
Spring 2013 Franchise Business Network Meeting

April 19, 2013

11:30 a.m. – 1:00 p.m. CDT

12:30 p.m. – 2:00 p.m. EDT

Agenda

Welcome and Introductions

Joel Buckberg, Of Counsel

Baker Donelson

Nashville

How to Virtualize your Back Office With Real – Time Dashboards

Steve Gross, Managing Director

Dixie McCurley, Managing Director

Trusted CFO Solutions

Atlanta

Health Care Reform – The True Market Impact

Andria Herr, President, Orlando Operations

Hylant Group

Orlando

Understanding The Employee Time Clock and Related Party Rules of the Affordable Care Act

Andrea Powers, Of Counsel

Baker Donelson

Birmingham

Questions and Answers

Nashville



Stephen R. Gross, CPA, CGMA, CVA, CFE

CEO

Trusted CFO Solutions, LLC / Gross Capital Advisors, LLC / The Gross Consulting Group, LLC / Business Builders Team, LLC

Steve Gross is the Founder Emeritus of HLB Gross Collins, P.C. He was Regional Managing Partner, National Director of Business Consulting and a member of the Executive Committee of an international accounting firm.

Steve founded **Trusted CFO Solutions, LLC** and **Business Builders Team, LLC** to assist businesses and management teams in being exposed to, educated, and assisted in transitioning their administrative and financial reporting internal operations to "New Platform Technology."

These new systems and technologies achieve business goals of (1) reduced cost of ownership of back office systems and equipment, (2) reduced manpower needs of operating and maintaining these processes, (3) real time access to operational reports, dashboards, and financial performance reports anywhere that is accessible to the web, (4) simplified backup and disaster recovery of data, programs and functionality, (5) automatic analysis and insight reports integrated, and (6) presentation products, interactive and enabling drill down analysis of trends, variances, and peer performance on 87" interactive touch digital whiteboard/monitors with video conferencing to aid board groups or management team in far flung locations.

Steve also founded **Gross Capital Advisors, LLC** and **The Gross Consulting Group, LLC** at the end of 2011 to pursue advising, servicing and providing capital to business transactions and operating companies. The market need for investors to locate opportunities and for owners to access capital has never been more intense, and cumbersome with the stresses that have occurred in the financial markets.

In his role of capital formation for clients over the past 35 years, he has assisted companies in raising capital and financing for hundreds of companies and provided capital in the hundreds of millions. Companies who has used his services including AI Williams Life Insurance, WebMD, NetEffect, HotPalm and many others. As an advisor to companies with dynamic growth, family offices and high net worth angels, he has provided strategic, advisory and investment advice creating wealth for stakeholders.

Specialized Services

Steve has consulted, audited or assisted in exit events with hundreds of companies throughout the United States and Western Europe. His involvement has assisted management teams in growing, governing and merging or selling of companies to many major international groups.

Directorships and Business Affiliations

As a part of Steve's services to his clients, he has served on the Board of Directors of many companies, both public and private for over 27 years.

Current Public Directorship

- Mutual Fund Family of Legg Mason Partners Fixed Income Funds: Designated Financial Expert

Current Boards of Directors or Advisors

- Executive Director, Business Builders Team, LLC
- Advisory Board, Consumers' Choice Award, Stock News Network
- Host, The Gross Reality Radio Show
- Board of Directors, Boy Scouts of America, Atlanta

Past Directorships have Included

- Mutual Fund Family for Van Kempen American Capital
- Mutual Fund Family for Citigroup Smith Barney
- Charter Bank & Trust
- Hank Aaron Enterprises, Inc.
- Mutual Fund Family for Morgan Stanley Dean Witter
- WebMD, Inc.
- ebank Financial Services, Inc.
- Carint North America, PLC

Professional Memberships and Awards

Steve is a licensed CPA, Chartered Global Management Accountant, Certified Fraud Examiner, Certified Valuation Analyst, and he is Certified in Financial Forensics. He is a member of the state and national CPA societies. He is a member of the Institute of Business Appraisers, the National Association of Certified Valuation Analysts, and the Association of Certified Fraud Examiners.

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[Dixie McCurley]

executive vice president



who is dixie?

She has a deep passion to make a difference...and what a difference she is making! Never able to fully identify with the stuffy title of "accountant", Dixie set out to revolutionize accounting practices for small to medium-sized businesses by offering a new way of thinking about the whole process. By utilizing a unique method that capitalizes upon the latest technology available, she walks each client through their pain points to the point of saying, "wow!"

what can she do for you?

Experienced in a wide range of industries, Dixie provides innovative solutions where there are inefficiencies in the accounting process. From personnel to policies to procedures, Dixie finds a way to streamline the process by using the very latest technology available. She puts data in dashboards that empower Controllers and CFO's instead of leaving them in the dark waiting on reports.

how did she get here?

Upon graduation from Auburn University, Dixie relocated to Atlanta to join Earthlink, a major player in the technology arena at the time. During her time in the corporate accounting and finance department, she had the opportunity to work in several roles including staff accountant, internal reporting, acquisition transitions and implementation for financial systems. Identified as a "fast tracker", she quickly excelled in the organization and took home several awards from both peers and managers. These roles prepared her perfectly for the next leg of her journey: an exciting position at one of the major CPA firms in Atlanta, Gifford, Hillegass & Ingwersen. She was charged to lead the business advisory group by offering a new way of thinking about project accounting, system implementations and how firms could provide more customized services for Controllers and CFO's. Under her leadership, technology combined with a solution-oriented approach to accounting replaced traditional services resulting in very happy clients.

other fun tidbits

Dixie has lived in Atlanta for over 12 years now and considers this beautiful city her home. Dixie is a QuickBooks ProAdvisor, Intacct & Bill.com Certified, and is a member of Mindshop. She has been involved in numerous groups such as the Buckhead Women's Business Group, The Urban Land Institute of Atlanta and the Technology Association of Georgia. On Saturday afternoons in the Fall, you will find Dixie dressed in blue and orange yelling "go Tigers!" as she pulls for her alma mater, Auburn University. Not only did she leave there with a degree in Accounting but she also developed a strong bond with her Zeta Tau Alpha sisters. As a self-proclaimed foodie, Dixie spends her free time dining at the hundreds of amazing restaurants Atlanta has to offer. After that, she takes in a yoga class, enjoys a bike ride through Piedmont Park or picks up a few items at The DeKalb Farmers Market in order to try her hand at a new recipe or two.

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Work Smarter, Not Harder
The Power of Real-Time Financial Data and Analytics in the Franchise Industry


[STEVE] GROSS [DIXIE] MCCURLEY

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Speaker Bios



- Stephen R. Gross, CPA, CGMA, CVA, CFE
 - Steve is co-founder and CEO of Trusted CFO Solutions, and the Founder Emeritus of HLB Gross Collins, P.C. He was Regional Managing Partner, National Director of Business Consulting and a member of the Executive Committee of an international accounting firm.




- Dixie McCurley
 - Dixie is co-founder and EVP of Trusted CFO Solutions and is passionate about revolutionizing accounting practices for business by offering a new way of thinking about the whole process.

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Our firm is different

How is TCFOs different than a typical CPA firm?



- Trusted CFO Solutions**
 - Proper accounting is the core foundation of meaningful reporting and analysis.
 - Using real-time, orderly data and information, we turn chaos into order and deliver actionable insights to help you effectively run your company.
- Typical CPA Firm**

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Today's Session Objectives

What are **Real-time** Financial Data & Analytics?

What is the **POWER** of Real-time Financial Data & Analytics?

How would Real-time Financial Data & Analytics **benefit** me?

How do I get Real-time Financial Data & Analytics?



• How many of you remember popping popcorn the old fashioned way



• How did it used to work




Today you simply

[Press Here]






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What are [Real-time Financial Data & Analytics]




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[Real-time Financial Data & Analytics]

Accurate Reporting & Business Visibility for all Key Stakeholders

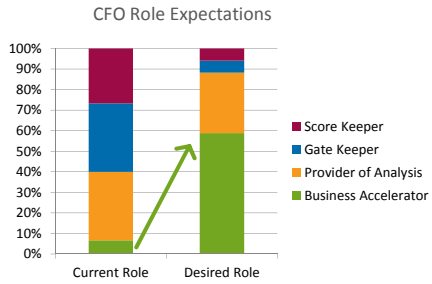
- One version of the truth
- Real-Time, Consistent Information in the Cloud
- Role-based Dashboards
- Management by KPI's
- 24x7 Accessibility By All Stakeholders



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[Real-time Financial Data & Analytics]

Enable finance professionals to re-invest their time to...



Armando McKenna, "The CFO Evolution - 2011 Benchmark Survey Results", Dec 2011



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[Real-time Financial Data & Analytics]

What's new about it?

Not much. There is nothing new about:

- what you have to account for,
- what you need to see daily/monthly,
- what you need to run the business.



[Not a luxury]

[You can just have the result **sooner.**]



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What is the **POWER** of
[Real-time Financial Data & Analytics]



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What is the power of
 [Real-time Financial Data & Analytics] ?



POPCORN

It's the same as the power of the
 [Popcorn Button] !

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Do you know?

POPCORN


Temperature Sensor Humidity Sensor

Permeability of the bag Sensor

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Franchises Face an Array of [Reporting] Challenges

- Locations spread across the country that require real-time access centralized processes
- Franchisors demanding greater transparency and reporting of sales and operational data
- Ease of centralized payments & automatic inter-entity transactions
- Shared charts of accounts, global agings, revenue trending across multiple units



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POWER of [Real-time Financial Data & Analytics]

Delivers Real Business Advantages to Franchise Finance

- Save time by automating manual financial processes
- Enable smart decision-making with real-time reports and dashboards
- Provide anytime, anywhere access to key financial information and processes
- Easily integrate with your other core business applications



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How do I get [Real-time Financial Data & Analytics]



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[Trusted CFO Solutions Process]



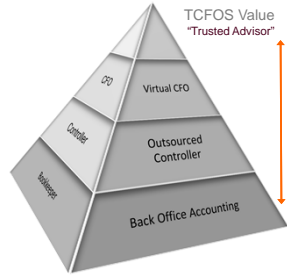
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TCFOS [Solution]

Sometimes you need:

- A little bit of a CFO
- A little bit of a Controller
- A little bit of a Bookkeeper



TCFOS – [Our Process]


1. Want to standardize processes
2. Too many disparate systems
3. Need better visibility into franchises
4. Arduous process of gathering data





TCFOS – [How we help clients]

Most business people fall into the trap of **going straight from the NOW to the HOW** without getting any context to **what is a priority to fix first** (which is where help strategize and map out a clear **WHERE**).

{ A failure to plan is a plan for **failure**. }





How does [Real-time Financial Data & Analytics] benefit me?

