



# KYSEN Social Media Watch

Welcome to the Summer 2017 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,  
Clare Rodway  
Managing Director  
0207 323 3230  
[clare.rodway@kysen.com](mailto:clare.rodway@kysen.com)

## KYSEN Social Media Watch – Summer 2017

Everytime social media platforms make a public commitment to improving safety for online users, they end up being slammed for failing to take [appropriate measures](#) in practice. Twitter recently introduced a [vetting functionality](#) for direct messages and Facebook is set to [launch photo-matching](#) as part of a range of tools to combat revenge porn. But for many governments, this is not enough, and more are threatening to pass laws forcing social media owners to allow [access to encrypted data](#).

Meanwhile, online versions of more traditional crime show no sign of receding, with Facebook taken to task over its failure to tackle [spam and hoaxes](#), and users warned once again about the [risk of identity fraud](#).

Such concerns however have not stopped the social network reaching new heights in commercial success, gaining [1 million new advertisers](#) in the past seven months. Nor will the finding that its virtual reality arm Oculus was found in [breach of copyright](#) in a case over VR headsets brought by videogame-maker ZeniMax Media.

The same can't be said for Snapchat, whose share price has been mostly going down since floating on the stock market earlier this year. Employers seeking to attract young candidates, such as McDonald's, regard it as a [key channel](#) to reach out to millennials, but analysts still have doubts over the company's value. Some even argue that email will outlive these newer social media platforms, which they say, are just [passing fads](#). Google, in the meantime, is also working on a recruitment platform that could [rival LinkedIn](#) and provide another revenue stream.

Finally, the law has provided yet again a real-life observatory of the way in which social media is changing our lives. While no lawyer appears to have been caught out saying the [wrong thing on Twitter](#) recently, an informal review of US criminal courts suggests that most judges expect attorneys to check out [jurors' social media activity](#). And in the UK, one judge has even urged social services to use Facebook as a [force for good](#).

Until next time.

## Contents

|   |    |
|---|----|
| Social media platforms failing to tackle illegal content .....                | 4  |
| Twitter introduces direct message vetting.....                                | 4  |
| Facebook will use photo-matching to stop revenge porn.....                    | 4  |
| European Commission to push for access to encrypted data.....                 | 5  |
| Facebook in trouble over 'Queen is dead' hoax.....                            | 5  |
| Facebook users at high risk of ID fraud.....                                  | 6  |
| Facebook gains 1m advertisers in 7 months.....                                | 6  |
| Facebook loses virtual reality copyright infringement case.....               | 7  |
| Apply to McDonald's via Snapchat.....   | 7  |
| Are new social media platforms just passing fads? .....                       | 8  |
| Google developing LinkedIn rival.....   | 8  |
| Barristers' regulator advised to update profession's social media policy..... | 9  |
| Should criminal lawyers check jurors' social media profiles? .....            | 9  |
| Facebook could help trace parent in adoption case, judge says .....           | 10 |

## ONLINE ABUSE

### CHILDREN – HATE SPEECH - TERRORISM

#### Social media platforms failing to tackle illegal content

Social media sites are failing to adequately tackle illegal content such as hate speech, terror recruitment videos and sexual images of children, MPs have said.

In a report published in April, the Home Affairs Select Committee said the government should consider making the sites contribute to the cost of policing content.

The committee heard evidence from Facebook, Twitter and Google, the parent company of YouTube, and acknowledged there had been progress. But “nowhere near enough is being done”, they said, citing “repeated examples of social media companies failing to remove illegal content when asked to do so”.

“[T]he major social media companies are big enough, rich enough and clever enough to sort this problem out—as they have proved they can do in relation to advertising or copyright,” the report said. “It is shameful that they have failed to use the same ingenuity to protect public safety and abide by the law as they have to protect their own income.”

Source: [House of Commons](#), 25 April 2017; [BBC News](#), 1 May 2017

### SPAM – ONLINE ABUSE – DIRECT MESSAGING

#### Twitter introduces direct message vetting

Twitter users who keep their direct message function open will have to manually accept a private message from someone they don't follow before they can receive it.

