



KYSEN Social Media Update



Welcome to the Winter 2015 edition of our Social Media Update. As you may know well by now, this e-update aims to summarise the best of the last couple of months' press articles and online discussions about digital and social media as they apply to the professions to help you keep a watching brief.

You know the routine: some of the topics discussed here are specific to the professions; some detail developments in other sectors, included because they have a particular relevance to the professions.

As always, we hope you find this summary helpful in keeping track of a fast-changing area of communications. As ever, we welcome your feedback.

Best regards,
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This issue

A few years ago, reports that Facebook was developing [a professional networking site](#) that could rival LinkedIn would have been assessed mainly from a commercial perspective – how would Mark Zuckerberg make money out of this new project? Today, however, many other questions are likely to be asked.

Social media have taken hold of our lives to such an extent that they have changed the way we interact and have twisted the rules of the media game. Even Reuters has decided to [discontinue readers' comments](#) on their news stories, instead directing users to the agency's Twitter and Facebook pages.

As they encourage open conversations and banter, social media are also revealing aspects of our personalities that were once confined to the pub but are now online for all to see. Recently, a stockbroker tweeted, as a joke, that he had [hit a cyclist](#) on his way to work but couldn't stop because he was late. Within hours, he was sacked by his employer.

Where online banter stops and genuine threat begins is at the heart of a case before the [US Supreme Court](#), which could set a benchmark for other jurisdictions grappling with the limits of free speech. Closer to us, the issue was recently raised by [Rebekah Brooks' lawyer](#), who argued that social media were now unpoliceable and could undermine fair trial in criminal cases.

So much so that some have called for social media sites to take active steps to prevent breaches of the law. Sony Pictures, for instance, have threatened Twitter with [legal action](#) if the micro-blogging site failed to prevent users from tweeting material that was illegally obtained after a hacking attack last November. Meanwhile, in Britain, MPs have called on social media sites to clarify how they use [personal data](#).

Online harassment is another ugly side of social media. While Twitter has pledged a tightening of its [anti-abuse procedures](#), organisations such as schools are being urged to combat cyber-bullying through [education](#).

Even more worryingly, the web has become a lawless space exploited by terrorists. Some family members of murdered fusilier Lee Rigby have [accused Facebook](#) of being partly responsible for his death after it emerged that one of the killers had posted threatening comments on his Facebook page. Facebook has defended its procedures but there is [growing pressure on social media sites](#) to do more.

The government, for its part, has already started to introduce new laws [criminalising a range of online activities](#), although the Attorney General is also keen to highlight the positive effects of new technologies. For instance, [wearable devices](#) could soon help with evidence and even judges are becoming more attuned to the [benefits of IT](#).

But in the wake of the terrorist attacks on French satirical magazine Charlie Hebdo at the beginning of this year, the Government is more likely to focus on curbing the ominous power of the internet and [strengthen police powers](#) accordingly.

Facebook to launch LinkedIn rival

Facebook is reportedly working on a new platform aimed at professionals that would rival business networks such as LinkedIn, according to the *Financial Times* and *Reuters*.

The new website, to be called Facebook at Work, is understood to be based on the traditional Facebook model and would allow users to connect with colleagues, professional contacts, and collaborate over documents.

Marketing magazine reports that Facebook employees are already using the new site and that it is also being tested with a number of external organisations.

Source: Marketing, 17 November 2014

Reuters discontinues readers' comments

Reuters has discontinued its users' comment functionality on news stories, saying that social media have now taken over that role.

In a blog post on the Reuters.com site, executive editor Dan Colarusso said the decision reflected the way readers now interacted with news.

"Much of the well-informed and articulate discussion around news, as well as criticism or praise for stories, has moved to social media and online forums," Colarusso said.

Reuters will still host comments on its blogs and opinion sections but Colarusso also pointed readers to the agency's Facebook and Twitter pages.

"We value conversation about the news, but the idea of comments on a website must give way to new realities of behavior in the marketplace," he said. "The best place for this conversation is where it is open to the largest number of participants possible."

Source: Reuters.com, 7 November 2014

Stockbroker sacked for tweeting he killed a cyclist

A stockbroker was dismissed after tweeting, jokingly, that he had hit a cyclist but was "late for work so had had to drive off lol".

Rayhan Qadar, tweeting as Ray Pew, apologised on Twitter a few hours later, saying the tweet, which was re-tweeted 152 times, was "obviously not true" and "a bad joke on my part it seems".

