

Module	SOCIAL MEDIA
Jurisdictions	CTH, NSW, VIC, SA, TAS, WA, NT, QLD, ACT

Module Application

The *SANCTIONS* module informs organisations that do business with people and companies outside The SOCIAL MEDIA hot topic informs the business entity or organisation of their legislated social media legal obligations. The module also demonstrates effective practical advice and assistance to the Australian business organisation to implement procedures and processes that will ensure compliance and regulatory accountability throughout all levels of the organisation.

The SOCIAL MEDIA hot topic advises business organisations of the processes and procedures they need to implement to ensure compliance with all legal and regulatory obligations. Core legal and regulatory obligations are based on considerations of the broad questions determining;

- › Decision making;
- › Accountability;
- › Stewardship;
- › Direction; and
- › Control.

To fulfil its purpose the module focuses on providing practical assistance to the business organisation establishing and maintaining a robust foundational framework that determines;

- › How the organisation will function;
- › Who is the responsible decision maker;
- › What matters are relevant to the decision-making process; and
- › Whether the desired outcome has been achieved.

As entities, their employees and authorised individuals are all expected to be familiar with the broad landscape of legal obligations to which they are subject as well as more specific obligations relevant to the particular sector they are operating in, the SOCIAL MEDIA module should be subscribed by all Australian business organisations, their employees and authorised individuals. The aim of the module is to equip the subscriber with knowledge of their obligations and the skills they require to establish relevant systems and processes to ensure compliance throughout their organisation.

The SOCIAL MEDIA hot topic covers two specific areas of social media use;

- › The conduct of employees on social media; and
- › The use of social media as a business tool.

The conduct of employees on social media can have a significant impact on an organisation's business. The employee may be;

- Accessing a personal or business social media account;
- Using a personal or business device; and/or
- Accessing social media within or outside the workplace.

Social media is a convenient, powerful and free tool that business organisations can utilise as a means of;

- Engaging with the public;
- Promoting goods and services;
- Delivering services to customers; and
- Researching job candidates.

When an organisation chooses to utilise social media there are certain risks that require consideration and action;

- Employees posting content online that is misleading or deceptive;
- Employees using information gathered from social media in a way that is discriminatory;
- Employees posting or sharing material that defames a person;
- Employees breaching copyright laws;
- Promotional campaigns that fail to follow consumer laws in relation to price displays, promotions and competitions; and
- Liability for the posts of non-employees on the organisation's official social media pages.

The SOCIAL MEDIA module covers the clear guidelines and training requirements of employees which are the main tools used in mitigating these risks.

The broad scope of the SOCIAL MEDIA module is to provide answers to these questions;

What are our legal obligations?

From where are our legal obligations derived?

How can we ensure that we are complying with our legal obligations?

What are the consequences if we are not complying with our legal obligations?

The SOCIAL MEDIA module covers all legislated legal obligations of business organisations and demonstrates practical assistance and guidance to ensure that these obligations are complied with through the implementation and maintenance of best practice processes throughout the organisation. The module also covers the role of the regulator as well as exemptions to the obligations, if applicable, and how they may or may not apply in particular circumstances.

The module fulfils this objective by comprehensively covering three main areas;

The very wide-ranging commonwealth and state legislative and regulatory landscape from which the primary social media legal obligations are derived;

- › Age Discrimination Act 2004 (Cth)
- › Anti-Discrimination Act 1977 (NSW)
- › Anti-Discrimination Act 1991 (Qld)
- › Anti-Discrimination Act 1992 (NT)
- › Anti-Discrimination Act 1998 (Tas)
- › ASX Listing Rules
- › Australian Human Rights Commission Act 1986 (Cth)
- › Charitable and Non-Profit Gaming Act 1999 (Qld)
- › Civil Law (Wrongs) Act 2002 (ACT)
- › Competition and Consumer Act 2010 (Cth)
- › Copyright Act 1968 (Cth)
- › Corporations Act 2001 (Cth)
- › Criminal Code Amendment (Racial Vilification) Act 2004 (WA)
- › Defamation Act 2005 (NSW)
- › Defamation Act 2005 (Qld)
- › Defamation Act 2005 (SA)
- › Defamation Act 2005 (Tas)
- › Defamation Act 2005 (Vic)
- › Defamation Act 2005 (WA)
- › Defamation Act 2006 (NT)
- › Disability Discrimination Act 1992 (Cth)
- › Discrimination Act 1991 (ACT)
- › Discrimination Act 1992 (ACT)
- › Equal Opportunity Act 1984 (SA)
- › Equal Opportunity Act 1984 (WA)
- › Equal Opportunity Act 2010 (Vic)
- › Fair Work Act 2009 (Cth)
- › Gambling Regulation Act 2003 (Vic)
- › Gambling Regulations 2015 (Vic)
- › Gaming and Wagering Commission Act 1987 (WA)
- › Gaming Control (Community Gaming) Regulations 2006 (NT)
- › Gaming Control Act 1993 (NT)
- › Gaming Control Act 1993 (Tas)
- › Lotteries Act 1964 (ACT)
- › Lotteries Act 1997 (Qld)
- › Lotteries and Art Unions Act 1901 (NSW)
- › Lottery and Gaming Act 1936 (SA)
- › Occupational Health and Safety Act 2004 (Vic)
- › Occupational Safety and Health Act 1984 (WA)
- › Privacy Act 1988 (Cth)
- › Racial and Religious Tolerance Act 2001 (Vic)
- › Racial Discrimination Act 1975 (Cth)
- › Racial Vilification Act 1996 (SA)
- › Sex Discrimination Act 1984 (Cth)
- › Work Health and Safety (National Uniform Legislation) Act 2011 (NT)

- › Work Health and Safety Act 2011 (ACT)
- › Work Health and Safety Act 2011 (Cth)
- › Work Health and Safety Act 2011 (NSW)
- › Work Health and Safety Act 2011 (Qld)
- › Work Health and Safety Act 2012 (SA)
- › Work Health and Safety Act 2012 (Tas)
- › Workplace Privacy Act 2001 (ACT)
- › Workplace Privacy Act 2011 (ACT)
- › Workplace Surveillance Act 2005 (NSW)

The SOCIAL MEDIA module covers two specific areas where legal and regulatory obligations apply to the business organisation in Australia;

The conduct of employees on social media;

- › Surveillance of usage;
- › Blocking websites in the workplace;
- › Privacy of records;
- › Bullying and harassment;
- › Disparaging the organisation or its' employees;
- › Personal views and activities;
- › Workplace rights and industrial activities; and
- › Confidential and sensitive information.

Social media utilised as a business tool;

- › Hiring workers;
- › Misleading and deceptive conduct and representation;
- › Defamation;
- › Price displays;
- › Promotions and competitions;
- › Monitoring accounts; and
- › Use of third-party material.

Significant consequences can apply to Australian business organisations, their employees, and authorised individuals found to have breached or not complied with their social media legal obligations. These consequences vary considerably depending on the nature and extent of the breach or failure and whether it is a civil or criminal obligation. The SOCIAL MEDIA hot topic covers specific consequences in detail. They can include monetary penalties, disciplinary measures, injunctions and even terms of imprisonment for individuals found to have committed serious criminal offences.

The SOCIAL MEDIA hot topic does not cover the rights or entitlements of individuals who have suffered damages or losses due to breaches of social media obligations by Australian business organisations. The module does not cover the process that an entity or an individual would follow to report or seek compensation for the breach or their loss.

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