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[Real-time Financial Data & Analytics]
Benefit – “Financial Intelligence”


- Configure reports and dashboards
 - Compliance Reporting
 - Drill down to transactions
- Tag transactions using “Dimensions”
- Combine financial and statistical data to monitor your own KPIs
- Customize 25 custom transaction fields

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[Real-time Financial Data & Analytics]
Examples of benefits

Area of Benefit	Drivers	Example
Flexibility to Plan and Manage Based on Attributes Tailored to Any Business or Industry	<ul style="list-style-type: none"> Ability to capture a more granular level of operational and financial data tailored to the business 	<ul style="list-style-type: none"> No need for costly 3rd party reporting or data warehousing solutions = \$1,000's to \$100,000's in savings
Increased Finance Productivity	<ul style="list-style-type: none"> Automation of reporting No need to manually capture, aggregate and manipulate data in Excel to produce reports 	<ul style="list-style-type: none"> 1 FTE = \$150k/annual savings
Better Reporting and Visibility	<ul style="list-style-type: none"> Real-time visibility into the business Improved multi-dimensional analysis with drill down to transactional level detail 	<ul style="list-style-type: none"> More informed business decisions Faster time to results: take advantage of opportunities now not later when offline reports are made available
More Efficient Information Distribution	<ul style="list-style-type: none"> Anyone, anytime, anywhere can access real time, consistent information 	<ul style="list-style-type: none"> Improved business productivity. For a \$20M company, a ~1% improvement provides a ~\$200k benefit



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How do I get started?

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TCFOS [Phased Approach]

TCFOS Value "Trusted Advisor"

assessment phase

- ▶ Discovery
- ▶ Assessment
- ▶ Recommendations

implementation phase

- ▶ Project Planning
- ▶ Prioritizing Goals
- ▶ Take Action

client services

- ▶ Back Office Accounting
- ▶ Virtual CFO
- ▶ Cloud-based Solutions

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TCFOS [Assessment Process]

Where do we start?

[solution: pilot program]

- Franchisors to pick three stores:
 - "Worst" Store**
The most under-performing store in terms of current data; the "bottom of the barrel"
 - "Middle" Store**
An "average" store financially; the "middle of the road"
 - "Best" Store**
The highest-performing store in terms of current data; the "cream of the crop"
- TCFOS will make Assessment of the three selected stores to determine:
 - ✓ Where each store is in terms of profitability
 - ✓ Where universal mistakes are being made
 - ✓ How those mistakes are being missed
 - ✓ How those mistakes affect profitability

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GOAL of the [Real-Time Data & Analytics]

[goal: win-win value]

<p>[value to franchisor] [win]</p> <ul style="list-style-type: none"> • Single point of contact for many stores • Like having your own accounting "department" • Collection of accurate, real-time data • Proactively help with operations and prevent "accounting headaches" • Easily implement accounting changes throughout franchise. Scalable with growth of stores. 	<p>[value to franchisee] [win]</p> <ul style="list-style-type: none"> • Lower investment for Higher-value services • Reports generated and sent automatically to franchisor • Ability to use financial stats to manage to profitability • Remove headache of tedious, time-consuming accounting. • Get coached through management accounting.
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Conclusion – Objectives Covered

<p>What are Real-time Financial Data & Analytics?</p> <hr/> <p>How do I get Real-time Financial Data & Analytics?</p>	<p>What is the POWER of Real-time Financial Data & Analytics?</p> <hr/> <p>How would Real-time Financial Data & Analytics benefit me?</p>
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Q & A



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Andria Herr

President – Orlando Office
Client Executive

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ABOUT HYLANT

Founded in 1935, Hylant is a full-service insurance brokerage with 14 offices in Ohio, Michigan, Illinois, Indiana, Florida and Tennessee. As a member of the Worldwide Broker Network, Hylant offers complete risk management services, employee benefits consultation, loss control, healthcare management and insurance solutions for businesses and individuals. Hylant is one of the largest privately held brokerage firms in the United States and serves a wide variety of clients locally, nationally, and internationally.



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Andria Herr, President – Orlando Office

INDUSTRY EXPERIENCE

With 25 years experience in the Central Florida marketplace, Andria's vast knowledge of employee benefits and group insurance is a valuable resource for our clients. As the President of the Orlando office, Andria's focus is to ensure the delivery of exceptional service.

Andria joined AGIS as the President in 2002 and under her leadership the Orlando office more than tripled in revenue and staff. In 2008 she was named the national President of AGIS responsible for all five offices located in Florida, Indiana, and Michigan. In 2012, Hylant Group acquired AGIS.

Prior to AGIS, Andria was the Vice President of Sales for UnitedHealthcare and launched their first commercial products in Central and North Florida. She was responsible for hiring/terminating/training/developing staff, product design and distribution and profitability. Andria worked closely with government relations to assist with product filings; underwriting to develop pricing methodologies; and senior management to develop health plan policies.

From 1987 to 1995 she worked as a Senior Account Executive at Cigna. Andria was responsible for selling and renewing group employee benefit policies for large employers. She gained experience in fully insured experience rating, self-funded and minimum premium medical policies and underwriting technique.

Through her years working on both the carrier and broker side of the industry, Andria gained extensive knowledge of underwriting formulas, plan design and experience analysis. She is recognized as an exceptional negotiator with strong skills in insurance committee presentations.

CLIENTS

Andria works with organizations such as Seminole County Public Schools, Seminole County Government, the City of Winter Park and Attorneys' Title Fund Services, LLC.

INDUSTRY ASSOCIATIONS

Andria currently serves on the Board of Directors for the Foundation for Seminole County Public Schools and is the Immediate Past Chair of the Seminole County Regional Chamber of Commerce. She serves on the Women's Advisory Board for South Seminole Hospital.

EDUCATION AND ACCREDITATIONS

Andria received her bachelor's degree in Business Administration from Stetson University in Deland, Florida.

She is a licensed Health and Life Agent.

Andria was named one of the "40 under 40" and "Women Who Mean Business" by the *Orlando Business Journal*.



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Health Care Reform – The True Market Impact!

Presented By: Andria Herr
President, Orlando Operations
April 19, 2013

HYLANT | **BEST** 2012 work

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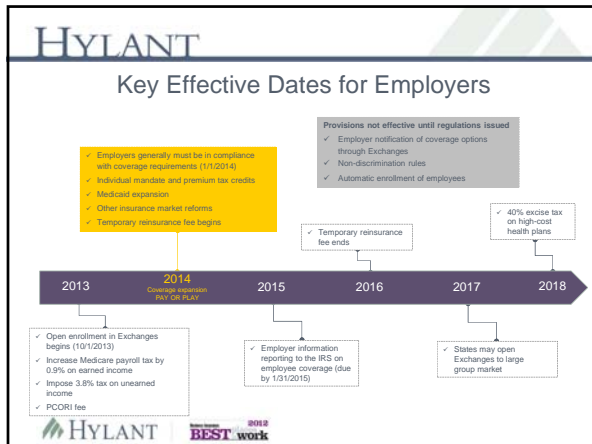
Health Care Reform – The True Market Impact!

- We will cover today
 - Key Effective Dates for Employers
 - Plan Design
 - Payroll Deduction Concepts
 - The Carrier Perspective
 - What to look for in a Consultant

HYLANT | **BEST** 2012 work

Key Effective Dates

What Employers Need to Know





-
- Overview of 2013 Key Provisions**
- Health FSA** – Employee contributions to Health FSA limited to \$2,500 beginning with 2013 tax year (1/1/2013)
 - Exchange Notification** – Employers must notify all employees of the existence of State-based insurance Exchanges which will begin in 2014 (Delayed by the HHS)
 - PCORI Fee** – Fee on insured and self-funded health plans to fund the Patient-Centered Outcomes Research Trust Fund due by July 31st of each year (July 1, 2013 will be the first year)
 - Medicare Retiree Drug Subsidy** paid to employer plan sponsors becomes taxable income beginning in 2013
 - Hospital Insurance Tax of FICA** – The employee portion of the tax (currently 1.45% of covered wages) is increasing by 0.9% on wages that exceed the below threshold amounts.
 - Open Enrollment in Exchanges** – Will begin October 1, 2013
- HYLANT BEST work 2012

-
- Overview of 2014 Key Provisions**
- Enhanced Wellness Incentives** – PPACA provides Enhanced Wellness incentives by increasing incentive maximum to 30% of premium (may be increased to 50% by HHS)
 - Reinsurance Program (2014 – 2016)** – all health insurance issuers and TPAs of self-funded plans must make contributions to support reinsurance payments to individual market carriers that cover individuals with high medical costs
 - HHS has not developed the rate for 2014
 - Quarterly payments begin January 15, 2014
 - Coverage and Design Mandates**
 - No pre-existing condition exclusions for anyone
 - No annual limits on essential benefits
 - Required coverage of routine cost for qualified clinical trials
 - No more than 90-day waiting period for new hires
 - Required coverage of “Essential Health Benefits Package” for small group fully insured plans (100 employees or less)
 - Cost sharing limits
- HYLANT BEST work 2012

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Health Insurance Exchanges

- Beginning 1/1/2014, states are required to establish a health insurance exchange for individuals and small employers (100 or less employees) to purchase health coverage.
- Must be operated by a governmental entity or non-profit entity.
- For states that do not establish an Exchange, or if the state's Exchange fails to meet Federal requirements, the Federal government will operate the Exchange.
- The Exchanges are to offer Bronze, Silver, Gold, Platinum Plan Options



Plan Design

What to Expect

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Small Group

- Metallic Plans – Designed by Carriers to Meet the Following Minimum Values
 - 60% - Bronze 70% - Silver 80% - Gold 90% - Platinum
 - Plans will vary from carrier to carrier – think WATER BALLOON
 - Network will become a big differentiator
 - Prepare for Swim Lanes
 - “80% of what we sell today will no longer be available”
 - “25% of our current clients will not be allowed to renew their current plan”

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Large Group

- The HHS minimum value calculator was provided on Feb. 25th
- HHS has already indicated that their own calculator will change again.
- You should start the modeling process with your consultant now but PLEASE know it is preliminary in nature. We can not give you a definite answer on whether your plans meet minimum value or not.
- Affordability based on your lowest cost plan is risky if it is border line for meeting minimum value. It could throw off your calculations.
- Carriers have NOT committed advising agents or clients on specific plan designs meeting minimum value. Actuarial Attestation may be needed or HHS calculator may be used.



