



virtual road rules

Steer clear of trouble in the blogosphere by understanding copyright and intellectual property laws as well as general blogging etiquette.

By Mary Ellen Collins

● Bloggers who are unsure whether something they post might get them into trouble should remember: When in doubt, leave it out. It's not censorship — just common sense.

“If you offer a class in social media today, you will fill the room. If you have a class on *risk management* in social media, you'll get three or four people,” says Marcie Roggow, CRS, CRB, a real estate risk management specialist and longtime REALTOR®. “I think people don't want to know [about the intellectual property and copyright infringement risks associated with social media], or they think, ‘That doesn't apply to me.’”

But the risks do apply to everyone — and the stakes recently got higher. In October, the Federal Trade Commission (FTC) published guidelines targeting bloggers. In general, the FTC wants to clarify what constitutes an endorsement, and the rules, which went into effect Dec. 1, require bloggers to disclose their relationships with companies that provide them with goods and services.

“For the first time since 1980, the FTC updated their guidelines regarding what constitutes endorsements, and this is the first time they've included social media and blogging,” says Paul Chaney, an independent social media marketing consultant. “For example, if you blog about Trulia, saying, ‘I love Trulia,’ and Trulia happens to be *giving* you the premium services it offers, you would have to disclose that.”

As soon as the FTC announced the updated regulations (tinyurl.com/yamuhdj), word spread that bloggers might be subject to an \$11,000 fine for each transgression. FTC spokesperson Richard Cleland, however, has stated that bloggers who break the rules may only face legal action if they ignore cease-and-desist orders. Despite the confusion about penalties, one thing is clear: CRSs who blog must be as transparent as possible.

Rob Atkins/Getty Images

It's easy for agents to steer clear of trouble in the blogosphere — and in the process become trusted and respected professionals online and in person — by following a few simple rules of law and civility: Do the right thing, disclose any material relationships with companies mentioned on a blog, and embrace Chaney's definition of "authenticity and transparency as the foundational cornerstones of blogging."

Give Credit Where It's Due

Although the Internet puts millions of other people's words and images at bloggers' fingertips, that doesn't mean they're free for the taking. "Cutting and pasting is the online version of plagiarism, and that's the biggest mistake people make," says Jeff Dowler, CRS, ABR, with RE/MAX Moonlight Beach in north San Diego County, Calif. Dowler is among the five most prolific bloggers on Active Rain, the largest real estate blogging platform.

"Copyright laws protect people's content on the Internet," he says. "You *cannot* present information from other sites as your own. If you take content from another site, you should reference the person who wrote it and provide a link to the full article. If you quote someone directly, say, 'So-and-so said this in his article on X.' It must be obvious to the reader that you're quoting someone else and giving that person credit."

Bloggers who rely on prepackaged content should treat it the same way they treat any information from another source. "I suspect that most prepackaged services are going to require some sort of attribution as to where you got the information and where and how it can be used," Dowler says. "Using prepackaged information and passing it off as your own feels akin to plagiarism. If nothing else, the writer is being

deceptive. I would acknowledge that it is *not* my material, where I got it from and perhaps why I feel it's important to share as well as any opinions I have about it."

For bloggers who use ghostwriters, the pros draw a distinction between legal and moral obligations. There's no law that mandates revealing the use of a ghostwriter, but Chaney reiterates the importance of transparency in social media and thinks it would be in bloggers' best interests to be upfront about who's doing the actual writing.

And when you're searching the Web for photos and illustrations to jazz up your blog, don't just grab and go. Dowler advises looking for "Terms of Service" statements that spell out how images can be used — whether they're for sale or available for free as long as you credit the artist. Sites like iStockphoto.com and Flickr Creative Commons offer safe ways to access images that aren't protected by copyright.

Mind Your Manners

If "don't steal" is the first tenet of blogging, "be nice" runs a close second. Roggow, who has played a role in updating the NAR Code of Ethics, says respect should be the guiding principle.

"Freedom of speech in the blogosphere is a limited freedom of speech. You have to be truthful and cautious about your opinion," she explains. "You can't make false or misleading statements about competitors or their business practices. Check your tone and tenor. Don't chide, demean or attack, and if you disagree, don't make it personal."

Roggow also advises making sure what you're writing is relevant to your audience. "If you're blogging for business, 80 percent should be about the questions your readers want to have answered. Many REALTORS® get on a soapbox and don't

take into consideration what their audience wants to know."

Here's perhaps the best reason always to think twice before posting: Everything written online has a very long life. "In 2006, the U.S. judicial system added all electronically stored information to the list of information that can be searched and used in court," Roggow explains. "Whatever you blog becomes your DNA. Knowing that your DNA was searched and could be used in a court of law, would you say the same thing you said if you didn't know that?"

Pay the Price

It might seem harmless to cut and paste a sentence or two from another site without attribution, but it can be quite serious. Bloggers can be sued or banned from blogging platforms for stealing information, making defamatory comments or otherwise not playing by the rules. And those who can't imagine becoming embroiled in a worst-case scenario can get a reality check by perusing a Web site (tinyurl.com/ykmwaeap) that lists U.S. legal cases in which bloggers — including some working in real estate — have been sued for libel, privacy and related claims, or been subject to criminal investigations or prosecutions.

Dowler offers his own cautionary tale. Three years after he took photos for a blog entry he wrote about a local upscale housing development, he received a letter from an attorney who represented a resort that bore the same name as the development. The resort had trademarked the name, which meant the builder who named the development had violated copyright law. By innocently photographing the development's sign and using the name on his blog, Dowler, too, had committed a violation.

He quickly removed the information from his blog and suffered no penalty, but says, "It just shows that you can innocently copy something that's already a violation and still be held accountable."

The blogosphere exists as a community of communicators in which conduct matters as much as content. Agents who want to establish themselves as experts — and manage their intellectual property and copyright infringement risks — must remember the rules and repercussions. 🏠

Mary Ellen Collins is a writer based in St. Petersburg, Fla., and is a frequent contributor to *The Residential Specialist*.

Brian Block, CRS, of Block Real Estate Group, RE/MAX Allegiance in McLean, Va., is also an attorney. He offers these tips for bloggers:

DO write original content.

DO use your own photos or copyright-free photos from sites like Photobucket, Flickr or iStockphoto.

DO read lots of other blogs, newspapers and magazines to use for quotes and other limited "fair use" of third-party material.

DON'T use content from other sources without attribution.

DON'T swipe other people's pictures, maps or other content and use them on your own blog without permission.

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DON'T plagiarize.