But he was sacked by his employer, Hargreaves Lansdown, who said Qadar's online comments were "totally unacceptable". "Upon becoming aware of this issue we have terminated this person's employment with immediate effect," a spokesman said.

Source: The Telegraph, 6 January 2015

US Supreme Court to rule on whether online threats are protected as free speech

The US Supreme Court is set to redefine the boundaries of freedom of expression when it decides later this winter whether threats made on social media sites should be protected as free speech.

The case arose after Anthony Elonis posted violent threats against his estranged wife on Facebook, alongside further threats of school shootings and killing FBI officers.

Elonis was sentenced to 44 months in prison but appealed to the Supreme Court, arguing that his posts were not meant to be taken seriously and were "a form of anger management therapy that made him less likely to act out violent fantasies," according to a *Guardian* report.

A number of the nine justices expressed concern that US prosecutors interpreted 'threatening' language too narrowly and risked "paralysing harmless internet chat or chilling political dissent in future."

But the justices also had clear concerns about where to draw the line. One wondered whether adding "LOL" to a post was just "a road map for threatening your spouse and getting away with it."

The court is yet to decide whether to rule on the case or refer it back to the original court for retrial.

Source: The Guardian, 1 December 2014

Judges unable to police social media

Social media have become "effectively unpoliceable" and have made the rules on contempt of court unworkable, making it impossible for the state to control pre-trial comments, Rebekah Brooks' lawyer has said.

Speaking for the first time since Ms Brooks has been cleared of phone hacking charges and perverting the course of justice, Angus McBride said his client had been subjected to a campaign of "untrammelled and uncontrolled vitriol in social media" and that the state had failed to protect the integrity of the process.

The Kingsley Napley partner, speaking at an event his firm organised, warned further that "we are reaching a point where it becomes more and more difficult for anyone to trust that the jury can be truly independent when the state can no longer control pre-trial prejudice and indeed at times actively creates it".

McBride predicted that PR consultants, reputation lawyers and media specialists would play a much greater part, along with US-style jury consultants, to help with more balanced reporting.

He suggested defence lawyers too would need to engage with the press, be less reticent to discussing their cases, and even blog and tweet reactions to pre-trial proceedings in order to correct false impressions.

Source: The Times, 19 November 2014

Sony threatens Twitter with legal action over leaks

Sony Pictures has asked Twitter to stop its users leaking information obtained through the hacking attack on the entertainment giant's servers in November last year.

Sony warned it would hold the micro-blogging site liable if it failed to take appropriate steps to stop the dissemination of information such as staff personal data, confidential emails and even full-length feature films.

The cyberattack, which the FBI says was organised by North Korea, prompted Sony to cancel the launch of 'The Interview', a spoof film about a plot to kill North Korean leader Kim Jong Un.

Sony also contacted at least one Twitter user, Val Broeksmit, who tweets as @bikinibotarmy, asking him to remove a tweet containing a screenshot of emails about a planned film about whistleblower Edward Snowden.

Source: LA Times, 22 December 2014

Social media sites told to clarify use of personal data

Consumers are unaware of how social media sites use their personal data and how they can get redress, MPs have warned as they called on the Government to design a new, consistent legal framework offering adequate protection.

In their '[Responsible Use of Data](#)' report, members of the House of Commons Science and Technology Committee found that most online terms and conditions were "simply too long and complex for any reasonable person to make any real sense of."

The report accused social media organisations of merely seeking to protect their interests in the event of legal action, before concluding: "Terms and Conditions contracts are simply not fit for purpose".

"Let's face it," said committee chair Andrew Miller MP, "most people click Yes to Terms and Conditions contracts without reading them, because they are often laughably long and written in the kind of legalese you need a law degree from the USA to understand."

While MPs agreed that some in the industry had showed willingness to improve standards, they expressed concern at the piecemeal approach to regulation. Instead, they said, the Government should commit to supporting the draft EU regulation on data protection and ensure consistency across public sector and private websites and apps.

Source: House of Commons, 28 November 2014

Twitter tightens anti-abuse procedures

Twitter has tightened its reporting procedures making it easier for users to prevent harassment and other forms of online bullying.

The move comes in response to growing criticism that the micro-blogging site has been too slow to respond to complaints of abuse and marks a shift in the company's "idealistic adherence to free speech", according to the *Financial Times*.

Last year Robin Williams' daughter temporarily abandoned Twitter after being harassed following her father's death.

Meanwhile, British journalist Caroline Criado-Perez, who was subjected to online abuse when she campaigned for Jane Austen to be the new face of the £10 note, tweeted her support for the change.

