

Best Practice Guidelines for Legal Information Web Site Providers

An increasing number of sites on the web provide legal information. Government departments, non-profit community organizations, private companies, educational institutions, individuals, and law firms publish sites. Users of these sites have varying levels of knowledge of the law and the Internet. Therefore, it is essential that legal web sites providers give users sufficient information to make assessments about the accuracy and the quality of the legal information that is published.

The goal of these guidelines is to promote the development of quality legal web sites and to provide guidance to legal web site developers. The purpose of the guidelines is to establish “best practices” for both lawyers and other web site providers who offer legal information, documents and other services to the public, but the guidelines do not address the additional requirements that would be applicable to individual lawyers and law firm sites that provide legal advice. Individual lawyers and law firms should also consider whether the rules of professional responsibility apply to any aspect of their operation of a legal information website. When providers adopt and follow the guidelines, users will be less likely to be misled.

However, it is important to understand that compliance with these guidelines does not constitute approval or certification by the American Bar Association of the content and operation of the web site and no one is authorized to represent that it does. Instead, the guidelines encourage publishers of legal web sites to provide information about the legal content of their sites that assists a user in making a judgment on the quality of the legal information that appears on the site.

- 1. *Contact Information* - A web site providing legal information should provide full and accurate information on the identity and contact details of the provider of the site. The person(s) or organization(s) responsible for the information on a site is (are) clearly indicated on all pages of the site. Providers should include full contact details, including name, mailing address, telephone, and/or e-mail address. A government agency or court with limited resources to reply may choose to omit a telephone contact or e-mail address, but as a minimum should list a mailing address.**

Comment:

Given that anyone may publish on the web, the ability to identify providers helps users make judgments about the authority of the legal information and advice they encounter within a site. Authority can be implied when the information comes from a recognized organization, such as government department or community legal center. When the information comes from an individual or less well known organization, stating the credentials of contributing authors will assist users in judging authority. This can be achieved simply by including qualifications or position held with an author's name. Sometimes search engines take users directly to pages within a site. Providing authorship details on every page ensures users can ascertain the organization or person responsible for the information.

2. *Dating Material* – Web site providers should include information about the dates on which the substantive content on their sites was prepared or last reviewed.

Comment:

Laws and information about legal matters change frequently and at any given time. Users of web sites that provide legal information should be able to determine the age of the substantive content and should not be misled into believing out-dated material is current. A provider should avoid the use of an automated dating mechanism if it may lead to confusion about the date on which the content was posted or changed.

3. *Jurisdiction* - Web site providers should avoid misleading users about the jurisdiction to which the site's content relates. If the legal content is clearly state-specific, the jurisdiction in which the law applies should be identified within the content of the information or otherwise.

Comment:

Lay people often have little or no understanding of the legal concept of jurisdiction. They may be unaware that laws can vary from state to state or in some cases from country to country. If a web site displays generic legal content, the provider should make it clear this legal content may not apply in the user's jurisdiction. The same guideline applies when a legal web site offers form documents. Providers should consider providing information about jurisdiction within the site's terms and conditions section if that helps avoid confusion or misrepresentations.

4. *Limits of Legal Information* – When a site provides only legal information, the provider should give users conspicuous notice that legal information does not constitute legal advice.

Comment:

Sites providing only legal information should include a notice on the site that explains the differences between legal information and legal advice and warns the user that the site does not constitute legal advice and is not a substitute for the professional judgment of an attorney. Legal information by itself is often insufficient to resolve legal problems. Users often need specific legal advice that applies to their facts and only lawyers who are members of the bar in the user's jurisdiction can provide legal advice.

Some web sites advertise that the user can contact a lawyer through the site without making it clear to the user that the lawyer is providing general legal information only and not specific legal advice. Lay persons are often unaware that only a lawyer who is a member of a state bar can provide legal advice and the lawyer is only qualified to provide specific legal advice about the law in the state in which he or she is admitted to practice. Therefore, users may believe that an exchange with a lawyer is the equivalent of receiving specific legal advice when it is not.

Similarly, when a web site offers document preparation services, the provider should clarify whether the site is offering legal services and under what specific conditions, or whether the document preparation service is provided by a lay person and therefore without the protection of the attorney/client relationship. In some jurisdictions, document preparation by a lay person may constitute the unauthorized practice of law.

5. *Links* – Sites should link to other resources that are likely to assist users with their problems.

Comment:

The web is an open medium and its power is based on the capacity of the user to move from one web site to another easily. Users should be encouraged to move from one legal web site to another when the other web site may have additional current, relevant, and in-depth information.

Accordingly, sites should contain links to other sites and sources that contain information related to the user's problems and concerns. An annotation that briefly indicates the authorship, content or relevance of these sites enhances the usefulness of these links and limits the possibility that the user will believe that the linked site is also sponsored by the web site provider.

Framing (as opposed to linking to) the content provided by another web site can create problems. When a site is “framed”, the URL of the external site does not appear in the location box, which may cause users to wrongly assume that the information within the frame belongs to the original site. It also makes it difficult for users to determine the true source of the information they are viewing. Moreover, the act of copying the content of the framed site and republishing it on the provider’s own site may result in a copyright violation.

6. *Legal Citations* – When appropriate, sites should contain links to relevant case law and legislation.

Comment:

Frequently people use legal information web sites to research solutions to their legal matters. Ready access to legal authority facilitates this research and helps validate the accuracy of the legal content displayed on the web site. Because of limitations on linking to proprietary sites, however, not every legal service web site will be able to achieve this guideline. Nevertheless, it is worthwhile to have links when the information is readily available.

7. *Referrals* - Where appropriate, sites should provide users with information on how and where to obtain legal advice and further information.

Comment:

One purpose of these guidelines is to remind users that legal information by itself is often insufficient in terms of problems solving. Users often need specific legal advice that applies to their facts and only lawyers who are members of the bar in the user’s jurisdiction can provide that advice. Therefore, providers of sites are encouraged to link to other sites, such as <http://www.findlegalhelp.org>, that may provide the resources to help resolve the user’s issues.

8. *Permissions* - Providers should obtain permission to use content from other providers.

Comment:

Web site providers should have all appropriate permissions to use content sourced from other providers since the unauthorized republication of such content may infringe upon the proprietor’s copyright. In addition, the source of the content should be acknowledged.

Unless the content is acknowledged users may have a difficult time assessing the integrity of the content based on authorship. Users may also erroneously believe that the material was authored by the site provider.

9. *Terms and Conditions* - Sites should clearly and conspicuously provide users with information about the provider's terms and conditions of use.

Comment:

"Terms and Conditions" or "Terms of Service" define the terms under which a user is authorized to use the web site and/or to purchase products or services from the web site. Typical provisions include disclaimers of implied warranties, limitations on damages, and dispute resolution provisions.

A link to terms and conditions should be located in a conspicuous manner and should advise the user that the use of the site is subject to the terms and conditions. Even with such measures, however, the case law is not settled that electronically-posted terms and conditions will create a binding contract unless the user clearly manifests assent, such as by clicking "I agree".

10. *Privacy Statement* - Sites should clearly and conspicuously provide users with their privacy policies and policies on security of communications

Comment:

The site should have clearly worded privacy policies that address the provider's use of personal information of users and visitors, including the sale or transfer of information to third parties.

When users communicate with web sites, the user should be notified whether that communication is secured.