



Commercial Briefing

Website compliance

Your organisation's website is of real value. It is often the first point of contact for your potential customers and as we all know, first impressions count. Websites are becoming increasingly complex and can vary from simply a medium through which to get your organisation noticed to a full trading channel. As websites become more and more sophisticated in the functions they perform, the legal requirements which apply also become more complicated.

A website which is legally compliant will not only reduce your legal risk but it will also give the right impression to your customers. So what sorts of things does your website need to include?

Have you got suitable terms of use?

You invite people to use your website so make sure that everyone knows your rules. The terms you stipulate will vary depending on the functions of your site but might cover for example, rules relating to submissions which you invite users to make and reservation of your rights in relation to content such as where you need to vary that content without notice. One of the other main aims of terms of use should be to protect your position on liability by including appropriate exclusions for the content which appears on your website.

Do you collect personal information on your website?

Many websites are used to collect a whole host of personal data. It may be contact information from someone requesting a brochure, data about a customer's marketing preferences or a CV from a job applicant. Make sure that you include the right statements on your website to explain what that data will be used for and make your company's privacy policy available. Not only does this work towards compliance with data privacy legislation but users are a lot more likely to send their details electronically if they know that they will be treated securely and used for limited purposes.

Do you sell products and services online?

Selling online means that you should have robust trading terms which take account of all the regulations applicable to online trading. Do not assume that you can just rely on your standard commercial trading terms when you deal online as the rules are very different. You will need to take account of the cancellation rights which customers may have because of the online sale and be very clear about how contracts with your customers are formed in the virtual environment.

What information do you provide about your organisation, products and services?

There are regulations which require you to provide certain key information on your website about your organisation and the goods and services which you offer. The amount of information which you need to give will vary depending on the type of website which you have and whether or not you are dealing with businesses (so-called “B2B” arrangements) or whether you have a consumer customer base (“B2C”). Trade register details, price and payment information, delivery arrangements and VAT information are just some of the issues that you may need to include.

Does your website make use of cookies or other tracking devices?

If you use this kind of device on your website you must make sure that you tell users that this happens and what any information collected will be used for. You should also explain how such devices may be disabled or otherwise tell customers that they can decline these devices in some circumstances. In addition, where information collected via a website is to be used as a marketing tool, it is very important to ensure that you obtain the right sort of consent to send marketing information. In other words, make sure that you have the correct “opt-in” or “opt-out” permission from your users.

Are intellectual property issues adequately covered?

It is important to ensure that you adequately protect your intellectual property rights by including appropriate restrictions on copying of logos, photographs, images, text and so on which may appear on your site. Your website should also include an appropriate copyright notice, preferably on every page, to further help protect your position.

Is your website sufficiently accessible?

It is a requirement under disability discrimination legislation that your website is reasonably accessible to persons who may have some disability. Often, very straightforward adjustments can be made to achieve the most basic levels of accessibility compliance. Using compatible colour combinations for text and increased font size are just a couple of ways to make your site more accessible for the visually impaired.

To discuss how Berg Legal can assist you with these issues, please contact either Stephen Foster, Head of our Corporate and Commercial Department at stephenf@berg.co.uk or Luisa D’Alessandro who is an Associate in the team at luisad@berg.co.uk. Alternatively you can call Stephen or Luisa on 0161 833 9211.

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