Payroll Deduction Concepts

What to Avoid

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Measures of Affordability – Large Group



- 9.5% of family income – Safe Harbor uses W2
 - Much larger payroll deduction than most families have become accustomed
 - Don't fall into the discrimination trap
 - Beware of the forced Cadillac purchase. More is not always better
 - Choice is your best friend



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Defined Contribution

- Everything Old is New Again
 - New Name – Private Exchange
 - Employer sets annual contribution amount
 - Employer sets plan options and line of coverage options
 - Employee uses the allotment to buy coverage that best meets their needs
 - Employer to some degree avoids trend and employees knows the true cost of coverage

The Carrier Perspective

And it's effect on YOU

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The Carrier Perspective – Small Group

- 80% of what we sell today will no longer be available to our clients 1/1/2014
- 25% of our current clients will have to move to more expensive plans
- The final regulations with regard to plan designs have not been published. Once they are, we will have to file new plans with the Office of Insurance Regulation and we see no way that they can make it through their normal process on time.
- Our clients and distribution channel are not prepared for the impact of the required rating compression.
- It could be worse, the folks in the individual market have greater rate fluctuation.
- If we don't protect the risk pool, our clients and shareholders will suffer the consequences.



Selecting a Consultant

What to Consider

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Selecting a Consultant

- Evaluate The Old "Relationship"
 - Does the firm have enough depth to keep up with the research?
 - Does YOUR AGENT keep up with the data?
 - Do they have the relationships with the carriers that will give you broad access to carriers?
 - Can they make the complex seem simple?

Questions

Contact Information:

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Andrea Bailey Powers

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Birmingham
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Andrea Bailey Powers is of counsel in the Firm's Birmingham office. As an employee benefits attorney, Ms. Powers has over twenty years of experience with all aspects of executive compensation and employee benefits matters, including the design and administration of qualified plans, health and welfare benefit plans, and non-qualified plans.

Because nearly every business is impacted by health care reform, Ms. Powers spends much of her time helping companies address compliance issues and business realignment in the wake of the Affordable Care Act. She also advises on fiduciary compliance issues, and represents clients in IRS and U.S. Department of Labor audits and investigations, as well as pursuing corrections under EPCRS and VFCP.

Ms. Powers focuses heavily on clients in the health care industry, as well as regional and national companies in the manufacturing and hospitality industries. She oversees the design and implementation of equity and synthetic equity programs to compensate executives in both established and startup companies. She routinely works with buyers and sellers to coordinate benefits issues in merges and acquisitions, including retirement plan mergers, change of control payments and mid-year health plan issues benefits. Ms. Powers also provides counsel with respect to executive compensation issues, including IRC §§ 409A, 162(m) and 280G (Golden Parachute) analysis.

Publications & Speaking Engagements

- Ms. Bailey frequently speaks to national audiences for the Society for Human Resource Management, WEB, Worldwide Employee Benefits Network, Lorman Educational Services, and private groups. Ms. Bailey has been published in *Corporate Counsel* magazine and the *Birmingham Business Journal*.
- Presenter – "The Affordable Care Act and Employer-Sponsored Health Plans," Alabama Utility Contractors Association (January 2013)
- Presenter – "ESOP In Ownership Succession Planning" and "Ethical Considerations," National Business Institute (December 17, 2012)
- Presenter – "The Supreme Court Has Ruled: Now What for Employer Health Plans under the Affordable Care," Birmingham Business Alliance (October 2012)
- Presenter – "Impact of Health Care Reform on Employer Plans," Baker Donelson Fall Focus (October 4, 2012)
- Co-author – "Ready To Be Sued For Expected Benefits?" Baker Donelson Alert (June 8, 2011); reprinted in Chattanooga Manufacturers Association Newsletter (June

2011)

- Co-author – "[Employee Benefits in Mergers and Acquisitions: Buyer Beware](#)," *The ASPPA Journal* (Winter 2011)
- Presenter – "Cutting Edge Retirement Plan Design for Professional Service Firms," seminar (November 2010)
- Presenter – "Impact of Healthcare Reform on Employers," Nashville Bar Association (November 2010)
- Author – "[Health Care Reform's Impact on Employers](#)," *Construction News* (2010, Issue 1)
- Co-author – "[Spotlight on Health Care Reform: Age 26 Requirements](#)," Reprinted: *Employment and Labor Update*, Lorman Education Services (June 2010)
- Co-author – "Know Your Risk Tolerance Before Self-Insuring," Society for Human Resource Management's *Legal Report* (September – October 2009)
- Presenter – "Fiduciary Duties for Retirement Plans," Atlanta Chapter of the Worldwide Employee Benefits Network, Atlanta, Georgia (January 15, 2009)
- Presenter – "Benefits Boot Camp," Society for Human Resource Management Annual Conference, Las Vegas, Nevada (June 2007)
- Presenter – "Ignorance is No Longer Bliss: What the Average Plan Sponsor Needs to Know About Recent 401(k) Lawsuits over Excessive Fees," Swerdlin Educational Series, Atlanta, Georgia (November 2006)
- Presenter – "Managing Fiduciary Liability," SHRM Southeast Human Resource Conference, Atlanta, Georgia (October 2006)
- Presenter – "401(k) Liability Management for Top Executives," A.G. Edwards Client Seminar, Atlanta, Georgia (August and September 2006)
- Presenter – "Introduction to Health Plans – COBRA, HIPAA, & Funding Issues," WEB Benefits Boot Camp, Atlanta, Georgia (May 2006)

Professional Honors & Activities

- Member – Alabama State Bar Association
- National Program Chair – WEB, Worldwide Employee Benefits Network
- Past President, Atlanta Chapter, WEB, Worldwide Employee Benefits Network
- Former Board Member – National Women in Pensions, Inc.
- Board of Directors – Oasis Counseling Center for Women and Children (Treasurer, 2011)
- Adjunct Professor – Georgia State University (1999 – 2004)

Admissions

- Alabama, 2008
- Georgia, 1993

- U.S. District Court for the Middle District of Georgia, 1995

Education


- University of Virginia School of Law, J.D., 1993
 - Managing Editor, *Virginia Tax Review*
 - Volunteer Tax Preparation
 - Legal Aid Society
- University of Alabama, B.S., 1990, *cum laude*
 - Beta Alpha Psi
 - Mortar Board, Anderson Society, The XXXI

PRESENTATION


Helping Businesses Navigate Through Health Care Reform

Franchise Business Network
April 19, 2013

Presented by:



Andrea Bailey Powers
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BAKER DONELSON EXPAND YOUR EXPECTATIONS™


Select ACA Provisions Affecting Employers

2011 Plan Year	2011	2012	2013	2014	2018
<p>Some dollar limits on Essential Health Benefits (EHB) prohibited*</p> <p>Preexisting condition exclusions prohibited for children under 18</p> <p>Limits on annual dollar limits on EHB*</p> <p>Extension of adult child coverage to age 26*</p> <p>Enhanced appeals procedures**</p> <p>No cost sharing and coverage for certain network preventive health services**</p> <p>Non-discrimination rules on fully insured health plans** (DELAYED)</p> <p>*Dundee changes applicable to all group health plans **Dundee changes NOT applicable to grandfathered health plans ***This requirement applies to "full-time" employees (discussed below)</p>	<p>OTC medicines not reimbursable under Health FSA, HRA, or HRAs without prescriptions, except insulin</p> <p>HSA Excess Tax increase</p>	<p>Employer distribution of SBCs to participants*</p> <p>Medical Loss Ratio rebates (insured plans only)</p> <p>Employer reporting of health coverage on Form W-2 (due 1/31/13) (only for employees with ≥20 W-2s)</p>	<p>Notice to inform employees of coverage options on health exchanges (DELAYED)</p> <p>Limit of health care FSA contributions to \$2500 (indexed)</p> <p>Medicare tax on high income (employer's base, withholding on wages over \$200,000)</p> <p>Addition of women's preventive health requirements to no cost sharing and coverage for certain in-network preventive health services**</p>	<p>Individual mandate to purchase insurance or pay penalty</p> <p>State insurance exchanges</p> <p>Employer responsibility to provide affordable minimum essential health coverage***</p> <p>Preexisting condition exclusions prohibited*</p> <p>Annual dollar limits on EHB prohibited*</p> <p>Limit of 90-day waiting period for coverage</p> <p>Increased cap on rewards for participation in wellness programs**</p> <p>Limits on deductibles and out-of-pocket maximums**</p> <p>Transitional reinsurance contribution (approx. \$63 per participant)</p>	<p>Excess tax on high-cost coverage</p>

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Employer Shared Responsibility Payment (Commonly Called "Pay or Play" Penalty Tax)

- Beginning January 1, 2014, employers with 50 or more employees are required to provide health insurance or pay penalty tax:
 - If employer **doesn't offer health coverage** and at least one low income FTE enrolls in health coverage on an exchange and obtains a premium credit, employer must pay an annual penalty of \$2,000 multiplied by all FTEs, disregarding the first 30
 - The penalty is payable on a monthly, pro-rata basis
 - If employer **does offer health coverage** but it is not "affordable" or is not of "minimum value" and a low income full-time employee enrolls in health coverage on the exchange and obtains a premium credit, employer must pay an annual penalty of \$3,000 for each exchange enrolled FTE (Penalty capped at \$2,000 multiplied by all FTEs, disregarding the first 30)



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Shared Responsibility Rules (continued)
What Does It Mean to "Offer Coverage"?

- Employer that provides at least **95% of FTEs with health coverage**, or if greater, **coverage to all but five of its full-time employees**, is considered to offer health coverage for purposes of the pay or play penalty
- So, if an employer offers health coverage to 98% of its full-time employees:
 - Not subject to the \$2,000 penalty
 - But is subject to the \$3,000 penalty with respect to each low income FTE who isn't eligible for the employer's health plan and who enrolls in health coverage on the exchange and obtains a premium credit (this is in addition to the penalty with respect to each low income FTE who is eligible for the employer's health plan but where the plan isn't "affordable" or not of "minimum value")

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Shared Responsibility Rules (continued)
What Does It Mean to be "Affordable"?

Health coverage must be "affordable" and of "minimum value" in order to avoid the \$3,000 penalty

There are 3 safe harbors for "affordability" test:

1. **W-2 safe harbor:** Employee's contribution for single coverage under the lowest cost medical option does not exceed 9.5% of employee's Box 1 W-2 pay for that year
2. **Rate of pay safe harbor:** Take an hourly employee's hourly pay rate in effect at the beginning of the year and multiply by 130 (the benchmark for FTE status for a month under the pay or play penalty). If employee's contribution for single coverage under the lowest cost medical option does not exceed 9.5% of employee's monthly wage amount, the affordability test is satisfied. A similar safe harbor is available for salaried employees based on the employee's monthly salary in effect at the beginning of the year
3. **Federal poverty line safe harbor:** Test met if employee's cost for single coverage does not exceed 9.5% of the federal poverty line for a single individual as in effect as of the beginning of the year

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5

Shared Responsibility Rules (continued)
Minimum Value Test

A plan will satisfy minimum value test if it covers 60% or more of the cost of covered benefits

Proposed regulations offer three methods of determining minimum value:

1. **Calculator Method** HHS and the IRS will, in the future, offer a calculator. The plan will enter information about the plan's cost-sharing to determine whether the minimum value test is satisfied
2. **Safe Harbor Checklists Method** The safe harbors will be published by HHS and the IRS in the form of checklists to determine whether a plan provides minimum value. Each checklist will describe cost-sharing attributes of a plan in four categories of benefits:
 - Physician and mid-level practitioner care
 - Hospital and emergency room services
 - Pharmacy benefits; *and*
 - Laboratory and imaging services
3. **Actuarial Certification Method** If the plan contains non-standard features that aren't suitable for the calculator or do not fit the safe harbor checklists, the plan's minimum value can be determined by an actuarial certification

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Shared Responsibility Rules (continued)
Who is the "Employer"?

