BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

CLIENT ALERT: UPDATED SOCIAL MEDIA RULES IN CALIFORNIA

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Businesses with a presence in or customers who are residents of California and who have revenue over $100 million per year will soon be required to file semiannual reports with that state's Attorney General, self-reporting their content moderation policies on hate speech, extremism, and disinformation.

While the law itself, A.B. 587, was created to apply specifically to "social media" sites, the definition of social media sites within the law is so broad as to encompass residential community developers and travel companies like cruise lines. However, social media companies like comment plug-in manager Disqus and the blogging sites Tumblr and LiveJournal, which exist to host and share user content, have revenue far below $100 million per year and thus do not have to comply with this law.

AB 587 also creates an exception for services that host user interactions that "are limited to direct messages, commercial transactions, consumer reviews of products, sellers, services, events, or places, or any combination thereof." This exception might carve Shopify and eBay out of the requirements. Still, a real estate developer that also hosts a message forum for its residents or a cruise company that allows vacationers to share photos with friends and family via a hosted platform would have to comply if their revenue is significant enough because those kinds of activities don't fall into the AB 587 exceptions.

The Act also requires those companies to include contact information in their 'Terms of Use' so users can ask questions about the site's 'Terms of Use', a description of the process that users must follow to flag content, and a list of potential actions the company may take against content or the user who has posted it. Because large companies are expected to update their 'Terms of Use' to comply with AB 587, smaller companies may feel that this is an excellent time also to update 'Terms of Use' policies to include the elements of AB 587, even if they are not required to do so. Companies should audit a website's Terms of Use policy every 9-15 months to ensure it's up to date regarding a business's activities, online content and services, as well as current law and best practices.

Please reach out to Heidi Howard Tandy or any other attorney in Berger Singerman's Intellectual Property Team if you have inquiries on becoming AB 587 compliant.

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