Twitter defended its handling of e-bullying complaints. "Unlike other platforms, we don't automate abuse suspensions because users can game that system," the company said. "Every abuse suspension is handled by a Twitter representative, which is slower than an automated system but produces better outcomes."

Source: Financial Times, 3 December 2014

Education is key to curbing cyber-bullying in schools

Teaching children about online safety is key to curbing cyber-bullying at school, a leading local authority law solicitor has said in the wake of the latest findings by the Anti-Bullying Alliance that only one in 10 parents think that their child is safe online.

"Very clear guidelines about the use of the internet and social media should be taught and rigorously applied in all schools," says Morris Hill, an associate at Weightmans. "But if this is to have any real value then staff members will require regular specialist training on how to identify and address the risks posed by social media and how to model good practice on the internet."

Writing in *Education Executive*, Hill also warns that e-bullying affects not only children but also, increasingly, teachers, and that it is not limited to day-time hours. The way to stamp out bullying, he suggests, is for families and teachers to come together in order to support children more effectively and set out rules of engagement that make all kinds of online harassment unacceptable.

"For schools there is a plethora of guidance, which needs to be utilised to develop whole-school policies and practices designed to combat bullying, including cyberbullying," Hill says.

Source: Education Executive, 10 December 2014

'Impossible' for social media sites to pass on terror information

Making social media sites pass on terror-related online activity would be "almost impossible", a former MI6 director has said after some family members of murdered fusilier Lee Rigby have said Facebook was partly responsible for his death.

A parliamentary inquiry into the soldier's death concluded it could not have been prevented but also identified a series of errors and delays, including the fact that security agencies face "considerable difficulty" accessing content from Facebook and five other US tech firms: Apple, Google, Microsoft, Twitter and Yahoo.

But in an interview with Radio 4's *Today* programme, Richard Barrett, former counter-terrorism director at MI6, said it would be "unfair" to ask social media companies to gather anti-terror information without clear legislative guidance.

"There has to be a legal basis for them so they know what they are to do and what not to do," he said, before warning: "If people want to get around the restrictions that are

placed on their communications by companies like Facebook they probably can quite easily.”

It was only after Lee Rigby’s murder that intelligence services found out one of the killers had been discussing plans to kill a soldier “in the most graphic and emotive manner” five months before the attack. This led to the inquiry warning that social media websites could become “a safe haven for terrorists”.

Sources: BBC News, 26 November 2014

Can tech companies really help with the fight against terrorism?

Internet companies such as Twitter and Facebook may not be willing to hand over user data to intelligence services but new legislation cranking up the fight against terrorism could soon mean they don’t have the choice, says BBC technology correspondent Rory Cellan-Jones.

Writing the day after some family members of murdered soldier Lee Rigby said Facebook could have helped prevent his death by passing information held in one of the killer’s accounts, Cellan-Jones says spotting terror-related content is not easy.

The question, he asks, “is whether the company, having already identified [the killer] as a person sharing extremist content, should have continued to monitor him and then alerted the authorities.”

Cellan-Jones argues that while it is technically possible to scan every message for terror-related keywords and to alert the authorities in the UK, social media companies, as global companies, may get similar requests from other governments with a different definition of ‘terrorism’.

What’s more, he says, putting the main networks under surveillance would push terrorists further towards the darker, lawless corners of the internet where more illegal activities are now already taking place.

Source: BBC, 26 November 2014

Criminal justice must harness social media’s ‘force for good’

Social media are mainly a force for good but we should not be complacent about some of the darker forces they have unleashed, the Attorney General has warned.

“Many may wonder how a group that regularly wear wigs and gowns to work keep up with the inexorable expansion of the internet and social media into our everyday lives,” Jeremy Wright QC said.

The rise of online communications, he noted, had undoubtedly been a challenge for the criminal justice system but those working within it have not stood by.

Speaking at IBC’s eighth Social Media Law conference, the attorney general said “existing laws have been used to prosecute new forms of criminal conduct; clear guidance has been given to ensure a consistent and transparent approach; and, the Government has acted to strengthen the legislation where it has been appropriate to do so.”

Mr Wright covered four areas where judges had responded using existing law or where the government had introduced new rules.