- Apply common-law test to determine who is an "employee."
- All members of a "controlled group" under IRC § 414(b) or (c) are treated as a single employer.
If a parent owns ≥ 80% of the equity in a subsidiary, or if the same 5 or fewer persons own ≥ 80% of the equity in another company or collectively own > 50% of both companies, the companies will be considered controlled groups and all employees must be combined together for purposes of calculating whether an employer is above or below the 50 FTE threshold.
- All members of an "affiliated service group" under IRC § 414(m) are treated as a single employer.

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Shared Responsibility Rules (continued)
Who is a Full-Time Employee (FTE)?

ACA defines FTE as an individual who works, on average, at least 30 hours per week. IRS guidance provides permissible safe harbor methods for applying rule:

- **New Hires.** Only count new hires as FTEs if employee is reasonably expected to work full-time as of date of hire.
- **Variable Hour and Seasonal Employees.** Can generally exclude, unless the employee actually works, on average, at least 30 hours per week during a "measurement period" of between three and 12 months. If employee works the required number of hours during the measurement period, the worker must be treated as FTE during a subsequent "stability period" which must be a period of at least six months, and no shorter than the initial measurement period.
- **On-Going Employees.** Can apply a measurement period/stability period test similar to above. An employee is treated as an ongoing employee (vs. a new hire) after the initial measurement period. If an on-going employee doesn't satisfy the "on average, at least 30 hours per week" test for a measurement period, employer will not be subject to penalty if it does not offer the employee health coverage for the subsequent stability period (which can't be longer than the measurement period). This is true regardless of the employee's actual hours of work during the stability period.

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8

Shared Responsibility Rules (continued)
Measurement Periods/Administration Period/Enrollment

- **Measurement Periods**
 - **Standard Measurement Period**
 - Applies to all on-going employees classified as variable hour employees.
 - Set period of 3-12 months.
 - Calculate average hours worked during measurement period for all variable hour employees employed as of first day of measurement period.
 - **Initial Measurement Period**
 - Applies to variable hour (including seasonal) employees hired after start of standard measurement period.
 - Number of months in period is same as for standard measurement.
 - Initial measurement period calculated from employee's date of hire. If employee not an FTE after initial measurement period, calculate under standard measurement period thereafter.
- **Administration Period**
 - Period commences after end of measurement period and is used to conduct enrollment of eligible FTEs.
 - Period cannot exceed 90 days.
- **Enrollment**
 - FTEs must be eligible for coverage for period ≥ measurement period, but not less than 6 months.

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Shared Responsibility Rules (continued)
Summary of Tax

- \$3,000, adjusted for inflation after 2014, multiplied by the number of FTEs who receive premium tax credits or cost-sharing assistance (this number is not reduced by 30)
- Penalty tax is capped at \$2,000 multiplied by total number of FTEs, reduced by 30
- If an employee is offered affordable minimum essential coverage, employee generally ineligible for a premium tax credit and cost-sharing reductions for insurance purchased through an Exchange
- Employer reporting requirements (plan, type of coverage, number of full time employees)

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QUESTIONS?



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11

IFA Federal Government Relations

Legislative Update

April, 2013

Tax Reform: Tax reform will be an issue in the 113th Congress, and IFA will continue to advocate for comprehensive reforms that address both corporate and individual rates. The Fiscal Cliff deal took a small step towards reform by extending business tax incentives such as accelerated depreciation for restaurant and retail improvements, bonus depreciation, and the work opportunity tax credit. In March 2013, House Ways & Means Chairman Dave Camp (R-MI) released a proposal for tax reform in regards to small businesses and pass-through entities that was the result of the input from a working group of committee members and other stakeholders, including IFA. Chairman Camp has received the go-ahead from GOP leadership to produce tax reform legislation in this Congress.

Health Care: Although repeal of the Affordable Care Act is unlikely following the 2012 elections, IFA will pursue changes to the law to ease the burden on franchise small business owners, and will continue to inform regulators as to the interest of franchise business owners as new regulations are proposed throughout 2013. In the Senate budget process, several amendments were introduced to make important changes to the law, such as changing the definition of “large employer” and “full-time employee” under the law, indicating the inclination of many Senators to make technical fixes to the law. IFA has also launched a new website, www.MakingSenseofHealthCare.org, to educate IFA members on ACA compliance.

Labor Regulations and Workforce Policy: The NLRB is attempting to enact portions of the failed Employee Free Choice Act through regulation, putting increased pressure on business owners. Additionally, a number of recent decisions by the NLRB risk the rights of both employers and workers, including the “ambush election” rule to shorten the timeframe for holding union elections and the *Specialty Healthcare* decision, which approved the formation of “micro-unions.” IFA has challenged the legitimacy of the NLRB’s actions due to President Obama’s controversial recess appointments to the Board, and the U.S. Court of Appeals for the District of Columbia ruled in January that the appointments were unconstitutional.

Immigration Reform: IFA stands ready to work with Members of Congress to enact much-needed comprehensive immigration reform. IFA encourages a plan that includes an improved and expanded temporary guest worker program that is market-based and fulfills the workforce needs of employers. Immigration reform proposals should also include a pathway for unauthorized immigrants to gain legal status and an effective, easy-to-use employment verification system that safeguards employers. IFA continues to advocate for these essential reforms as legislation is drafted this spring, most notably by the bipartisan Gang of Eight in the U.S. Senate.

IFA State & Local Government Relations

Legislative Update

April, 2013

State Issues:

Franchise Relationship Legislation – Across the country, misguided franchise relationship laws pose an imminent threat to franchising, and IFA is working continuously to inoculate franchising against this legislation by educating state lawmakers and officials on the basics of franchising and the economic impact of the industry. Relationship bills were defeated in California, Massachusetts and Michigan in 2012. In 2013, IFA is working to defeat similar measures again in California and Massachusetts, in addition to Rhode Island.

Clarifying Franchisees as Independent Contractors – Although franchisees are widely considered businesses that are independent from their franchisors, franchisees do not pass the “A-B-C” test for classifying independent contractors in many states. Following a 2012 victory in Georgia, IFA has continued to proactively pursue legislation in 2013 in Delaware, Massachusetts, Nebraska, and Oregon. IFA is working to defeat onerous classification measures in Washington state.

Local Issues:

New York City Soda Ban – in 2012, New York City Mayor Michael Bloomberg and his Board of Health banned certain establishments from selling sugared beverages larger than 16 ounces. A judge struck down the beverage ban in February. IFA was an active member of New Yorkers for Beverage Choices, a coalition to overturn the restrictions.

Seattle Proposed Criminal Background Ordinance – Seattle is considering an ordinance that would restrict employers from using criminal background checks when screening potential employees. IFA is active in an informal coalition opposed to the measure.

U.S. Conference of Mayors – IFA continues to work with the USCM to build strong relationships with local leaders and promote franchising as a model for economic development. Sly James, Mayor of Kansas City, MO, is the new co-chair of the Small Business, Franchising and Entrepreneurship Task Force.



Coordinating Social Media Between Franchisees and Franchisors

Franchising World November 2012

BY KEN COLBURN

MARKETING IS CHANGING FAST. Businesses have entered a new era in how consumers connect with the companies they do business with, and how they communicate with their friends about the products and services they like or don't like.

Dealing with the ongoing shift to digital communications, social media in particular, takes a lot of time and energy. But a fundamental shift has occurred that any successful franchisor must understand: It's no longer what you say about your brand products and services, it's what your potential and current customers say about you.

Like it or not, your new primary marketing channels are Google, Bing, Facebook, Twitter, Yelp, LinkedIn and dozens of others, and your customer base is now an important part of your sales force. Your brand positioning, benefit statements, reviews and your brand equity itself are in the hands of an evergrowing population of advocates and detractors that are not under your control.

Is your company listening closely to the messages being communicated about it, your franchisees and your products and services? Although the organization can't control your new sales force, it can and must engage with and influence it. To ignore this phenomenon could be fatal. It is here to stay and grows every day.

Therefore, it's something companies must get right. What does getting social media right look like?

Get it Right or Get it Wrong

Picture a steady flow of connected and engaged prospects who become new customers, come back often and refer others just like themselves. In other words, picture a healthy ecosystem of lead generation, conversion and repeat business, which naturally leads to increased sales, revenues and profits.

Conversely, getting it wrong is not a pretty picture. There are many ways to mismanage your reputation, from pure neglect because of a failure to listen or responding in loose-cannon fashion. Your business has invested everything in its brand image, and suddenly everyone has a multimedia megaphone to attack or praise you. Negative or even neutral sentiment in social media channels was a non-existent concern five to 10 years ago, but it's now a factor that can devastate your business overnight or precipitate a slow decline into irrelevance and failure.

Bewildering? Yes, and if businesses find the new frontier of disruptive technologies challenging, remember that everyone in virtually every industry is dealing with the same thing. Therefore, it's critical to get off the dime. It's imperative that to equip your franchisees with the tools, strategies and know-how to master this channel to their prospects, before the entire organization is left behind. Getting it right starts at the corporate level, and there your business will likely see social media's greatest impact on your brand, be it positive or negative at the local level. That's not something one can afford to leave to chance.

"Brands are doing a better job of maintaining their corporate social presence, but still fall short when it comes to engaging their customer base on local pages," says Jon Carlston, CFE, vice president of social development, Process Peak LLC, who helps manage the Facebook National-Local solution for franchise

brands and sits on the International Franchise Association's Information Technology Committee.

Engage Your New Sales Force

Start by making sure that your brand's basic information is properly represented. Instead of directing the message, monitor and collaborate with your new sales team to effectively represent your position. Given the sheer number of new marketing channels and sales representatives, which multiply with every attempted or completed transaction, this can be a daunting task. But once it's possible to monitor your message in the social media-powered marketplace, your brand can begin to identify, cultivate and even partner with your most ardent customer advocates and tap into the primal instinct for leveraging communities of trust when it comes to buying decisions.