The move is the micro-blogging platform's response to rising concerns over spam and abuse. It allows users to keep their direct message inboxes open but gives them the opportunity to check the sender's account before looking at the message.

While the update lets users easily vet obvious trolls, it doesn't stop the abuse. Users concerned about cyber abuse should simply close their direct message inboxes to people they don't follow, or keep their inboxes open but block individual accounts from sending them messages.

Twitter has also tweaked its conversations function so that users can have more characters to reply to another user's tweet.

Source: [Recode](#), 31 March 2017

### CYBER ABUSE – REVENGE PORN – VICTIM SUPPORT

#### Facebook will use photo-matching to stop revenge porn

Facebook will use a range of new tools, including photo-matching technology, to stop the spread of revenge porn on its platforms.

The social media giant's community operations team will also deploy "specially trained representatives" to review images reported by users. Offending images will be removed and it's expected that the account that has shared an image will be suspended.

Photo-matching will be applied at a later stage, to detect whether a user attempts to share an image that has been removed from Facebook, Messenger or Instagram. If so, they will be alerted that it violates Facebook's policies and the share will be prevented, according to head of global safety Antigone Davis.

Revenge porn, the sharing of private sexual images without the subject's consent, was made an offence in England and Wales in April 2015, with 206 people prosecuted in the first year of the new law.

Support charities said the move should be an example for other social media sites but that more needed to be done, such as affording victims the same automatic anonymity as those who make a complaint of rape and other serious sexual offences.

Source: [New Scientist](#), 5 April 2017

#### CYBER CRIME – TERRORISM – ENCRYPTED DATA

### European Commission to push for access to encrypted data

The European Commission will push for access to data stored in the cloud by encrypted apps, EU Justice Commissioner Věra Jourová has said, arguing that relying on the willingness of online providers to voluntarily grant access was no longer sufficient.

The intention behind Jourová's announcement, observers believe, is to press app makers into agreeing they will voluntarily open up their digital vaults, although the EU probably expects significant pushback from the tech industry.

The announcement follows a raft of proposals around Europe against social media companies. Germany has proposed to fine social media platforms €50m if they fail to remove criminal content within 24 hours. The EU is also working on forcing social media sites to remove the clause in their terms of use that gives Californian courts jurisdiction to hear cases against them.

In the UK, the government has also called on the police to be allowed to access encrypted app messages in the wake of the terror attack outside Parliament in April. But campaigners remain concerned that opening encryption to enforcement authorities would also give criminals access to the data.

Source: [Euractiv](#), 29 March 2017; [The Register](#), 30 March 2017

#### CYBER CRIME

##### SPAM – HOAXES – MISLEADING ADVERTISING

### Facebook in trouble over 'Queen is dead' hoax

Facebook has been accused of hypocrisy for failing to curb misleading advertising on the platform while separately pledging to tackle fake news.

The social media site relies heavily on users to report illegal content, which they can do by clicking a flag on a post. That function isn't available for adverts, which made it impossible for users to report misleading ones which featured celebrities such as Lord Sugar, Stephen Hawking and Hugh Laurie and took users to scam sites.

One hoax advertisement claimed: 'The Queen Has Died' and took users to a page made to look like Facebook, with text urging them to call a phone number or risk having their computer infected with a virus.

Professor Jeff Jarvis, director of the Tow-Knight Centre for entrepreneurial journalism at the City University of New York, warned that spammers and fraudsters were always a step ahead. "All the attention lately has been on the fake news that gets circulated for free, but there's also the problem of that which is paid," he said.

Source: [Daily Mail](#), 18 April 2017

#### PRIVATE INFORMATION - ID FRAUD – IDENTITY THEFT

### Facebook users at high risk of ID fraud

Most social media users continue to be at risk of online ID fraud, a recent survey has confirmed.

YouGov research from Equifax has shown that nearly 30 per cent of web users are exposed to identity theft as a result of publicising basic personal details such as their name, date of birth and address on social media sites.

Friends and contacts sending birthday wishes openly on Facebook can also inadvertently help fraudsters piece user details together.

"More adults in the UK are engaging with social media than ever before, especially on their smartphones, and a high number are readily sharing their personal information on these platforms," said Equifax ID and fraud head John Marsden.