- **Revenge porn:** a specific offence is being created under the Criminal Justice and Courts Bill but the sharing of private images without consent has been found to breach the Communications Act 2003 which criminalises the sending of a message over the internet that is grossly offensive or of an indecent, obscene or menacing character. This has been complemented by CPS guidance and guidelines by the Sentencing Council focusing on online child grooming.
- **Trolling:** some harmful online behaviour can be caught by the Malicious Communications Act 1988, which was passed to deal with false or threatening material sent with the purpose of causing distress – so-called poison-pen letters. The advent of online media made the occurrence of such communications easier and more frequent, leading to a new behaviour of ‘trolling’. The Criminal Justice and Courts Bill proposes to increase sentences for the offence.
- **Freedom of speech:** the critical distinction here, the AG said, is the difference between a comment in bad taste made to friends in the pub and an obscene, grossly offensive or false comment posted on Twitter. This is currently addressed in CPS guidelines, requiring prosecutors to take account of the context of a statement made online, including the casual nature of social media, while balancing this out against freedom of expression as “an essential foundation” of democracy. There is no proposal to amend the law or create a bespoke offence at this stage.
- **Contempt of court:** used to prevent prejudicial reporting from unfairly influencing the outcome of a case, contempt of court – or the threat of it – has been increasingly used by judges to stop users posting comments about a case on social media or jurors using the internet. Last year, new rules were introduced making it a specific offence to research cases online and allowing judges to confiscate jurors’ electronic devices.

Source: Attorney General’s Office, 27 November 2014

Wearables to be used as evidence in court

Wearable devices and smartphone apps recording users’ data and whereabouts could increasingly be used to provide evidence in court, according to *New Scientist*.

In November last year, Canadian lawyers for an injured fitness instructor used data pulled from the fitness tracker app Fitbit to show the lasting effects of an accident on their client. The case is believed to be the first where digital evidence extracted from a wearable was being used in court in this way.

Fitbit is one of a growing number of devices or apps recording users’ activity and location. A smartphone running the Android app Alibi, for instance, can record an hour of location and audio data, together with photos of the user’s surroundings.

Alibi’s developers say such apps could help with claims of workplace harassment, road traffic accidents and “problematic police interactions”. In most cases the data recorded using the wearable is stored off-site on a server and is then available to both claimant and defendant lawyers.

Much like other computer-based evidence, parties seeking to rely on wearable data will have to prove it is authentic and relevant to the claim. There could also be challenges, including that the user had handed their device to a third party, that the device was faulty, or that the data has been tampered with.

Source: New Scientist, 1 January 2015

Jury delivers first virtual verdict via Skype

A jury has delivered what is believed to be the first 'virtual' verdict via Skype with the judge not being physically present in court.

HH Judge John Tanzer appeared via Skype at Croydon Crown Court to hear the verdict in the case of a teacher charged with a number of sexual offences, according to the *Law Society Gazette*.

The judge was present in court to hear the defendant acquitted on one of the counts but said he had an official commitment and would only be available via Skype to hear the verdict in respect of the other counts.

After connecting to Skype via the court's wifi, the defendant's lawyers contacted the judge whose picture was projected in court. The judge heard the jury deliver a not guilty verdict on the remaining counts and discharged the defendant.

The *Gazette* reports that it had been agreed that any jury questions would have been dealt with the following day with the judge being present in court.

Source: Law Society Gazette, 17 November 2014

Cameron pledges post-Charlie anti-terror laws

David Cameron has proposed new legislation to tackle terrorism in the wake of the attack on French satirical magazine Charlie Hebdo in Paris on 7 January.

Under the Prime Minister's proposals, Britain's intelligence agencies would be given greater surveillance powers allowing them to monitor and intercept online communications by suspected terrorists in case of imminent threat.

The new laws would be put forward in the first year of a Conservative second term, should the party win the next general election. They follow warnings by [M15's director general](#) that current rules could inhibit the work of intelligence services against terrorists using the "dark places" of the internet.

But Deputy Prime Minister Nick Clegg accused Mr Cameron, who attended the Charlie Hebdo memorial ceremony in France, of double standards. "The irony appears to be lost on some politicians who say in one breath that they will defend freedom of expression and then in the next advocate a huge encroachment on the freedom of all British citizens," he said in a [speech](#) at the Journalists' Charity.

The proposals come as EU ministers are considering the introduction of European laws allowing national security agencies to collect and exchange the details of airline passengers travelling within Europe. Such rules are in place for passengers travelling to the US but the European Parliament has previously rejected attempts to introduce the pooling of passenger name records (PNR) data within the EU.

Source: The Guardian, 12 January 2015

Snapchat launches news service

Snapchat has announced the launch of its latest service, "Discover", which enables media outlets to post summaries of their top stories and videos. The content expires after 24 hours, which is consistent with Snapchat's ephemeral nature.

The new service is targeted at a younger audience which doesn't often connect with traditional media.

Source: Wired.com, 27 January 2015



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