use of pins from a fixed or limited selection
- Promotions should not use a pin, repin, board, like or follow as an entry or a voting mechanism
- Promotions should not require the use of a minimum number of pins for promotion entry or ask for contests
- Should disclaim any suggestion that Pinterest sponsors, endorses or is otherwise affiliated with Pinterest



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Sweepstakes, Contests and Lotteries

- Contest, Lottery or Sweepstakes
- Texas Laws
- Chapter 621- Only applies to getting someone to a sales presentation
- Chapter 622 – Only applies to sweepstakes through the mail with prizes valued at over \$50,000



Sweepstakes, Contests and Lotteries

Contest, Lottery or Sweepstakes

The DTPA

The FTC – ad is deceptive if it contains a statement, omits information:

- that is “likely to mislead consumers acting reasonably under the circumstances”; and
- is “material’ to a consumer’s decision to buy or use the product.”

An ad is unfair if –

“it causes or is likely to cause substantial consumer injury which a consumer could not reasonably avoid and it is not outweighed by the benefit to consumers.”

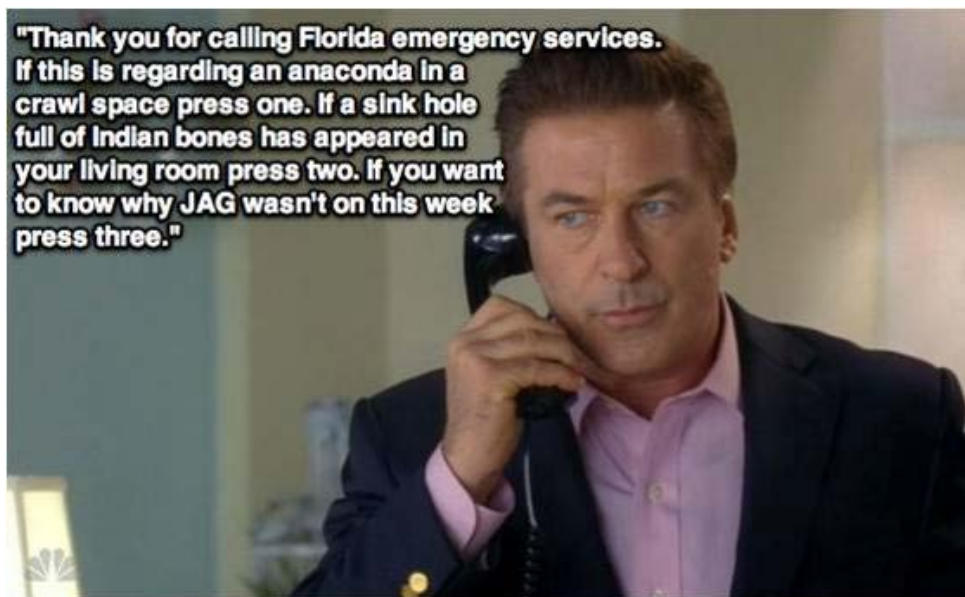


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Sweepstakes, Contests and Lotteries

Contest, Lottery or Sweepstakes – Florida

- Must register with the state in advance
- Must establish a surety account or bond if prize > \$5,000



Sweepstakes, Contests and Lotteries

Contest, Lottery or Sweepstakes – New York

- Must establish a surety account or bond if prize > \$5,000
- Filing 30 days before the promotion begins
- File winners with the state



Sweepstakes, Contests and Lotteries

Contest, Lottery or Sweepstakes – Rhode Island

- Must register if > \$500
- Must maintain records for at least six months after promotion period.



Sweepstakes, Contests and Lotteries



Presented by
Chegg & PAPA JOHN'S

Thank you for your vote. Vote each day and get closer to seeing Taylor Swift live on your campus!

Horace Mann School For The Deaf

10125 votes

Friends, family & alumni can vote too.
Spread the word: #TSwiftOnCampus



Enter Name Ways to Win Gallery of Names

Dub the Dew Top 10 Leaderboard

Vote for your favorite name to keep it on the Top 10 Leaderboard

1. Hitler did nothing wrong
2. Gushing Granny
3. Gushin' Granny
4. Fappie
5. Grannies Squit
6. Tarncest



TAKE THE YEAR OFF



SEEKING A SELF-STARTER WHO PERFORMS WELL UNDER ZERO STRESS

DUTIES INCLUDE GETTING PAID TO STAY HOME AND DO WHATEVER.

STARTING SALARY IS \$100,000
(NON-NEGOTIABLE)

APPLY TODAY



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