This requires embracing transparency and a dedication to creating positive experiences for your customers. In this new world, owning up and swiftly taking care of things when they go wrong will always benefit your brand. Never be afraid of negative comments; they provide the best opportunity to show the world your corporate values and how your company conducts business and in most cases, turns the detractor into an advocate.

Your new marketing channels and the associated virtual sales force are growing every day. As with your internal teams, your virtual sales force must understand what motivates the behavior it is seeking. They will perform best when the brands gives them consistent, relevant messaging and rewards them with perks and recognition for their loyalty. And here's an added twist to engaging your new departments: They operate in a mobile environment where phones and other mobile devices make up a major part of their interaction. This means that this new world of marketing is ongoing, everywhere, all the time and getting faster and smarter.

Your organization can meet this challenge by adopting tools that enable it, the franchisor, to meaningfully monitor and manage its primary social media presence as a start. As the brand gives franchisees the opportunity to acclimate to this new marketing environment, the authentic local touch will ultimately enhance overall social marketing communications if the company can get them to buy into its strategy.

If You Don't Have Social Media Skills, Find a Partner Who Does

How is this capability developed? The challenge for many franchisors is that this is completely uncharted territory. If they are lucky, they have a corporate marketing communications infrastructure that's capable of first figuring out the initial strategic and tactical steps in social media. If they are even luckier, they will be able to execute a comprehensive plan across the entire organization.

If not, then franchise businesses must find outside help from a resource that is capable of providing strategic planning customized to their organizations and help them implement social media at the national and local levels.

A dedicated vendor can keep on top of all the latest trends and strategies (for example, should the brand be on Pinterest?) and can help your company avoid the typical mistakes that waste time and money. In practical terms, that means an organization that also understands marketing and the critical importance of maintaining brand congruency in an integrated fashion, across all channels.

If your potential vendor is still talking about social media and not social media marketing, then move on.

Companies can no longer treat their traditional marketing channels as if they were separate from their digital marketing channels. Strategically selecting the proper channels in each world and leveraging the combinations should be your prime objective as a franchisor and taught to your franchisees.

Harnessing the Power of Your New Sales Force

Your business or your vendor will need to create effective social media campaigns that coordinate your national branding initiatives down to the regional and local level, with synchronized social messaging (ideally with the ability to vary the messaging and the offer, by location).

The evolutionary changes to communication via social media are ongoing and changing rapidly making the do-it-yourself approach a sure way to always be behind the curve. The dynamic nature of the social media revolution is disruptive to the static and structured precepts in franchising, but your brand must deal with that reality (just like it did when the Internet became the great disruptor).

As a franchisor, you owe it to your franchisees to get the necessary help to stay on top of the latest developments in social media. It's your responsibility to take action and provide them with the best practices guidance they need to reach prospects and existing customers in new ways, and the implementation help they need to get it done.

This industry is at a pivotal point in history where in business, the people who are making the decisions don't understand what's going on and the people who understand what's going on don't make the decisions.

The organizations that can bridge that gap first are the ones that will win in this new economy.

Ken Colburn is president of Data Doctors Franchise Systems, Inc., chairman of IFA's Social Media Task Force and chairman of IFA's Information Technology Committee. He can be reached at 480-921-2444, Ext. 7027 or kenc@datadoctors.com .



“I Know I Need a Social Media Policy: Now What Should It Say?”

April 2010 Franchising World

Legal and practical considerations in developing your social media policy.

By Meredith A. Bauer

It is impossible to avoid. The terms “social media” and “social networking” grace the covers of magazines, are the subject of conferences and trade shows and appear in conversation on a daily basis. Once thought of as “social” tools used by high school and college students, media such as blogs, Facebook, Twitter and LinkedIn, among others, are becoming important marketing tools for businesses nationally and internationally.

Most franchisors recognize that allowing their franchisees to utilize this type of marketing may have significant benefits for business development and brand recognition. Most franchisors also realize that the rise in popularity of this type of media cannot be ignored, and that some type of policy controls should be in place with regard to its use. However, most franchisors are also unsure what a social-media policy should actually say.

The use by franchisees of social media and social networking sites are generally thought to be governed by general language relating to “advertising” under the franchise agreement, even if social media itself is not specifically addressed in the agreement. Provisions in the franchise agreement relating to trademark infringement and proper use of trademarks are also applicable. However, due to the widespread popularity and corresponding rise in issues relating to franchisee use of social media and social networking sites, specific language should be incorporated into franchise agreements to address the use of social media and social networking sites.

In addition, it is important that franchisors adopt a socialmedia policy and include it in their operations manuals. Well-written franchise agreements allow for the update of the operations manual at any time to deal with new developments in the law or in technology. An effective social media-policy should address the following topics in some capacity.

The Scope of Permissible “Social Networking”

This should be the framework of the policy: the role that you envision social networking will play in your franchise system. For some franchisors, it makes sense that a broad adoption of social networking be encouraged, while for others it may only be tolerated or actually discouraged. This determination will depend on the nature of the business, the attitude of corporate management and its marketing department toward social media, and the overall general marketing strategy of the company.

Hand-in-hand with this determination is an analysis of what specific social networking mediums may be used by franchisees. For example, a business-tobusiness franchise system may consider the generally “professionally-orientated” LinkedIn appropriate for a system, while Facebook or Twitter are not. At the

same time, a consumer-orientated franchise system may be missing significant opportunities by banning the use of Facebook or Twitter by its franchisees. Franchisors should also consider the applicability of photo-sharing Web sites such as Flickr, music-sharing Web sites and blogs. In some cases, the franchisor may even want to build an application specific to its brand and system and allow franchisees to use that application.

Regardless, the scope of allowable use and medium to be used should be spelled out explicitly in a social-media policy. To the extent that a specific medium is not addressed in the policy, the franchisor should retain the right to approve any other use of social media or other Internet sites not specifically addressed.

Username Format

A special challenge that franchisors face in the use of social media relates to brand consistency. As an example, log on to Twitter and type in the name of your favorite franchise brand. You will likely see a long list of usernames that include variations of the brand in the name, such as “XYZCompanyMnpls,” or “XYZCompany123,” “Mn_XYZCompany.”

Due to the importance of brand consistency and the risk of customer confusion, franchisors should seriously consider adopting a specific “naming policy” within their social media policy that spells out specifically what public usernames franchisees may have. This policy can specify a format for adopting a username. For example, a username may be required to start with the brand name, include a space, and then end with the city in which the franchisee is located, e.g. “XYZCompany_ Minneapolis.”

Compliance with Laws, Regulations and Third-Party Terms

Due to the rapidly increasing use of social media, and slow-developing law surrounding its use, social media is often seen as a world unto itself. Users sometimes forget that laws and regulations that apply in everyday life also still apply when using social media. Therefore, users of social media cannot use it to slander or defame another person or entity any more than they could do so in printed media. Employers may not use social media for discriminatory employment practices any more than they could do so in a face-to-face interview. Franchisees may not use the copyrighted materials of others on their social-media sites any more than they could do so in their outlets and stores.

Therefore, it is important that a well-drafted social-media policy include requirements that franchisees must continue to comply with all laws and regulations, not just those specific to social-media usage. It may also be wise to include a nonexhaustive list of prohibited actions, such as defaming or disparaging competitors, clients, employees, customers, suppliers, or the franchisor itself; harassing employees, customers, or other individuals; using copyrights, trademarks or other proprietary materials in an infringing manner; discriminating against applicants for employment; violating privacy laws and policies or otherwise misusing the proprietary information of clients; or violating laws or other ethical standards, such as fraud or misrepresentation. To this end, the franchisor should also include an explicit, plain English provision stating that all posts must be truthful and not misleading. The franchisor may also want to include a specific prohibition on mentioning competitors in any posts or content.

Finally, the franchisor should include a provision stating that the terms of the franchise agreement and all other rules, regulations, and policies of the franchisor apply to the use of social media, specifically including a prohibition against damaging the goodwill of the franchisor or using the trademarks in an infringing manner. Along with this provision, franchisees should be required to comply with the terms and conditions for any third-party site (e.g. the terms and conditions adopted by Facebook relating to the appropriate use of a Facebook page).

Confidential Information

Another common mistake that franchisees can make when using social media is the inadvertent disclosure of information that may constitute confidential information under the franchise agreement. Due to the nature of social media sites such as Twitter or Facebook, that allow frequent and regular status updates (we have all seen the commercials mocking the mundane updates of certain social media users), franchisees can inadvertently disclose confidential information without realizing or thinking about doing so.

For example, a franchisee of a restaurant concept with a proprietary pizza sauce recipe may post a status update stating: "Picking up basil, garlic, tomato paste, sugar and oregano from the store for my delicious pizza sauce." This franchisee would likely be in breach of its franchise agreement, and is risking exposure of the franchisor's proprietary information. As another example, franchisees may feel compelled to comment on legal matters occurring in the franchise system, such as lawsuits, threatened litigation, or settlements among the franchisor and franchisees, that are otherwise limited by confidentiality.

Therefore, the social-media policy should explicitly state that franchisees may not use or post the confidential and proprietary information of the franchisor, or breach any other restrictions on confidentiality or disclosure. It should also include a provision that the franchisee should not comment on legal matters, or private matters internal to the franchise system. Further, franchisees should be reminded that they must be careful not to disclose proprietary information of their clients, customers or suppliers, or use the names of clients, customers or suppliers without permission.

Endorsements and Testimonials

The Federal Trade Commission recently released its "Guide Concerning the Use of Endorsements and Testimonials in Advertising," which specifically applies to endorsements of products made in blogs and in other social media. Under the guidelines, endorsers of a product must disclose information relating to the endorsement relationship, such as if the endorser received the product for free or received any compensation in return for making an endorsement.

As part of this regulatory framework, employers are specifically vicariously liable for improper endorsements by their employees, and as such, a real concern arises as to whether a franchisor may be held liable for improper endorsements made by franchisees. This is a particular concern when it comes to social media, as its conversational nature can easily lead to a statement that can be considered a product endorsement. Therefore, franchisors should specifically include a provision in the social-media policy requiring the franchisee to comply with all rules and regulations concerning the endorsement of products, and should specifically state that if the franchisee is in any way compensated relating to a product, any post by the franchisee on that topic must disclose that relationship. The franchisee should also be required to be clear about its identify and to disclose its relationship to the franchisor.

Ownership of Domain Names, Accounts and Content

Many franchise agreements already contain provisions relating to the ownership of proprietary information that is developed during the franchise relationship, with the franchisor retaining ownership of all such information. Many agreements also provide that the franchisor will retain ownership of telephone numbers, Yellow Page listings, and even the content of certain Web sites or home pages. The franchisor should consider including a provision, both in its social-media policy and in the franchise agreement itself, retaining ownership to its franchisees' social-media accounts, the content thereon, and the domain names associated with these accounts. Therefore, if a franchisee develops a large following of the fan page for its business, this following is not lost if the franchise agreement expires, the franchisee is terminated, or the franchisee simply decides to stop utilizing the account.

