

Introduction

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This handbook deals with social media laws and related governance principally in the United States (including a separate chapter on records management within the context of social media), while providing the reader with ample coverage of key global regions, including Canada, the European Union, Australia, and Asia. Its goal is to provide a high-level “checklist” of considerations, as opposed to a detailed tome on the issue. Nevertheless, the contributing authors have in many instances far exceeded this mission.

Given the global nature of corporate business, the use of social media compels U.S. lawyers with international clientele to have an understanding of other jurisdictions. Therefore, this handbook contains separate chapters on social media law in the UK and Europe, Canada, and Asia. These chapters will highlight both specific issues and the jurisdictional differences in the respective territories. Due to logistical deadlines, we could not cover all of Latin America, but the book does include an appendix focused on Brazil and another devoted exclusively to Russia.

The handbook also provides an appendix that delves into the issue of cyber terrorism as a scholarly thought piece rather than a legal overview. The subject is sometimes ignored as removed from everyday business lawyer issues, but it should be considered in framing the big picture strategies and concerns around use of social media and how to implement it at client sites.

Since this handbook represents the collaborative efforts of 29 contributing authors, plus three additional chapter reviewers and other volunteers, you will find differences in style, voice, depth of treatment, and sometimes even spelling of U.S. versus EU counterparts (e.g., defenses vs. defences). Ultimately, irrespective of depth of treatment or even spelling differences, each chapter contributes the target goal of informing the most basic checklists of considerations in each jurisdiction and for each topic discussed.

Definition of Social Media

Social media is a noun defined in the *Oxford Dictionary Online* as “websites and applications that enable users to create and share content or to participate in social networking.”¹

This definition is the most succinct of all the definitions, and it seems to encompass all the uses analyzed throughout this book. Therefore, for purposes of this book, this is the definition applied. That said, some organizations are large enough to host their own internal social media platform, as opposed to the more well-known external or public platforms, such as Facebook, Twitter, Instagram, or LinkedIn. To that end, the authors in this book will distinguish internal versus external social media if the laws or best practices cited warrant the distinction.

1. OXFORD DICTIONARIES, http://www.oxforddictionaries.com/us/definition/american_english/social_media, downloaded on Sept. 7, 2016.

How to Use This Handbook

As noted, this book is intended to provide, at minimum, a checklist of considerations. To that end, each chapter begins with a bulleted list of the most salient issues or topics covered. This will inform the reader at a glance whether the chapter is hitting the target issues of concern to the reader. Besides that, the table of contents also contains the specific subsections covered in each chapter. Finally, the appendices are intended to provide supplemental information that may not have met the breadth requirements of a chapter, but still provide invaluable information for a reader seeking at least a starting point for social media concerns regarding Russia, Brazil (a solid entrée into South America), Cyber Terrorism, and Records Retention.

The first eight chapters focus almost exclusively on the U.S. perspective. Chapters 9, 10 and 11 cover the respective international treatment for the broader issues discussed in Chapters 1 to 9 for the U.S.

Summary of Challenges

One of the biggest challenges in compiling this handbook is the dynamic nature of the subject matter, particularly given its breadth of treatment and global focus. The reader is encouraged to use the handbook simply as a guide to key issues to consider and approaches to the issues covered. Regrettably, by the time this handbook is published, some of the legislation cited may be obsolete, revised, or amended. To that end, the book could provide a historical record—basically a snapshot of time in 2016, when most of the content was collected.

One particular example of the dynamic nature of the subject matter arose with the 2016 Brexit vote. The contributing authors basically had to rewrite the EU chapter on the 11th hour of publication to accommodate the implications, while not having much precedent to cite as to the implications of Brexit. As a matter of fact, until mid-2018, the treatment of Brexit and possibly related legislation affecting social media could be in flux. Another example is fake news, which came to light after the U.S. presidential election in late 2016. Chapter 7 received last-minute edits to include a tantalizing Section on fake news.

Social media itself is changing. The Internet of Things (“IoT”) alone could have an impact by adding another layer of complexity to the combined use of social media and the IoT. Legislation will need to adapt to such changes, particularly when it comes to privacy protection.

On the whole, if any theme is apparent from this body of work, it would be the need to stay vigilant and adaptive to the evolving changes on the subject, particularly as the law struggles to keep up with the pace of the technology. As noted in several chapters, social media is affecting long-standing principles of law in unimaginable ways. The issues of employment, cybersecurity, governance, intellectual property, defamation, privacy, ethics, and legal admissibility issues covered in this handbook illustrate this point.