

## FAQs: Legal Issues & Social Media

**Q: If someone posts comments to my blog, and comes back days, weeks or months later and claims that his/her material is copyrighted, do I have to remove it?**

**A:** Yes, you should remove it. Under the Digital Millennium Copyright Act – you'll be protected if you have that notice and have a takedown process noted before. If you don't have a consistent process or aren't following through, it could impact other claims down the road. It's usually best to take the content down and then sort it out later.

**Q: If I link to an article or video to my Facebook, Twitter, or blog and cite the owner/producer/creator will that resolve the legal issue of copyright?**

**A:** This is a big question and you should be sure to consult your own legal counsel on this. In general, rules around Fair Use of copyrighted material still govern. It's an evolving area – for example, there is a current dispute between Newspapers and Google as to how much of an article Google can show on their search site. It comes down to overall rules of copyright use - and it depends on the circumstances. Most times you can include links – especially as an attribution.

**Q: Concerning the Digital Copyright Act, are contact webmaster/contact us links on every page enough to satisfy the requirements to allow for notification for copyrighted material?**

**A:** No, they're not. You need a policy about how to handle these types of situations, appropriate language in your Terms of Use, contact information on your site for how people can notify you of copyright infringement, and you need to designate an agent with the US Copyright Office to receive notice of infringement claims.

You should have language in your Terms of Use on your site about how you respect copyright law, that you have a policy that provides for removal of copyrighted information when you receive notice of such infringement, and that you will not allow repeat copyright infringers to continue to use your site.

You also need to register an agent with the Copyright Office to receive notices of copyright infringement; which is not difficult to do. You can get the information for such registration at <http://www.copyright.gov/onlinesp/>

**Q: How do you have a copyright takedown notice and process on Facebook?**

**A:** If you have a Fan Page on Facebook, you agree to the terms of service and privacy policies set forth by Facebook: <http://www.facebook.com/policy.php?ref=pf>

To summarize, according to Facebook, it "is a licensee of the TRUSTe Privacy Program. TRUSTe is an independent, non-profit organization whose mission is to build user's trust and confidence in the Internet by promoting the use of fair information practices."

Facebook participates in the EU Safe Harbor Privacy Framework set forth by the US Department of Commerce and works through TRUSTe on disputes relating to the Safe Harbor Privacy Framework. In a nutshell, Facebook's Safe Harbor Privacy Framework gives your organization a certain immunity from liability for users' possible copyright infringement if you "expeditiously" remove material when you get complaints.

Review the applicable Terms of Use – If you have a YouTube channel and someone posted a video in response to another video and you received a notice that the video infringed on copyrights, you would send a notice to YouTube to have YouTube take it down. You can't delete comments on YouTube.

## FAQs: Legal Issues & Social Media

**Q: Should we put a disclaimer on our social networking sites saying that “anything you post here may be used on TV with your name”? Should it be opt-in or opt-out?**

**A:** It wouldn't hurt to put a disclaimer on any area where you are collecting information from your audience. It is better to error on the side of caution. It may be more difficult to include an opt-in or opt-out feature on sites like Facebook or Twitter.

Note that Facebook's Privacy Policy states that it does not “knowingly collect or solicit personal information from anyone under the age of 13 or knowingly allow such persons to register. If you are under 13, please do not attempt to register for Facebook or send any information about yourself to us, including your name, address, telephone number, or email address. No one under age 13 may provide any personal information to or on Facebook. In the event that we learn that we have collected personal information from a child under age 13 without verification of parental consent, we will delete that information as quickly as possible.” Twitter's policy is similar – neither site is directed to person's under 13 years of age.

For comments on a blog, your best position is that it is very clear that their comments could end up on air. Don't bury your disclaimer in your Terms of Use – make sure you have information easily available for your users.

**Q: If someone posts a question on Facebook or Twitter (or another one of my social media sites) – can I put that on air?**

**A:** Look at your disclaimers – you're safer with more disclaimers. Be clear about what you may do. It gives you more protection. Check the applicable site's Terms of Service/Use. For specific situations and questions, you may want to consult your own legal counsel as well.

**Q: If we use a share/story module created by PBS or someone else, what are our liabilities?**

**A:** It depends on the tool. If someone posts to the storyboard tool, or if someone posts into the comments engine something that is defamatory, under current law you won't be liable if it is an open comment section. In general, the user is responsible for his/her postings. Even if it is posting back to a YouTube video, the station is not liable. Don't forget, however, that if you don't like a comment, you can delete it. HOWEVER, take care if you are editing what other people write; to be on the safe side user comments should not be edited – information (links, etc...) can be removed but you should not change comments. By editing you could accidentally have someone say something that they didn't actually say so it's probably better just to delete the entire comment if you aren't sure about something.

**Q: In a video submission contest requesting user generated content requiring a release form, does an electronic signature work for the purposes of Appearance and Materials Release and Transfer of Rights?**

**A:** An electronic signature should be OK if you have a clear Terms of Use/Service where you can track back to where that came from. But it only applies to the person who submitted it. Remember, however, if they are submitting something that they don't have the full rights to (talent, etc...) then you won't have full right to the material either. The person who submitted the material can only sign off on rights he/she owns.

**Q: For photo disclaimers, is there any difference if the event is at a public versus a private place?**

**A:** The appropriate disclaimer to use depends on where you'll want to use the photo. Using it for News is different than publicizing your site. Yes, there is a difference. Check with your legal counsel before finalizing your disclaimers.

## FAQs: Legal Issues & Social Media

**Q: We have some employee disagreement about what can and cannot be said on social media sites. Some say that as long as they have a disclaimer on their page, they claim first amendment rights. Is this true?**

**A:** We are looking at what our PBS policy will be on this specific topic. Balance business needs vs. liability protection vs. first amendment rights. PBS is currently drafting its own social media policy that will include some parameters about how employees engage in social media, and stations may want to put their own policies in place as well.

One place where issues can arise is when employees are acting like they're officially speaking on behalf of PBS when they are not. This is where it starts to get more complicated.

**Q: Can Employers be held liable for Employees Tweets or when an employee posts something on other social media sites such as Facebook or LinkedIn?**

**A:** It depends, if they are acting as a spokesperson for the employer, its possible that they could. There are a lot of employers who are worried about this but no relevant cases that are on point. This comes up mostly with Twitter and blogs. If an employee is posting under or with your company name, it is possible that something they tweet could be a liability for the employer.

We are working on our own PBS policy to know who they are, if they have the right to the information, and are comfortable with what they are tweeting. LinkedIn is different, it's a professional networking site with resumes, etc... so it is a harder case to make.

**Q: When will the PBS policy be in place?**

**A:** Soon. But please be aware that this policy is for PBS headquarters and each individual station/organization should consult with their own attorneys to determine what is best for them.