

The 10 cyberspace commandments

By David Tan For The Straits Times

HAZARD alert. My mind automatically goes through all the potential legal issues when I see a comment on Facebook directed at another individual, or a video on YouTube that draws on musical and cinematographic works created by others.

It is so easy to rant about people and events that have annoyed us on social media. Or to upload photographs of ourselves or our friends on social networking platforms like Instagram. Or to post a negative comment on Twitter. Or to chronicle our loves and pet peeves on a personal blogsite.

But how often do we pause to think about the consequences, especially the legal implications, of our conduct in cyberspace?

The cloak of "online" anonymity in cyberspace emboldens many of us to act in ways we would not when "offline". We are unlikely to confront a work colleague whose behaviour irritates us, but we will more likely criticise the same person on Facebook.

Nude or revealing pictures? Surely we will not show them to friends over dinner in a restaurant. But we might just post a few provocative ones in our Facebook or Tumblr albums.

While netizens generally share an unspoken code of cyber- etiquette, a vast majority are likely unaware of the wide range of legal risks that carry with them personal liability and criminal sanctions.

Below are what I would term the 10 cyberspace commandments, distilled from the common law and myriad legislative provisions in Singapore.

1. Thou shalt not speak ill of another

A court may find you having defamed someone if you published something that causes members of the public to think less of that person, or which exposes that individual to hatred, contempt or ridicule. Even if you are just repeating what someone else has written, it is still defamation. Liability is not based on whether you intent to defame someone: The law is more concerned about the effects of your statements.

In cyberspace, postings on websites, blogs and social networking sites like Facebook may be considered to be "publications" and may potentially be defamatory.

Even tweets on Twitter and to an extent, SMSes and e-mails, may be subject to a defamation suit and hence payment of damages.

Justification, fair comment and qualified privilege are available defences, but one should be careful when making allegations of misconduct, especially against public figures in Singapore.

It is always good practice to verify the source or truth of one's information.

2. Thou shalt think twice before uploading photographs of other people

If you publish or upload photographs of another person in a private setting without authorisation, you may face a lawsuit for invasion of privacy or, as it is known in Singapore, breach of confidence. This is especially so if the other party has reason to expect that you will keep the information or photos private.

3. Thou shalt be respectful of copyright

The law presumes the person who took a photograph to be the author of that creative work; he or she has the exclusive legal right to publish or reproduce it. This rule applies too to composers of a musical work or producers of a movie. An unauthorised posting of a photo, article, music video, film clip or street map on a website or social networking site is likely to be copyright infringement.

Again, there are defences available, like fair dealing, but a good proportion of reposted content online today may not be covered by these defences. A copyright owner can seek an injunction and compensation in a copyright infringement claim in Singapore.

In the online world, the best practice is not to upload, download or circulate content that does not belong to you.

4. Thou shalt not distribute obscene material

Under Section 292 of the Penal Code, it is an offence to download, possess or distribute by electronic means any sexually explicit material - whether book, pamphlet, paper, drawing, painting, representation or figure, video, images, etc. This includes material or data stored in a computer disc.

So think twice before uploading sexually explicit photos or videos of yourself or your girlfriend or boyfriend. If the person in the photo/video is under 16 years old, you could also be charged with sexual exploitation of a child or young person under the Children and Young Persons Act.

5. Thou shalt not misuse a computer

Under the Computer Misuse Act, you can be fined or jailed for accessing a computer to retrieve data or program without permission. It is a crime to hack into someone's computer regardless of whether or not the other party has suffered any harm.

6. Thou shalt not commit a crime against the state

Sedition is often defined as a crime committed against the state. Under the Sedition Act in Singapore, it is an offence to carry out any act that can be considered as having "seditious tendency".

This can be interpreted as a tendency to bring into hatred or contempt or to excite disaffection against the Government or the administration of justice in Singapore, and to raise discontent or disaffection among the citizens or the residents in Singapore.

On online social networking sites, if you single out a particular racial or religious group, custom or practice for ridicule, it may be construed as promoting feelings of ill-will and hostility between different demographic groups.

Similarly, online postings against the Government or the judiciary may be prosecuted under the Sedition Act if they contain a seditious tendency.

7. Thou shalt not threaten racial and religious harmony

The Penal Code imposes fines and jail penalties for words, which include online postings, intended to wound the religious or racial feelings of another individual or to promote feelings of ill-will between different religious and racial groups. The offence carries imprisonment which may extend to three years, or a fine, or both.

8. Thou shalt not disrupt the public order

Anyone who assists or promotes any assembly or procession without a required permit under the Public Order Act may be committing an offence that carries a fine not exceeding \$5,000. Repeat offenders face jail too.

Under the same Act, a person who "organises" an illegal assembly or procession can be construed broadly to include anyone who uses online media - for example, through Facebook - to encourage others to attend a gathering, meeting, march or parade, for purposes such as demonstrating support for or opposition to the views or actions of a government or people; or to publicise a cause or campaign; or to mark or commemorate any event.

9. Thou shalt not incite violence

Under the Penal Code, whoever makes or communicates any electronic record that contains any incitement to violence, counsels disobedience to the law or that is likely to lead to any breach of the peace, faces a jail term of up to five years. They can also be fined, or both.

10. Thou shalt not reveal details of government documents or locations

The Official Secrets Act's coverage is wide-ranging, with severe penalties. Be careful not to take photos of certain government premises or documents. The mere capturing of such information or data on one's mobile device is an offence, even if this is not communicated to any person.

Be safe, not sorry

CYBERSPACE is not as unregulated as it appears. Many real-world laws here apply online too. This is not dissimilar to other democratic countries where there is also legislation on hate speech, defamation, and public or national security issues.

The bottom line is, it is better to be safe than sorry.

The next time you want to post something rude, upload a photo or video, take a deep breath and think twice before hitting the "return" key.

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