"Fraudsters get hold of this type of information so they can impersonate an individual, either by setting up accounts in their name or accessing existing accounts and stealing from them," Marsden added. "My advice to consumers is to be social savvy; avoid unnecessarily sharing personal details and risking your identity on platforms that can so easily be exploited."

Source: [Johnston's Newsletter](#), 25 April 2017

#### BUSINESS AND FINANCE

##### ADVERTISING – AD TECH COMPANIES – PROGRAMMATIC ADVERTISING

### Facebook gains 1m advertisers in 7 months

Facebook has gained one million new advertisers in seven months, leaping from 4 million in September 2016 to 5 million in March 2017. It had 3 million in March 2016.

Together, Facebook and Google are expected to generate just under half of digital advertising revenue in 2018. Last year, the two made almost \$27bn and nearly \$80bn respectively. The next tier down is occupied by AOL / Yahoo, Amazon and Snapchat.

Most Facebook advertisers are small and midsize brands, according to *Business Insider*, who at present account for just 8 per cent of the 65 million businesses active on the network. The bulk of the company's ad revenue comes from e-commerce and retail, and entertainment and media.

The rise in online advertising appears to have been facilitated by the emergence of advertising technology companies. Ad tech companies act as intermediaries that add value to the ad delivery process by consolidating inventory, automating workflows, and offering precise targeting capabilities.

The automation of ad buying, also known as 'programmatic advertising', uses technology and software to buy digital ads. Programmatic ad spend in the US is expected to top \$20 billion this year and \$38.5 billion by 2020.

Source: [Reuters](#), 10 April 2017; [Business Insider UK](#), 12 April 2017

#### LAW – TRADE SECRETS - COPYRIGHT

### Facebook loses virtual reality copyright infringement case

Facebook and two founders of its Oculus virtual reality technology have been ordered to pay \$500m after being found guilty of copyright infringement.

The case was brought by ZeniMax Media, which made a number of claims including that the Oculus Rift headset was developed using code stolen from the videogame maker's software.

This particular claim was dismissed by the jury but Oculus was found liable for copyright infringement and other violations. The company, which was bought by Facebook two years ago for \$2bn, will have to pay \$300m in damages, and its co-founders will have to contribute a further \$50m and \$150m respectively.

The judgment, which Oculus said it would appeal, came as Facebook announced its profits more than doubled to \$3.56bn (£2.8bn) in its fourth quarter. The results were driven by mobile advertising, a business which now accounts for 84% of Facebook's total ad revenue.

Source: [Sky News](#), 2 February 2017

## TRENDS

#### SNAPCHAT – McDONALD'S - RECRUITMENT

### Apply to McDonald's via Snapchat

McDonald's Australia has launched a Snapchat-based recruitment campaign allowing jobseekers to initiate a job application by sending a 10-second video via a specially designed 'filter'. If accepted, the 'Snpplication' routes users to McDonald's digital careers hub to download a full application form.

Snapchat has been regarded as an alternative to Twitter in terms of advertising potential, with ads, including sponsored filters, forecast to bring in more than \$US3bn in annual revenue by 2019.

The company's share price has been going mostly down since floating on the New York Stock Exchange last month and its market capitalisation is \$US24bn.

Snapchat only began monetising its platform in 2015, generating \$US404.5m in revenue in 2016 for a net loss of \$US514.6m, a difference which has raised concerns amongst analysts.

Source: [News.com.au](http://News.com.au), 7 April 2017; [TechRadar](http://TechRadar), 11 April 2017

#### EMAIL – BRANDS - VIDEOS

### Are new social media platforms just passing fads?

Consumers are growing weary of new social media platforms and would rather brands used emerging technologies and features to communicate with them, research conducted by email service provider Mailjet suggests.

According to the survey, email is the platform most people believe will still be in use in ten years (41%), followed by Facebook and private messaging apps like WhatsApp (26%). Few are convinced Pinterest, LinkedIn or even SnapChat will still exist, suggesting these more recent platforms are perceived as passing trends.

