

# Company Websites: Compliance & Protection

Company websites are essential for most businesses today to maintain customer relationships, fulfill business development needs and achieve long-term strategic growth. It is critically important that companies comprehend the myriad of legal issues surrounding the use of websites and take appropriate protection and compliance measures.

This brochure will address:

- **TERMS OF USE**
- **PRIVACY POLICIES**
- **COMPLIANCE WITH APPLICABLE LAWS REGARDING PRIVACY AND DATA PROTECTION**
- **SALES TAX REQUIREMENTS FOR ONLINE SALES**
- **LIABILITY ISSUES INVOLVING BLOG POSTINGS AND MISCELLANEOUS THIRD-PARTY CONTENT**
- **OTHER CONSIDERATIONS**

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# Legal Issues Surrounding Company Websites

## Legal Issues Surrounding Company Websites

In today's marketplace, the benefits of a company website are plentiful. Websites serve as ongoing platforms to attract new customers, enhance relationships with existing customers and promote products and services. However, creating and maintaining a website can beget a number of significant and far-reaching legal issues. It is imperative for a company to ensure that its website, whether new or existing, contains sufficient protections against legal liability and complies with all applicable laws.

### Terms of Use

Terms of use are a set of legal conditions that customers must comply with in order to use and access a company's website. Essential terms and conditions include: legal disclaimers releasing the company from liability to website visitors, a list of prohibited activities, and the consequences of non-compliance. The nature and necessity of additional provisions depend on the type and particular settings of a company's website. Terms of use must be properly accepted by the customer.

### Privacy Policies

Privacy policies establish how a company collects and uses the private information of its customers and what type of information is collected. For certain companies, they are legally required but it is advisable for all companies to have them in place. Privacy policies should describe, among other things, whether the company shares private information with any affiliates or third parties, and if its website uses any technologies, such as cookies or web beacons, that gather information about its users. If a company shares or sells private information obtained through the use of its website, the privacy policy should give customers the right to opt out of such information sharing.

## Compliance with Applicable Laws Regarding Privacy and Data Protection

A recently enacted Connecticut statute requires all companies that collect personal information from Connecticut residents, including social security and credit card numbers, to enact privacy protection policies. These policies must protect the confidentiality and unlawful disclosure of personal information as well as limit access to personal information. The policies must be publicly displayed and should be posted on company websites. Moreover, many other states have their own requirements for how companies treat the personal information of their residents. Foreign laws may also apply if a company's website allows access to international residents. Hence, a company must be sure that its website complies with all state and/or foreign laws that may be applicable. In addition, certain companies, such as banks and creditors, must further comply with federal laws and regulations.

### Sales Tax Requirements for Online Sales

Connecticut-based companies that sell taxable products or services online are required to collect and remit Connecticut sales tax on all sales delivered within the State. Collection of sales taxes may also be required by other states if the company maintains an office or has a significant presence in those states. Furthermore, some states, including New York, are considering implementing measures that would require sales tax to be paid on sales to their residents even when a given company is based in a different state. Thus, online retailers must be sure to comply with the sales tax laws of each state in which their products and services are delivered. Connecticut and New York maintain a joint sales tax program which may benefit companies that have substantial sales in both states.

## Liability Issues Involving Blog Postings and Miscellaneous Third-Party Content

If a company has a website that allows third parties to post content, such as blog postings, written comments or audio and video files, it should take steps to limit its legal liability with respect to this content. These steps should include: (1) ensuring that third parties properly release and indemnify the company from liability for defamation and other torts in its terms of use; (2) regularly monitoring content for compliance; (3) removing all objectionable content; and (4) implementing consequences for violation.

### Other Considerations

A company should also:

- list appropriate terms of sale, such as payment terms and return/cancellation policies, and create binding and legally enforceable contracts for all of its online transactions;
- ensure that its internal procedures comply with its online policies;
- reserve rights to any of its intellectual property that is posted on its website and obtain licenses for the intellectual property of others;
- properly limit its liability if it provides links to other websites or directs customers to any third-party payment processors;
- implement appropriate encryption devices for confidential information delivered through the website; and
- require users to accept licensing agreements for any software and/or programs that can be accessed and used on the website.

Brody Wilkinson advises companies on legal issues related to their websites. For more information, please contact Thomas J. Walsh, Jr. at (203) 319-7100 or [twalsh@brodywilk.com](mailto:twalsh@brodywilk.com).