



Chapter Seven: The Law



Bridging the connection between law and public relations

- Lawyers correctly advise clients on what they must legally do to defend themselves in a court of law.
- PR advisers counsel clients on what they should do to defend themselves in a court of public opinion.

It's an uneasy alliance

- PR practitioners must always understand the legal implications of any issue.
- The firm's legal position must always be the first consideration.
- From a legal point of view, the less an organization says prior to court day, the better. The lawyer advises you to "say nothing, and say it slowly!"
- From a PR standpoint, it often makes sense to go public early on.
- This is especially true if the organization's integrity or credibility is being questioned.



Public relations and the law

- In the process of doing their work, practitioners may be held liable for uninformed or improper actions.
- No longer can they claim ignorance of the law, hoping that will be a valid defense.
- Practitioners must know broadly what laws can affect their practice, proceed cautiously, and seek advice to avoid legal problems.
- They need to be aware of First Amendment rights and responsibilities, and of issues related to privacy, libel, trademark, copyright, securities trading as well as censorship, especially on the Internet, as they prepare strategies and tactics.

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Bridging the connection between law and ethics

- Ethics tell us what we should do, while the law tells what we must do
- In PR, we must always make sure we are on the right side of the ethical and legal line
- Practitioners must examine both the legal and ethical considerations in their professional practice

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Areas of legal concern for PR practitioners:

- First Amendment considerations
- Insider trading
- Disclosure law
- Ethics law
- Privacy law
- Copyright law
- Censorship of the Internet

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PR and the First Amendment

“Congress shall make no law...abridging the freedom of speech or the press.”

The First Amendment is the cornerstone of free speech in our society. It is critically important to the PR profession.

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PR and defamation law

Defamation is used to describe libel and slander.

- Libel is a printed falsehood.
 - Slander is an oral falsehood.
- ❖ In order for defamation to be proved, the plaintiff must meet four standards:
1. The falsehood was communicated through print, broadcast, or electronic means
 2. The subject was identified or identifiable
 3. The identified person suffered injury: monetary losses, reputation loss, or mental suffering.
 4. The person making the statement was malicious or grossly negligent.



To avoid libel or slander:

Public relations practitioners must be careful not to defame others when they write.

As the spokesperson, practitioners must be careful in statements to the media on behalf of their organization/clients.



PR and insider trading

- Although you don't have to be a financial expert, you should know something about securities law.
- Every public company has an obligation to deal frankly, comprehensively, and immediately with any information that is considered material.
- What is a material announcement?
It is one that might cause an investor to buy, hold or sell a stock.



PR and disclosure law

- The SEC Securities and Exchange Commission requires all practitioners to observe disclosure requirements.
- The SEC stems from the Securities Act of 1933 and the Securities Exchange Act of 1934, which was aimed at protecting the public from abuses in the issuance and sale of securities.



PR and copyright law

- Copyright law provides basic automatic protection for writers, whether a manuscript is registered with the Copyright Office or even published.
- The Copyright Act of 1976 states: "An original work of authorship" has copyright protection from the moment the work is in fixed form."
- ❖ Fixed forms include:
 - Literary works
 - Musical works
 - Dramatic works
 - Pantomimes and choreographic works
 - Pictorial, graphic, or sculptural works
 - Motion pictures
 - Sound recordings

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Copyright and fair use

- News reporting
- Teaching
- Scholarship or research

These are considered to be "fair use" of copyrighted materials.

However, the definition is "fair use" is open to interpretation by the courts.

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Categories not protected by copyright:

- Titles and short slogans.
- Works from common sources and public documents (calendars, lists and tables, speeches and performances not fixed on paper or recorded).
- Works in the public domain—not covered by copyright or lapsed, material lacking originality and basic themes and plots.
- Ideas cannot be protected, but old ideas newly packaged are protected.



How is trademark law different from copyright?

Trademark law covers a word, symbol, or slogan used alone or in combination that identifies a product or its sponsor.





PR and Internet law

- The Internet has raised many new questions and challenges to the First Amendment.
- The premise of American law is that “all speech is not created equal.”
- Rather, there is a hierarchy of speech that determines First Amendment protection.



Areas of importance for Internet law

- Censorship and free speech
In 1996, Congress introduced the Communications Decency Act (introduced criminal penalties, for making “indecent” speech available to “a person under 18 years of age.”)
- Intellectual property
Remember Napster? (Exchange music files through a central server)
- Cybersquatting
Grabbing domain names in bad faith, then tormenting the rightful registrant. Current trademark law prohibits a company from registering a name that exactly duplicates a registered trademark.
- E-fraud
Difficult to stop. (i.e. e-crooks, “click fraud”)
- ❖ Review Question:
 - Why should public relations practitioners be aware of various laws?