For brands, the question is how they can use social media and other communication platforms to best reach users. At present, grocery brands are seen as the ones best connecting with consumers (42%), followed by tech brands (21%). Lower down are cars (5%), beauty brands (4%) and fashion brands (3%), rating lower than the NHS and political parties (8%)

Over a third of users (37%) said they wanted brands to communicate with them using videos of products, especially younger users (52%), who are also the keenest on interactive ads.

Source: [Information Age](http://Information Age), 12 April 2017

#### GOOGLE – RECRUITMENT - LINKEDIN

### Google developing LinkedIn rival

Google appears to be working on a job-hunting application that would rival LinkedIn. Google Hire has been described as a tool allowing recruiters to post job openings and manage applicants.

The site's [login page](#) can be accessed but signing-in doesn't seem to be enabled yet. This hasn't stopped observers from warning that this would give potential employers access to an applicant's search history.

Speaking to TechRadar, a Google representative has since rejected these claims and said private information wouldn't be shared with recruiters.



Google Hire will only allow employers to collect candidate applications, a spokesperson clarified, and “only information that a candidate voluntarily provides would be passed to a prospective employer as part of their online application.”

Source: [TechRadar](#), 14 April 2017

## LAW

### BARRISTERS – SOCIAL MEDIA POLICY – ACCEPTABLE BEHAVIOUR

#### **Barristers’ regulator advised to update profession’s social media policy**

The Bar Standards Board’s independent observer has called on the profession’s regulator to update its social media policy after an apparent rise in online misconduct claims.

Former banker Isobel Leaviss made the recommendation after monitoring the BSB’s approach to barristers’ comments in the media over the past five years.

Although she had seen no real cause for concern in governance terms, she said current guidelines should be updated. Leaviss also warned barristers should use social media more carefully in the wake of a number of complaints.

Current BSB policy on social media falls within its ‘media comment’ policy. It allows barristers to use social media as long as there is no impact on cases or clients, and that barristers do not behave in a way that is likely to diminish their independence or the public’s trust in the profession.

Last October, barrister Ian Millard was disbarred for posting ‘seriously offensive’ tweets targeting Jews, Muslims and black people.

Source: [Law Society Gazette](#), 27 January 2017

### CRIMINAL COURTS – JURORS - ETHICS

#### **Should criminal lawyers check jurors’ social media profiles?**

Checking out jurors’ activity on social media can reveal valuable information about their lives and political affiliations. But professional ethics rules – in the US at least – aren’t all clear whether undertaking this kind of research is allowed.

In his book ‘Legal Ethics and Social Media: A Practitioner’s Handbook’, trial attorney John Browning says it’s a practice he witnesses every week. The accepted approach, he says, is to encourage attorneys to do more research about their panel rather than less. But even so, at present, this depends very much on the particular state and on the judge.

Judges appear to be mostly in favour of jury research – or they expect that it will take place.

But some judges have banned it, and a number of local Bars have also warned about being able to access private groups conversations via ‘friends’ connected online to a jury member.

Source: [Law.com](#), 5 April 2017

#### FAMILY LAW – ADOPTION – TRACING PARENTS

### **Facebook could help trace parent in adoption case, judge says**

It was 'deeply regrettable' that a final adoption hearing should have to proceed without the birth mother being aware of it, a family court judge has said, suggesting Facebook could have been used to trace her.

The child, now four, was placed into care after the living arrangements of his parents broke down. Although the parents were both party to proceedings, they appeared to play a limited part in them, and the child was subsequently placed for adoption.

The birth father sought leave to oppose an adoption order, which was granted at the end of last year, with a date set for February this year for a final adoption hearing. In the meantime, the mother had left the UK without being served a notice of proceedings.

It emerged during that hearing that the father's new partner had had a phone conversation with the mother after tracking her down on Facebook. The local authority and the child's guardian were sceptical but the judge said that if it was true they could have easily established a line of communication.

Mr Justice Holman said he wanted the judgment to highlight that social media may be a useful tool for tracing parents who are being served with notice of adoption. 'Of course, not everyone is on Facebook, but in this particular case, a relatively socially disadvantaged young mother has been found very rapidly by that means.'

Source: [Law Society Gazette](#), 3 March 2017

ENDS