

INFORMATION FOR ALL NEIGHBOURHOOD WATCH GROUPS

WHAT YOU SHOULD KNOW ABOUT SOCIAL MEDIA AND YOUR LIABILITIES:

You are liable for all the information that can be found on your Social Media channels

Social media tools are the same as standard marketing tools, therefore false or misleading claims made on your social media channels may be subject to the Australia Consumer Law.

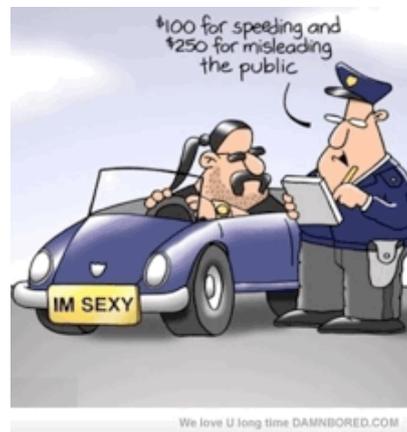
Social media tools mean your face book, blogs, website, twitter, instagram and any other public forum medium.

It is important to note that you, any employee, volunteer, member or members of the public (or any third party) are all bound by applicable Australian Laws. See below:

Competition and Consumer Act 2010 (Cth) Schedule 2, s 18.

A person must not, in trade or commerce, engage in conduct that is misleading or deceptive, or is likely to mislead or deceive.

Example: ABC Pty Ltd tweets that they are the first Australian company to offer a 100 per cent environmentally friendly car wash service. They don't have any research to support this. This tweet is likely to be misleading or deceptive conduct.



An organisation may be held liable for 3rd party comments on their social media page

Organisations must ensure the accuracy of statements posted on their social media sites, including those posted by third parties. Many organisations now use social media sites such as Facebook and Twitter to advertise and market their products and services. However, as the recent Federal Court decision of ACCC v Allergy Pathway (No 2) [2011] FCA 74 shows, the use of social media carries significant risks, including the risk that businesses may be held liable for comments posted by third parties on their Facebook and Twitter pages.

The ruling found that:

“While it cannot be said that Allergy Pathway was responsible for the initial publication of the testimonials (the original publisher was the third party who posted the testimonials on Allergy Pathway’s Twitter and Facebook pages) it is appropriate to conclude that Allergy Pathway accepted responsibility for the publications when it knew of the publications and decided not to remove them.”

You must ensure that there are no posts on your social media where:

1. The comments are false, misleading or deceptive;
2. The organisation knows of their existence; and
3. Fails to remove them.

The organisation may also be held liable for 3rd party comments on their social media page that are discriminatory and or defamatory.

Third party comments are those left by friends, bloggers, followers, individuals or organisations that leave comments, testimonials or remarks on your social media tools.



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It is important to remember if you wouldn't make the statement through other forms of advertising, it shouldn't be made through Social Media.

So what can you do to minimize your risk.

It is important to remember that you are responsible for what is placed on your social media channels.



Monitoring your organisation's social media channels is an important step in minimising risk

According to the Australian Competition and Consumer Commission, the amount of time you need to spend monitoring your social media channels depends on two key factors:

1. The size of your organisation; and
2. The number of fans or followers you have

Example 1:

AAA Pty Ltd has 300 staff. As larger companies generally have sufficient resources and sophisticated systems, the ACCC would expect AAA to become aware of false, misleading or deceptive posts on its Facebook page soon after they are posted and act promptly to remove them.

Example 2:

XXX Pty Ltd has 12 staff and only 80 Facebook followers. As a small business, XXX is unlikely to have the same resources to dedicate to social media monitoring as a larger company would. Also, given the small number of Facebook followers, there is less potential for widespread public detriment from incorrect posts. Accordingly, the ACCC would not expect XXX to monitor its Facebook page as regularly as the company in the previous example.

The Australian Association of National Advertisers (AANA) Best Practice Guidelines recommend that you follow the following steps when posting on social media:

- Moderate immediately after posting or engaging with social media, and for at least two hours following the post
- Moderate at least once every business day
- On non business days, moderation should be consistent with the brand's level of activity and level of consumer engagement
- During periods of increased engagement, consider increasing the level of moderation

Information sourced from AICD, Munro Thompson Lawyers, Worldwideweb



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