This can be tricky, as it takes a crafted definition of what specific accounts the franchisor will retain

ownership. For instance, the franchisor will likely not desire to retain ownership to a franchisees' personal page, even if the page makes some reference to the franchised business. One approach is for the franchisor to retain ownership of any account in which the username or profile name includes the name of the franchise, any of the marks, or any confusingly similar terms. This provision should also require the franchisee to take any acts that may be necessary to transfer listings and registrations to the franchisor upon termination or expiration of the franchise agreement.

Franchisor-Generated Content

One strategy franchisors have used in an attempt to provide some brand consistency in the social-media world is to provide specific content to franchisees, which the franchisees can then post to their own accounts and pages. This is an effective way for the franchisor to make sure that a consistent message is presented, as well as to easily allow the franchisees to get involved in the use of social media without having to create their own content. If the franchisor wants to utilize this strategy, it should include a provision in its social media policy that franchisees may be required to post or use content provided by the franchisor from time to time.

Prior Approval

Along with these considerations, the franchisor must also decide whether it intends to require franchisees to obtain prior approval before establishing a socialmedia account, or before posting content to their account. Many franchisors have found that providing all such approvals is both time-prohibitive and leads to an ineffective use of social media much of the value of social media relates to the time-sensitive relevance and constant update of information, which would be lost in an approval process. Many franchisors are instead taking the position that monitoring usage of franchisees is a more effective policing process with respect to social media (see below). If the franchisor intends to institute an approval process, it should be addressed in the social media policy.

Exclusion of Incendiary Topics and the Right to Remove Content

In most systems, there are certain topics that the franchisor does not want its franchisees to discuss, and that it does not want associated with its business. Classic examples are religion and politics. Allowing franchisees to post content on these topics can lead to customer aversion and allow a brand to be associated with a position on controversial issues. Unless the franchise system is faith-based, maintains a political association, or otherwise has a common-sense reason to allow its franchisees to weigh in on such topics, the socialmedia policy should state that franchisees may not post content on issues such as religion, politics, or other potentially incendiary topics.

Hand-in-hand with this consideration is the necessity for the franchisor to explicitly reserve the right to remove, or require a franchisee to remove, any content posted by the franchisee that violates the socialmedia policy, violates any laws or regulations, or that the franchisor feels is not consistent with an appropriate use of its trademarks. This right to remove or require removal should be in the franchisor's sole discretion. This will allow the franchisor to monitor the use of social media and social networking by its franchisees, and proactively take action on inappropriate usage of these sites.

Disclaimers

Depending on the type of site, the franchisor may want to require the franchisee to include a disclaimer stating that the views and content of the site are those of the franchisee, and don't necessarily reflect the position of the franchisor or the brand.

In addition, the social-media policy should include appropriate disclaimers, clearly stating that the franchisee alone is responsible for its own content and is responsible for complying with all laws and regulations and third-party site terms and conditions, and the franchisor will not have any liability for the franchisee's use of social-media sites. The franchisor should provide that it does not have

responsibility or obligation for monitoring compliance with such laws, regulations, or terms and conditions, and any approval by franchisor of the use of social-media sites or monitoring thereof does not constitute a representation that the franchisee is in compliance with these laws, regulations or terms and conditions. The disclaimer should provide that the franchisee alone is responsible for monitoring its employees to ensure compliance with these requirements. And, if not addressed elsewhere in the operations manual, the policy should make clear that technology is constantly changing and evolving, and that the social-media policy is subject to change and modification at any time.

Other Guidelines and Recommendations

In addition to the more “legal” type of concerns above, a social-media policy can also address in plain terms what the franchisee should attempt to accomplish in its use of social media sites. For example, the franchisor can adopt general guiding principles, such as that franchisees should post on areas within their expertise, should be cognizant of questions and inquiries by customers, and should invite comments and dialogue from customers. Franchisors may also want to specify that franchisees should use a conversational tone and should post in “plain English.” Finally, the franchisor might also want to include a reminder within the social-media policy as to the permanency and public nature of posting to social-media sites.

Looking Forward

Franchisors must examine their own systems and views as to the value of social media, and develop an individualized social-media policy reflecting these values. Some franchisors may realize that the risks of allowing franchisees to use social media do not outweigh the benefits for their system. Others may desire to encourage and stimulate the use of social media by franchisees.

As the law develops and as social media and social networking sites continue to grow as marketing tools, new considerations will inevitably come into play with regard to social-media policies. Because of this, while language within the franchise agreement is important, inclusion of a specific social-media policy within the franchisor’s operations manual is a best practice for franchisors that wish to continually evaluate and update their policies based on new developments.

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Encouraging Brand Compliance on Social Media

Franchising World February 2011

By: Clara Shih, Ben Smith, Chris Andrew

How are Facebook and Twitter affecting your brand? In the world of social media, suddenly everyone from customers to franchisees has a voice. What they say can have a tremendous impact on your brand and the customer experience.

Where we are today with social media is like where we were 15 years ago with the Internet. Yes there are challenges, but there is also a wealth of opportunity. The answer is not to cringe and ignore. With more than 500 million active users spending billions of minutes each day on the site, Facebook is here to stay. The good news is that franchisors have an unprecedented opportunity to harness the local market knowledge, reach, and direct customer connection through the local social graphs of franchisees.

Although specific tactics will vary by company and industry, just about every franchise organization needs to think about how brand compliance fits with the decentralized nature of social media. In this article, we will explore these challenges and opportunities, as well as share best practices from the franchise world.

Social media presents corporate marketing departments with a new set of risks and challenges, especially when it comes to brand monitoring, compliance and consistency. Many franchises initially feel frustrated when they realize social network pages such as Facebook Places, Yelp profiles and Google Place Pages are being auto-created for each franchisee location or that franchisees are creating their own Facebook pages and Twitter accounts.

The big question for corporate marketers is how to take inventory of and monitor on an ongoing basis the universe of Facebook pages, Twitter accounts and other social media assets representing the brand.

Here are a few recommended best practices:

- Develop clear social media guidelines. Likely, you already have offline brand guidelines for franchisees. Update these to include new capabilities and use cases on social media. For example, you may wish to suggest a standardized Facebook Page naming convention. Your brand is your most important asset and it's critical to ensure that a unified brand image is being presented across your brand's various local social media presences.
- Periodically perform a social media brand audit. Using the search functionality on Facebook and Twitter, search for any brand mentions, Facebook pages, and Twitter accounts that have been created using your brand name. We recommend taking the time to do this in-house so you can stay close to the voice of the customer, versus outsourcing this particular function to a public relations or digital agency. With many local presences, there is a risk that certain pages which were created are now unattended. Gaining oversight of the local pages in your organization helps to ensure that customers are responded to promptly and there are no negative effects on your brand.
- Quickly address spam or inappropriate content. Spam and the occasional inappropriate remark are inevitable on the open Web. It is imperative that franchises be able to monitor, flag and remove or otherwise address any inappropriate content including confidential information, profanity, non-approved marketing, competitor names or negative comments.
- Social media is part of the marketing mix. While social media marketing should be treated as another channel in your local marketing mix, steer clear of blatant marketing messages (e.g., "Buy now!"). Focus on communications that provide rich and educational experiences about your franchise, such as local promotions, community involvement or crediting a crewmember for exceptional customer service.

- Develop a Code of Conduct. Having a code of conduct for your social media sites will help your employees and customers understand what's appropriate to discuss on your social media channels. Every company will occasionally have users who violate their established code of conduct on their social media channels and having a clear set of guidelines allows them to be removed without too much disruption to the overall customer experience.
- Be prepared for constructive criticism. Similar to the in-store experience, not all customers that visit your social media channels will be happy ones. When dealing with customer feedback online, listen and learn before interacting. Accept the feedback for what it is and take it as an opportunity to improve parts of your business or credit a crew-member for a job well done.
- Know when it's appropriate to respond to customer inquiries online. Local franchises should answer questions from their local customers and keep their responses related to their specific business and not the overall brand. If you're being asked a question that you cannot or should not answer, you should direct it to your corporate office, at which someone can determine the appropriate individual to respond.
- Address legal and compliance issues before they happen. In some industries such as banking and insurance, there is an added layer of regulatory compliance. For example, the Financial Industry Regulatory Authority requires financial services organizations to archive any communications with clients or prospects for seven years in the case of an audit event. For other industries, message archiving is just a matter of good corporate governance.

Given there is little which can be done to prevent or ban these local presences, the most important thing for franchises is to recognize that localized content actually results in substantially higher consumer engagement, a huge net positive for the brand. While consumers identify with national or global brands, the actual customer experience happens at the local level through the physical locations they frequent and now check-in to via Foursquare or Facebook Places.

Empowerment

It then becomes a question of how franchises can empower franchisees with the right tools, training and messages. As you have likely experienced first-hand, franchisees and local establishments are eager to get involved with social media, but they often don't know what to say after they've created a Facebook page or Twitter account. Worse yet, some locations produce messages that say the wrong things—they are too "salesy," they use profane language or their posts contain misspellings—all of which can damage your brand. Some locations hit the ground running, pushing out top-notch content for two weeks and then it ends abruptly. A local page gone stagnant reflects poorly on the global brand.

The right solution requires a combination of business policy, tools and training.

Ultimately, it's about recognizing that as a franchise, your brand is local. Just as you empower franchisees today with offline tools, materials and training, it is imperative to start thinking about how to empower them with online tools, materials and training. By putting the right policy, processes, and tools in place, franchise companies can control brand image and still benefit from the power of an effective local presence. As your organization begins to institute social media policies, keep in mind brand monitoring, compliance and consistency.

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Demographic Segmentation: Social Media In-A-Box

I was out of my league and realize how I have misled our brands socially by avoiding, dabbling, poking, prodding and investing only where quick results beckoned. However, I did learn enough to know our brands were failing in the most important and growing area of marketing.

Franchising World September 2011

By: Jerrod Sessler, CFE

Social media is not simply about having a Facebook page or a Twitter feed. A stagnant Facebook page is as worthwhile as a mobile number for someone that doesn't accept text messages. Possibly even worse yet is participating without a vision. Irrelevant content is like the guy who gets to the business network meetings, but stands on the outskirts alone. Social media is a solution to a problem. Cell phones solved the problem of being out of touch when in between land lines. E-mail solved the issue of time regarding letters. Social media can solve a myriad of business problems—most of which didn't even exist a few years ago.

