



KYSEN Social Media Watch



Welcome to the Spring 2016 edition of our Social Media Watch. 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.

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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Kysen – Social Media Watch, April 2016

Have you ever 'liked' your favourite website's Facebook page? If so, it is possible that they have shared your personal data with the social network. A German court has now ruled that [this practice is illegal](#) and there could be more cases cropping up following an investigation by the German cartel authority. But not all is bad news for Facebook: another court has ruled that its real-name policy was [not against the law](#) and accepted the company's argument that this was a way of protecting users against abuse.

Tackling the rise in online harassment and cyber crime has become a priority for stakeholders and enforcement agencies. While experts have warned that criminals are now specifically [targeting wealthy individuals](#), the Crown Prosecution Service has even enlisted the [help of Twitter](#) to identify and combat criminal behaviour online. And Facebook has come up with its own [Initiative for Civil Courage Online](#) which will support non-governmental organisations helping in the fight against trolling and online harassment.

Meanwhile, a new consolidation Bill could help stem the tide of online crime by ensuring that police, prosecutors and the courts are able to interpret and [apply the law consistently](#).

But there are limits to cooperation between police and the tech world. Perhaps the best illustration at present is the tug-of-war between [Apple and the FBI](#) over access to the San Bernardino shooters' iPhone. The fact that the FBI may have managed to break into the phone without Apple's help perhaps causes even more concerns for privacy. But it has also emerged that the US security agency's digital crowbar doesn't work on the latest Apple models.

Back in the UK, technology is also finding its way into the dispute resolution process. But while judges support the [advent of so-called online courts](#), which would free up real courts' time, they remain concerned over the [impact of social media](#) on criminal justice.

E-COMMERCE – SOCIAL MEDIA - PRIVACY

Sharing user data via Facebook 'like' button illegal

A shopping website which shared users' personal information with Facebook without telling them first was in breach of data protection law, a German court has ruled.

The Düsseldorf district court found that Fashion ID, run by retailer Peek & Cloppenburg, failed to secure users' approval before transferring some of their browsing data via the 'like' button on its Facebook page. The site could incur an administrative fine of €250,000.

The local consumer protection association which brought the case has warned five other online shopping websites that they could also be breaking the law.

Facebook is directly involved in separate investigations by the German cartel office. The competition watchdog is looking into claims that the world's largest social network is unlawfully sharing users' personal data without properly informing them beforehand.

Source: [The Independent](#), 10 March 2016; [Reuters](#), 2 March 2016.

SOCIAL MEDIA – PRIVACY

Facebook wins real-name policy case

Facebook's policy preventing users from choosing fake names doesn't breach their privacy rights, according to a German judge.

The social network says its policy is justified in the interest of child safety and to prevent online harassment. These arguments were originally rejected by the German data protection authority. The Hamburg-based watchdog also said Facebook could not unilaterally change users' chosen names to their real ones.

On appeal, the Hamburg administrative court overturned these findings, and ruled that Facebook could force users to use their real names.

Source: [The Guardian](#), 3 March 2016.

CRIME – CYBER CRIME - THEFT

Cyber-criminals use social media to target the wealthy

Cyber-criminals are eschewing 'phishing', the traditional mass emailing scam, and are instead using social media to carefully target the wealthy, according to industry experts.

Security group Kroll says it has seen a rise in the number of cyber-attacks against the super-wealthy and their professional advisers. After trawling social media sites such as LinkedIn for individuals with board-level job titles, criminals now hack into email accounts posing as wealth managers contacting their clients to trick unsuspecting victims.

AIM-listed wealth manager Books Macdonald has reported an increase in attacks on clients' email accounts and fraudulent requests for fund transfers.

The economic crime directorate at the City of London Police warns that in addition to financial services professionals, wealthy pensioners were also increasingly at risk.

Source: [Financial Times](#), 3 February 2016.

CRIME – HARASSMENT – ONLINE ABUSE – RACISM

Twitter to help prosecutors with fight against online abuse

The Crown Prosecution Service has called in Twitter to help tackle the rise in online harassment as the internet is increasingly used in connection with domestic abuse, rape and violence against women such as revenge porn.

