

Legal Connections



POWERED BY THE COLUMBUS BAR ASSOCIATION

JULY 6, 2018

MAKE THE MOST OF YOUR TOUTERS: LEGAL & PRACTICAL CONSIDERATIONS FOR MARKETING

In any business, marketing presents a unique set of choices and challenges. Some advertising is governed by ethical rules; the bounds of taste and the public's stomach for yet more advertising are also factors. Businesses also must choose whether to handle marketing in-house, or through a third-party marketing firm. That decision is driven by both practical considerations and a handful of legal questions.



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by using software programs that can help with both design and web content management.

But there's an opportunity cost to this approach. Every hour an employee spends designing a website is an hour not spent working on the core business. Depending on the scope of the marketing effort, even a modest project may require later work to

refresh information, manage advertising buys and create new content.

The scope of the specific marketing needs is also important. Small business owners who simply want to run one ad may find it cost-prohibitive to engage a third-party vendor. But many organizations reach a point where they want a continued marketing presence and evergreen content, which is difficult to manage alongside the pressure of running a business.

Practical Considerations

On the practical side, the most obvious consideration is cost. Marketing is a professional service, and it's not cheap. Communications professionals have unique and valuable skills, and they understandably want to get paid accordingly. Frugal organizations may see benefits in handling marketing in-house

In-House or Third-Party?

Perhaps the most important factor is what the contract for services will look like, and what vendor services will be in-scope and out-of-scope. Business owners would do well to define the scope of vendor contracts as precisely as possible. Not only does such effort ensure a smooth professional partnership and clear communications, it avoids unnecessary disputes.

Price is important, not only for protecting your bottom line, but also in terms of defining the relationship. Are you seeking a one-time service, such as designing a particular ad to run in a particular media outlet? Or are you seeking the construction and ongoing maintenance of a website? Both parties should define precisely the term of the contract, the mechanism and rate of pay for the vendor, the circumstances in which the vendor's rates may increase, and when payment will be due.

There are also intellectual property considerations. Businesses and marketing vendors should agree in writing who owns any work the vendor performs, and what rights, if any, the marketing professionals will have to use and display the work created as part of their portfolio.

"Businesses benefit from having an attorney present to address legal questions and policy terms during negotiations. Find your lawyer at cbalaw.org"



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Lastly, the parties should spell out how and under what circumstances each of them can terminate the contract, along with whatever notice is necessary to do so.

Consideration of the right factors can take the mystery and trepidation out of the marketing process, and ensure a successful and professional marketing strategy. ■

EMPLOYMENT AUTHORIZATION & HIRING IMMIGRANTS

Immigration has been a hot topic in the news recently, with the Supreme Court ruling on Presidential Proclamation 9645 (the so-called travel ban) as well as updated policies related to the North American Free Trade Agreement. This leaves many employers wondering whether they are in compliance with the current law.



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for all employees through proper and timely completion of form I-9, which they must retain in their records. An employer should avoid any discriminatory practices and should never request more or different documents than what is described on form I-9 to verify employment authorization. HR personnel must be trained to comply with employment authorization verification requirements.

Employers are strongly encouraged to implement an immigration policy. At its core, the policy should make clear whether the employer will sponsor foreign workers, and under what terms. An immigration policy should take into consideration the anti-discrimination provision of the Immigration

and Nationality Act. It is recommended that the policy addresses other specific issues including how the employer tracks important data such as expiration and priority dates, extension eligibility, permanent residence filing, Labor Condition Application information, E-Verify and I-9 reverification. The policy should also describe workflow and document management practices related to immigration filings, points of contact and communication protocols, how filing expenses are handled, how changes in the job or location are handled and how travel plans are managed.

Employers should never express or imply a preference for temporary visa holders over U.S. workers. When hiring a foreign national who requires visa sponsorship, the employer must first determine what type of visa may allow the prospective employee

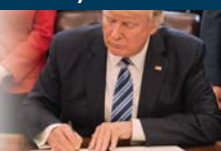
to work for the employer. This can depend on several facts including the type of job and its requirements, the employer and the nature of its business, and the prospective employee's place of birth, immigration history and credentials including education and experience. The employer must also determine if there are any specific filing dates or deadlines, and the earliest date the employee may be able to start working pursuant to the visa. Other issues such as cost of the visa process, duration of the visa, job location and wage requirements must also be considered. It is best to engage legal counsel from initial consideration of the prospective employee to determine whether a visa is viable under the terms of the employment.

It's important to ensure that your business complies with all aspects of the current policy, so doing your research and seeking a professional opinion will reassure both you and your staff that your company is following the law. ■

Constitutional conversations

PRESIDENTIAL PARDON POWER: Are there any limits?

The Columbus Bar's next **Constitutional Conversation** will focus on the President's pardon power. Can he pardon anyone, including himself? We'll be joined by a constitutional law professor and a litigation attorney from Washington, D.C. You're invited to be a part of the conversation, too. This event is free and open to the public. Details at www.cbalaw.org.



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12:00-1:00pm
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