For that reason, the problems may not be urgent or even known. Let's say your brand has a great promotion idea, but not enough people know about it. The problem is reach and the need to get the word out. There are traditional methods to reach people, but there are also many social options to consider. For younger, smaller brands, social solutions trump traditional outreach and make creative projects possible when considering budget constraints. It could be that your problem is urgent and known, such as a client of your brand has created a video that has gone viral and the message is not good. How will the company respond? Should it embrace it and admit weaknesses and allow the opportunity to drive necessary change? Should the organization retaliate with its own video (it better be good)?

There are three major categories to consider when leading a brand socially. But, before jumping into solution space, let's take another look at the question about the problem. What is driving the need for social media? A marketing wizard, Erin Gilbert of New York, gave me a key piece of advice that freed me to see a clear path in the sea of needs and opportunities.

Gilbert explained that "doing social media" isn't just a check box in a marketing plan. Effective social media supports everything the company is doing. A company would not create a Twitter account merely because it has a brand, a brain and thumbs. It leverages a Twitter account to share relevant information about its brands, services, events and leaders. Organizations do not maintain a Facebook page merely to attract members or "likes," but to actually engage with its audience in a relevant way. Businesses listen and share information about what they are actively doing. Social media is not a project or event in and of itself, but it is a tool that is used to engage with the customer and to share interesting information.

The following three categories are activity based, but one could also use these to consider staffing

requirements and job descriptions.

Real-Time Socialization

The first category is real-time socializing, the grit of the story. It is what sets business participants apart from individuals. Social media allows people to connect in ways that were never possible in the past. It is continually becoming more essential to the way people interact, whether those interactions are personal or between a consumer and a brand. Tools such as Facebook, Twitter and Foursquare allow individuals to have a conversation with their favorite restaurants, grocery stores, personalities and service providers. If someone had an incredible dinner at your restaurant, they can tweet it to their friends and followers. That word-of-mouth marketing is priceless, and one can see it, respond to it and share it. On the other hand, if someone received an online order three days late, they'll share that with their friends as well. A company that is uninvolved with social media would remain unaware of the conversation. A socially engaged company is involved and can be a part of this conversation; it has an inside view into customers' thinking and interactions with their friends. Priceless nuggets such as this would never be unearthed by an official customer service department.

Just like real-life conversation, the company can start the conversation with consumers. The problem that most companies are looking to solve when they implement a social media strategy is a problem of communication in a modern, connected world. For Twitter and Facebook to benefit a company, it needs to provide interesting and relevant content. These are not outlets for advertising, which many people have become sensitized to and avoid. The content provided is what will attract the people who are interested in your company and what it does. This is how a company can create loyal fans that it can reach out and communicate with. They can be the best marketers for a company if the social media strategy is executed well. And even if each Facebook fan or Twitter follower doesn't lead directly to a pot of gold, it does lead to top-of-mind awareness that will eventually convert into production at the bottom-line.

Social media is not simply a fad for young people, although young people know how to use it. Marketing and communications students are being told they will be easily hired based on their ability to use social media. But what does that mean for the seasoned marketing professional? Each has something important to offer. There is a tension that exists with staffing for these positions. On one hand, companies need young, energetic people who understand the technology because they grew up with it instead of reading it from a textbook. At the same time, the edge is kept razor sharp by the fact that a social media department also needs a seasoned marketing mind that can also understand the big picture of the various social venues, but is able to connect the dots to an actual plan that eventually generates revenue.

Content Creation

The second category is my favorite because it works while we sleep. Content creation is the generation of content which resides on the public domain—the Internet. Content can be text, conversations, tools, tips, testimonies, instructions, estimates or videos. As mentioned earlier, there is a necessity to share meaningful and relevant information. It is also necessary to do it in a way that engages your audience. Almost everyone enjoys stories. Ultimately, people want to know why companies do what they do, before knowing how they do it. This parallels with earlier comments about tackling the problem instead of simply implementing social media. In the same way that a business needs to have a deeper meaning and purpose to its strategy, people want to see the deeper meaning and purpose of your brand. A great place to begin content creation is with your company's story.

It is important to agree on some basics in terms of the types of media in the social space. There is bought

media, or advertising; owned media, which consists of the company's Web site; and then there is earned media or social media content. This consists of blogs, videos, stories, conversations and everything that is associated with social media. The great thing about social media is that it attracts fans of your brand. They are choosing to come to your Facebook, Twitter or blog to see what the company has to say because they like the brand. These people are very different from the strangers who see your advertisements or the customers who visit your Web site. The people who are loyal to your brand are probably people who believe the same things that your brand represents. These fans are the ones who are going to share the message and increase your loyal followers.

A simple way to start is blogging. Write about what's going on at your company and things that are relevant and interesting to your customers. Share these blog posts on your Twitter and your Facebook, so that when the brand acquires fans, they feel that it is worthwhile to be following it. Another key piece of advice from Gilbert: "The key to social media is monitoring, and keeping the buzz alive. If traditional media is like a firework, social media is like a bonfire. You need to constantly be stoking the fire."

Because we are well into a period of post-literacy, videos are the most important form of content creation. Video enables people to get to know the company much more personally than knowing something that the company writes about. If your company isn't doing social media yet, try starting a blog and write about the things that matters to your company. People buy because they believe in why a brand is doing what it does, so your purpose matters to your fans, too.

Administration

At this point, hopefully readers are convinced that they need to jump on the social media boat and join the conversation. There's so much to be done, but everything doesn't have to be done at once. First, think of what the story should tell and what the company wants to communicate to its target markets. This category is all about administration. This is the stage of planning, setting strategies, goals and more.

One will learn to leverage many available tools like Wordpress, Google goals, Adwords and webmaster tools and how to effectively leverage pay-per-click. Your search engine optimization results will all of a sudden become interesting.

As franchise businesses begin to adventure down this path, they will realize that they need the young, energetic staff, but plans need to be reviewed by a seasoned marketing person to ensure the project will yield the desired result. Additionally, it is freeing to realize that the implementation of social strategies is not as much of a check box that one must complete, but rather a fun dance that one must join. As organizations engage more and more, they will begin to see natural opportunities to leverage social media to enhance their results.

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Background Checking—Your Other Social Media Policy

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By: Jon Victor

Have you developed your social media policy yet? There's no lack of advice, suggestions, products and blog posts on how to establish a program to leverage Facebook, Twitter, LinkedIn and other social media platforms to enhance brand awareness, build customer loyalty and drive traffic to individual franchise locations. For franchisors, there's an additional benefit to creating a solid social media presence—all of that good buzz helps attract potential franchisee interest. But there's another, and some say darker, side of social media that members of the franchise industry also need to consider as they formulate their social media policy: the use of social media for background checks.

Over the past few years, savvy businesses, including franchise organizations, have displayed a growing appreciation for social media's potential to engage with individual consumers. Software development companies have responded with a variety of products to enable targeted, and in some cases even localized and personalized, multi-platform content delivery, direct to interested consumers.

While all this was going on, another group of service companies began capitalizing on a different use for social media. Recruiters and employment agencies added a new service to their menu—social media background checks—and companies specializing in social media screening and monitoring were soon touting their services to beleaguered human resources professionals buried under mountains of applications for every job.

To understand the value of social media to human resources professionals, think back to the origins of the species. This communications medium earns its name naturally. Social media is the umbrella term for the social networking Web sites and platforms that allow people to create their own societies of like-minded individuals. By and large (with the noteworthy exception of those who use social media with criminal intent), social media sites are populated with the thoughts and ideas of people interacting on a social, not a professional, level. This means that human resources professionals who view these unguarded exchanges on social media sites can gain a glimpse—and sometimes much more than a glimpse—into an individual's personal life, attitudes, interests and more. In many cases, potential employers can glean much more information about an applicant than they would be allowed by law to collect through a typical job application or interview.

And therein lays the problem. There's no denying that social media can be a revealing source of information about a potential franchisee from the franchisor's perspective or about a job applicant from a franchisee's perspective. The key is to approach this background source carefully, and with a clear set of objectives. At this time, legislators have not weighed in heavily on the legal ramifications of allowing an individual's social media history to bias a hiring decision. But some states—including New York, California, and Colorado—have banned employers from taking any employment-related action based on the employee's legal conduct during non-business hours no matter how reprehensible the employer may consider that behavior to be. It is better to err on the side of safety in terms of the law, and put some clear guidelines in place in your organization pertaining to the use of social media as an employment screening tool. Here are some thoughts to get you started.

Use Social Media as a Pre-Interview Strategy

Jobs are scarce; candidates are not. Social media conversations are public information, and the individuals who use these sites can control the privacy settings on their accounts. Take advantage of this free information source constructively, but beware. It is easy to get sidetracked by information that your organization is not legally allowed to use in making a hiring decision, for example age, gender, race or religion. And much of this out-of-

bounds information may be apparent from a social media user's profile and or posts. Furthermore, if one finds information that is deemed to be personally objectionable on a candidate's Facebook page, that information may not constitute a valid reason to exclude that candidate from consideration for the position. Diversity can enrich an organization and fuel growth strategies and creative decision making. This is a judgment call that each employer must make.

What is more important to consider, from a prospective employer's perspective, is the tone, energy and emphasis of the individual's social media exchanges, photos, music playlists, friends, likes, reposts and so forth. All of this data yields a potential gold mine of insight into whether or not that individual is a good fit with the culture of your brand and with your other franchisees or employees. Is your candidate tweeting about the great workout he just finished? If your franchise is selling sporting goods, this could be your candidate. Are you looking at a Facebook page loaded with pictures of a beloved niece or nephew? Child care franchisors, sit up and take notice.

When used appropriately and professionally, social media can help your organization focus on the candidates who have the best chance of making a success of their business or their employment with your organization.

Spend Your Interview Time Wisely

The current economic challenges have created a buyer's market for employers. The upside of this is that employers have a rich pool of prospective employees for almost any job. The downside, of course, is that, even if companies have narrowed their candidate's list down to those who seem to fit it brand's identity and corporate culture, it can still take a tremendous amount of time to work through the interview process for the viable contenders. Your time is valuable, interviews are timeconsuming, and one needs to learn as much about a candidate as possible during the time allotted.

This is where a little extra time spent on those individuals' social media sites before the interview can help frame questions that are likely to provide the information needed to make a hiring decision. If a candidate's answers do not seem to jive with the posts and tweets of his or her online persona, there may have reason to move on to another candidate. Naturally, everyone tries to put their best foot forward in an interview situation, but if your candidate's interview responses seem more informed by your company's Web site content than the candidate's own interests, chances for a long-term relationship may not be high.