The news came as the CPS started a consultation on specific guidelines aimed at emerging social media crime, including trolling and the use of fake names. It followed the conviction a few days earlier of 50-year-old Jason Lawrance for raping several women he had met on dating website Match.com.

“It is vital that prosecutors consider the bigger picture when looking at evidence and examine both the online and offline behaviour pattern of the defendant,” said CPS director Alison Saunders.

Meanwhile, Facebook has launched a project to combat racism and xenophobia online. Its ‘Initiative for Civil Courage Online’ will fund non-governmental organisations that help the network identify threatening comments, which it will then remove.

Source: [The Guardian](#), 3 March 2016; [BBC](#), 3 March 2016; [BBC](#), 10 February 2016; [The Independent](#), 19 January 2016.

CRIME – CYBER CRIME – ONLINE ABUSE

Bill proposes tougher regime for cyber offences

Welsh MP Liz Saville Roberts has introduced a Bill that would make it an offence to post content that is discriminatory, threatening or causes distress.

The Bill, which was proposed under the 10-minute rule, would consolidate about 30 laws aimed at tackling online abuse and cyber crime. It has received cross-party backing.

Ms Roberts told *The Register* that a single piece of legislation was desperately needed to ensure police and the Crown Prosecution Service have a consistent interpretation of the law.

Under the draft Criminal Offences (Misuse of Digital Technologies and Services) (Consolidation) private members Bill, internet service providers and social media firms could be forced to remove offensive material.

Source: [BBC](#), 9 March 2016; [The Register](#), 10 March 2016.

CRIME – PRIVACY

Apple: FBI request to break into killers’ iPhone ‘unduly burdensome’

The request by the Federal Bureau of Investigation that Apple should rewrite its mobile operating system iOS so they can access the San Bernardino shooters’ iPhone is “unduly burdensome,” the company has said.

At present, so-called ‘end-to-end encryption’ technology only lets the sender or recipient of a message, not even Apple, unscramble data travelling in cyberspace.

The only way would be to disarm two key safety features in a system’s update. This, the company says, would go beyond what the government can request by law. Further, Apple CEO Tim Cook explained, redesigning its operating system as requested by the FBI would make all iPhones users vulnerable to hackers and criminals.

The FBI has since said it has found a way of unlocking the killers’ phone and has dropped its application against Apple. However, it has also emerged that the technology used to break into the iPhone 5s doesn’t work on more recent models.

Source: [Time](#), 17 February 2016; [Fortune](#), 26 March 2016.

JUSTICE SYSTEM – TECHNOLOGY - ONLINE COURTS

Judges and lawyers divided over online courts

The emergence of so-called 'online courts' is the latest example of technological advance in the legal services sector that could see automation replace much of the more mechanical aspects of legal processes.

In a report earlier this year, the Judiciary of England and Wales proposed the introduction of an online system to handle civil claims worth less than £250,000, which would be "largely automated", according to the report's author Lord Justice Briggs.

Lawyers however are divided about the benefits. "An online court must not be used as a way of normalising or condoning a two-tier justice system where people who cannot afford professional advice are forced to represent themselves, putting them at an unfair disadvantage," says Jonathan Smithers, president of the Law Society

Source: [BBC](#), 16 February 2016.

COURTS – TRANSPARENCY – CRIMINAL JUSTICE

Judges fear impact of social media on criminal trials

The court process in civil and family cases has gradually become more transparent but it has been an opposite trend in the criminal courts, according to media lawyers.

More criminal cases are subject to reporting restrictions, they suggest, as judges are increasingly concerned about the impact of social media on high profile trials and the possibility of jury bias.

"Judges panicking at social media commentaries on their cases are increasingly slamming shut the court doors in the face of open justice," says media lawyer Mark Stephens. Mike Dodd, legal editor of the Press Association, suggests judges should "leave it to the good sense of the jury."

Others, such as Geoffrey Robertson QC, suggest that this trend is also the result of Article 6 of the European Convention on Human Rights, which protects the right to privacy and has also been used in connection with national security.

Source: [The Times](#), 3 March 2016.

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