

Social Media Legal Audits

Why You Need One and What They Cover

The use of social media is increasing rapidly and changing the way companies do business. However, companies are not adapting their legal practices and corporate policies as quickly to reflect these changes. Additionally, the law is changing quickly in some respects, while it lags behind rapid advances in social media technology and business methods in others. Some companies have been caught by surprise as the legal decisions and regulatory enforcements unfold. For these reasons, every company needs to be proactive in this area by conducting a social media legal audit and developing, and periodically updating, a formal, written social media policy as an adjunct to its existing corporate and employee policy.

Pillsbury's industry-leading Social Media & Games Team, [ranked as one of the top three in the country](#), has developed a social media legal audit protocol to assist clients in this process. We can offer the initial audit on a fixed-fee basis. The deliverables include a detailed summary of the collected information and recommendations on action items to address identified legal issues.

The Social Media Audit addresses a number of key legal issues associated with the use of social media business tools and technologies. Each social media legal audit is customized based on the company's social media activities and other company-specific situations.

Who Needs a Social Media Policy?

Every company and organization needs to implement a written social media policy as an essential adjunct to its traditional corporate employee policy. If you have not implemented one, you should do so promptly. If you have implemented one, you should make sure that it is comprehensive, tailored to your unique social media practices, and that it does not contain illegal or unenforceable provisions. Many companies that have implemented such policies have had some provisions struck down as unenforceable because those drafting the policies were not aware of legal limitations on certain provisions or failed to address important legal issues.

Who Needs a Social Media Legal Audit?

Any company that has never conducted a social media legal audit should do so. If you have not implemented a written social media policy, this audit should be done, in part, with an eye towards developing your initial written policy. If you have a written policy, you should conduct a legal audit to ensure your policy is comprehensive, based on company usage of social media. You should conduct periodic updates to ensure the policy stays current.

What Does a Social Media Legal Audit Cover?

Among the issues we commonly address in audits are:

- Protecting ownership of social media-related intellectual property
- Ensuring adherence to current law on how social media can be used in hiring and firing
- Avoiding liability under standards such as FTC Endorsement guidelines and the Fair Credit Reporting Act
- Maintaining effective and enforceable terms of service (TOS) and end user license agreements (EULAs)
- Compliance with regulations on content that users generate in exchange for rewards (gamification)
- Understanding the legal implications of virtual currency, virtual goods and stored value
- Ensuring legality of social media contest and sweepstakes (avoiding unwittingly engaging in gambling)
- Addressing issues related to location-based services
- Complying with online child protection laws
- Minimizing liability for a copyright infringement when hosting user-generated content
- Complying with the CAN-SPAM Act and other laws impacting social media marketing
- Protection of user data and adherence to privacy laws
- Taxation of online services and virtual goods and currencies
- Risk management and Insurance in social media enterprises

The benefits of effective social media strategies are readily apparent. The range of legal issues is not. If your company has not conducted a social media audit or developed a written social media policy, we strongly recommend you contact [Jim Gatto](#), leader of Pillsbury's Social Media Team, or the Pillsbury attorney with whom you regularly work. In addition to social media audits, we offer a range of services including customized social media legal training seminars and much more.

About the Social Media & Games Team

Pillsbury's multidisciplinary Social Media & Games Team, the first of its kind, includes over 70 attorneys around the world working at the forefront of emerging business and legal issues relating to social media.

Recent publications and presentations, details on upcoming events and additional information about the Social Media & Games Team can be found at www.pillsburylaw.com/socialmedia or on our blog at www.socialgameslaw.com.

About the Firm

Pillsbury is a full-service law firm with a keen focus on technology. Based in the world's major financial and technology centers, Pillsbury counsels clients on global regulatory, intellectual property, litigation and corporate matters. We work in multidisciplinary teams that allow us to anticipate trends and bring a 360-degree perspective to complex business and legal issues—helping clients to take greater advantage of new opportunities and better mitigate risk. This collaborative work style helps produce the results our clients seek.

For further details, please contact:

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