Exercise Proactive Damage Control

Reputation management is another example of an industry spawned by the social media revolution. In the old, pre-Twitter days, an unhappy customer could grouse to his spouse and friends, but the collateral damage from a company's client service misstep was limited because, typically, the unhappy customer had no way of connecting with others who had shared the same sub-standard experience. Today, one dissatisfied customer can shout his complaint from the virtual rooftop, via social media. Entire Web sites are dedicated to allowing consumers to vent their frustration and anger about products and services and the companies that supply them. The connectivity that is the backbone of the social media experience is awe-inspiring in its complexity and reach. A single individual, connected to only five other individuals, who are each in turn connected to five more individuals, and so on, soon creates a Web of listeners, and speakers, who can amplify any message into a shot heard around the world.

Reputation management companies specialize in flooding social media and the Web in general with positive messages about your company and your brand to drown out or marginalize any negative conversations that may be occurring. And while that may make for positive buzz charts and upbeat social media metrics, it doesn't address or resolve the source of the negative conversations.

The most effective reputation management strategy is to take steps to minimize complaints and dissatisfaction at the outset. Corporate employees, franchisees and their employees are the most powerful reputation management resource in your organization, so focus on bringing new people onboard who are positive problem solvers. One way to do this is to pay attention to what your job candidates are saying, and how they are saying it in their online conversations. What themes are recurring? How temperate or intemperate are they in the opinions they voice and the posts they react to? How professionally do they conduct themselves on a site that they know to be public? Don't focus on the content itself. Free speech is alive and well on the social media, as it should be. Focus on the attitude and the approach to life in general. Does your candidate sound like someone you would like to have lunch with? Chances are your customers will like him or her, too, and by extension your brand.

One last thought about using social media as a human resources tool. Setting a policy that outlines what is, and is not, an appropriate use of an individual's social media content in making a hiring decision will not take the place of a careful and extensive criminal background check and a confirmation of professional and personal references in your hiring best practices. However, there is a place for social media intelligence in your hiring decisionmaking, although perhaps the emphasis should be less on background checking and more on using it as a screening and

interview discovery tool.

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Boosting Social Media Traffic: Who Goes There?

A successful franchise using social media will try various ideas, see what works and build from there.
By: David Murray

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Boosting social media traffic isn't easy. It requires a lot more than just stamping content on multiple social networks. The idea that "if you build it they will come" does not exist.

Determining your social media audience and where its members are is crucial. However, having determined this will do you little good if you are not giving your audience something they want to talk about, making it easy for them to share it and constantly evolving with the dialogue of your audience. These are the pillars of the foundation for boosting traffic. Getting people to your door is one thing. Having them hang around and talk about what you're doing is another.

Franchises have a great advantage. In many cases, your brand is larger than its actual product and your loyal enthusiasts are eager to talk about you. Conversations are both online and offline and there is great potential for your franchise to increase traffic as well as brand awareness. To further confirm observations from our experience, re:group recently conducted two informal e-mail surveys to better understand how franchisors and franchisees use social media.

Do brands use and understand social media?

It certainly seems so, but there is still room for growth. Seventy percent of the franchisors we surveyed felt they had a strong or somewhat strong understanding of social media. But for many it is a relatively new activity.

Nearly 50 percent reported that their franchisees have been active on the social web for less than a year. If they aren't active, it is due primarily to lack of familiarity with the medium. Interesting to note, transparency and security issues were not seen as significant concerns or barriers to use. Over half of franchisors surveyed have policies in place guiding use, have conducted training with their franchisees, and allow franchisees use of designated portals based on those policies.

Franchisors and franchisees using social media share the objectives of building brand awareness, developing stronger relationships with customers and building customer loyalty. They see social media as a way to listen and communicate with customers. Franchisors also feel it is a channel to promote products and services although fewer expect it to directly have an impact on sales.

Tim McIntyre, vice president of communications for Domino's Pizza, feels social media provides a business advantage, and he has seen all sides of the matter. Domino's successfully managed a potential public relations crisis created by a franchisee's employee's YouTube post through quick action and their own online response.

In our survey, McIntyre noted that the ability to “dialogue” with the company’s constituents has been a big benefit. “We’ve been able to talk to fans and critics alike. We’ve also been able to provide personal responses and assistance to customers who’ve experienced issues.”

Domino’s has also enjoyed a hugely successful viral campaign in support of its newest product. Its latest online promotion “Taste Bud Bounty” invites customers to win free pizza for a year by converting pizza “holdouts.” Results are posted on its Facebook page, which currently has more than a half million fans.

Determining your social media audience

Franchise systems have multiple audiences to engage through social media: prospective and current franchisees, employees, current and prospective customers, and the world at large, which includes opinion leaders, influencers and others.

Their social media habits and “haunts” vary, so it is important to start by defining the various segments you want to reach.

One anonymous responder noted: “The use of Social Media is nearly self-selecting the owners/brokers with whom we desire to communicate.”

“It allows us to communicate directly with our customers—provide them useful information, solve concerns, share news of our franchisees actively participating in their communities,” said Stuart Mathis, president of MBE, a UPS Company.

In order to determine audiences of a franchise brand, it is important to determine where people are, then need to pay attention to what they are talking about.

A franchise system can do this by listening. Listen to where the conversations are taking place about your franchise. Just about every social-networking tool has some conversation monitoring capabilities. TweetDeck allows assigning columns based on keywords, providing a constant stream of dialogue. Facebook’s search picks up pages, people, events, Web results and posts by friends and others. And, every franchise should have Google Alerts assigned to pick up name-drops and product mentions.

Look everywhere for conversations and pay close attention to the dialogue. What is the general consensus about your brand? Are consumers asking questions? Do they need help, are they posting reviews, or are they suggesting improvements to your current product or service? Do they swap stories and testimonials with friends about their experiences with your franchise?

The healthiest conversations will yield the best results. But healthy doesn’t always mean positive. If a franchise finds negative feedback, this is a perfect opportunity to provide an “official” channel for people to communicate with. Good or bad, if people are talking, that is a good sign. It means your consumers care.

Brands such as Home Depot and Wachovia Bank do an excellent job of using their social networks as communication channels with their consumers. By being present and offering help, they increase consumer loyalty to their brand and sales of their products.

Showing people you are listening and care about what they think builds trust, which will ultimately lead to more traffic.

Boost traffic with content

As the saying goes, content is king. Creating, publishing and managing some form of content will be essential if you want to see your traffic rise. However, content isn't nearly as effective without context.

Boosting traffic happens when you give people something that they want to share, allow them to share their passion about your brand, and make it simple to share your content while making it simple for them to share theirs. People want content that evokes emotion. They will eagerly talk about and share things that they connect with on a personal level.

Social media is forcing the humanization of brands. It is no longer acceptable to simply post ads, promotions and sales as content. Consumers are becoming experts of social media and they already know what content they want online.

Earlier this year, I took part in Chevrolet's SXSW Road Trip Rally, a campaign involving eight teams from across the country charged with completing challenges and documenting them online.

We were creating content for Chevrolet, however, with free license as to what we could produce. The majority of the teams took great liberties and created humorous, creative and engaging content. GM and Chevrolet gave up control knowing that organic consumer-based content would have a stronger appeal than commercials or direct product placements.

The results were an increase of 61.1 million social Web impressions with more than 15,000 online mentions that included 13,000 tweets, 1,200 Blog posts and more than 33,000 Facebook page views. Looking long-term, Chevrolet has firmly placed its brand at the forefront of consumer engagement in the automotive industry.

Be a content hub

It's tempting to look at all that traffic on Facebook and want to place your content there. However, if you spend all your time building your content on other networks, it will never be yours. Facebook constantly makes changes and has content policies. Do you think Twitter will be around three years from now?

It is important to build your content where you can call the shots. That is not to say you can't use other networks such as Facebook and Twitter to get people to your content hub and ultimately to your door.

Ninety percent of franchisee and franchisor respondents surveyed said they used Facebook as a social-media tool. That was followed by LinkedIn, Blogs, Twitter and YouTube. Eight-out-of-10 franchisee respondents felt blogs were the most successful social media channel for connecting with their customers.

Social media requires integration with traditional marketing

Don't rule out the potential to drive traffic using traditional marketing methods. Full integration of both new media and traditional advertising practices is essential if you want increased traffic.

Take the case of Salty of Knorr's Sidekicks low-sodium meal accompaniments. DDB Canada was assigned the task to build a campaign around the product. It started out with traditional ad placements and TV spots. Focusing on the character they invented to represent the brand, Salty, they received a lot of traditional press, as well as blogger attention.

As traditional marketing efforts solidified the brand's identity, the company started to integrate social-media components focused on Salty. Consumer engagement began on Twitter, Facebook, Blogs, YouTube and Flickr. People were encouraged to create their own content and share this with the communities on the various social networks.

Knorr's Sidekicks surpassed Uncle Ben's as the No.1 brand in meal accompaniments with sales increasing by 10 percent. Knorr's social-media traffic increased dramatically as well with more than 400,000 YouTube views, more than 6,600 Facebook fans and more than 2,000 Twitter followers. Knorr's Web site received its highest traffic as a result of this campaign.

Social media's marketing potential is lost if it is not woven into the overall marketing strategy. By establishing a solid traditional campaign, DDB Canada was able to ramp up active engagement with its social Web efforts. The result was a successful integrated marketing campaign.

Be present and experiment

If you really want to understand social media, pay attention to how your consumers use it. Watch how they freely and organically build and share information. They are constantly present. You will need to be just as present if not more. Authenticity requires presence. So while having great content is important, you will also need to be accessible.

Social media lends itself as a natural extension of customer service. If you have any presence online, your consumers will expect that you are immediately available to help them. If you really want to "wow" them, seek them out and say "hello" even before they need you.

Thank them for their loyalty. Show them they are important and that you are there for them. Having a consistent presence, be it content or communication, will help build your traffic.

As the social Web is organic with no set blueprint, so must be your implementations and campaigns. The business model for social media is trial and error. You will need to experiment and take some calculated risks. A successful franchise using social media will try various ideas, see what works and build from there, all the while paying attention to how consumers react.

Both the franchisors and franchisees surveyed agreed that developing new or untested marketing promotions, experimenting with social media, and thinking differently were necessary when building content hubs on the social Web. Thirty percent said they tried things that were unusual, while only 13 percent felt more education on social media was needed before implementing new ideas.

Brand loyalty: The ultimate goal

Social media is an extension of our offline behavior: very real and very human. Increased traffic will come only by having a real, personable presence. You need to be an outstanding content provider, while constantly paying attention to the online behavior of your consumers. Make it easy for people to access your franchise, while at the same time providing the opportunity for them to build on your existing content hub.

How a franchise determines its socialmedia audience depends on its level of involvement. Increased traffic comes from interacting with consumers. What you are doing isn't just building traffic, you're building brand awareness, which ultimately builds brand loyalty and that should be the goal of any franchise.

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