

UNITED ARAB EMIRATES



Managing the risks of social media



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The benefits of social media to a business are far reaching in their scope as it presents businesses with an effective marketing tool and potential to promote brand awareness in a cheaper and more accessible way.

However, these attractions also pose significant risks. Businesses are faced with managing two strands of social media-related risks – the online persona of the business itself and the use of social media by the employees of the business. The potential for reputational damage is limitless, and privacy and data breaches are significant issues that businesses need to manage.

Social media is particularly pertinent in the Middle East, where the population is full of highly active web users. It therefore makes sense for businesses in the Middle East to tap into social media and exploit its potential in a strategic way.

Legal framework

No country in the Middle East has introduced a comprehensive data protection law, although there are 'pockets' of such laws, for example in the Dubai International Financial Centre. It is the National Constitution, the civil and criminal laws in each of the countries, and Shariah Law, to which we turn for the general position on privacy, freedom of communication and penalties for violations.

The UAE recently revamped its cyber law and issued Federal Law No 5 of 2012 (UAE Cyber Crime Law), which criminalises the disclosure of confidential information through the use of IT obtained in the course of a person's job, without consent (Article 22).

The UAE Cyber Crime Law prohibits the use of IT to defame or insult another which may subject the individual to punishment or contempt by a third party while defamation or insulting a person is a criminal offence under existing UAE law.

It is important to note that operators, publishers and owners of websites are liable and can be held accountable for offensive or illegal content posted on their websites or can have their operations shut down under the UAE Cyber Crime Law.

Social media risks

Social media can expose businesses to significant risk if not closely

controlled, such as. A major risk is the disclosure of confidential information and data protection breaches, which can have both immediate repercussions and a long-term impact on a company's success, such as damage to business reputation and loss of customers.

Social media has made brands more vulnerable than ever; a marketing mistake or tweet from a disgruntled ex-employee can become a global hash tag phenomenon within minutes.

Furthermore, the current set of laws in most jurisdictions is aimed at governing traditional 'brick and mortar' businesses, and online advertising or campaigns may not have been contemplated when the laws in the region were drafted, therefore determining compliance or breach can be challenging.

There is an extra challenge that comes with the no-border nature of the internet. Social media websites and hosting servers are not necessarily located in the countries where the consumer views them, which can make it difficult for authorities from an enforcement perspective.

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Adopt international best practice

Businesses should have a social media policy in place to minimise reputational risk and vulnerability to legal issues and should set out the business' best practice. The policy should be periodically reviewed and updated where necessary, and any online campaign or advertising should take account of the local laws.

Businesses should also monitor employee use of social media both inside and outside of the workplace, and may need to update employment contracts and workplace policies, such as inserting appropriate confidentiality and post-termination provisions in employment contracts and updating internet and data protection policies, but balancing this with the employees right to privacy. A business can never be wholly immune from the risks pertaining to social media, but effective management of the risks is fundamental.

Businesses should, therefore, adopt the 'international best practice' approach and the strictest legal position in relation to its use of social media for business or in relation to its employees, whilst ensuring it is not against local laws.

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