

What SA's new internet laws mean for social media indiscretions

By [Peter Olyott](#)

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The new internet censorship laws approved by President Cyril Ramaphosa and introduced in March 2022, affect regulations that govern content posted online, including social media channels. However, many South African consumers remain unaware of what these new laws actually mean and the implications they could have.



Image source: scyther5 – [123RF.com](#)

At the dawn of social media, few people could ever have predicted just how immense it would become – or how fraught with controversy and legal risk. The stats show just how significant a role it has in our daily lives, but recent years and events have taught us that we are as responsible for our words and behaviour online as we are in person.

Hootsuite and We Are Social – international leaders in social media software and digital marketing – conducted a recent study of worldwide digital behaviour. The findings, published in July 2022, show that 5.03 billion people (63.1% of the global population) are active internet users, while 4.7 billion (59%) are active on social media.

Other insights from the study include:

- 57% of internet users claim to use social media as a news source
- The average user will spend approximately 2½ hours on social media daily
- 92% of users access the internet via mobile devices, putting opinion and engagement in our pockets wherever we go
- 95.2% of internet users access social media pages, second only to chat or messaging apps (95.5%)



Edit button or no, you could still be sued for that Twitter post

Chanique Rautenbach 8 Apr 2022



Can you be held liable for content posted on social media?

Much public debate explores the question of freedom of expression vs. hate speech. In South Africa, section 16 of our Constitution celebrates the right to freedom of expression without the fear of censorship or discrimination. However, section 36 of the same Constitution prohibits hate speech, which is a punishable offence.

Communication that constitutes hate speech can be summarised as:

- Harmful communication that infringes on the rights to dignity and equality of a group of people, thus causing psychological, emotional and physical harm.
- Hurtful communication that targets groups of people who have been historically subjected to unfair discrimination.
- Inflammatory communication intended to incite acts of harm, violence, or war.

In addition to hate speech, the new Film and Publications Amendment (FPA) act, which came into effect on 1 March 2022, outlaws the sharing of private sexual content without consent, which is termed 'revenge pornography'.

Because social media platforms are open to the public, hate speech communicated via these channels falls firmly under the command of this act. This means that social media users are potentially liable for posts, comments, and even shared content via their personal and business profiles.

What users need to know about posting on social media

With the freedom to share content comes the responsibility to share wisely. One only needs to remember Penny Sparrow, who was charged for hate speech that she posted on Facebook, and was sentenced to pay a fine of R150,000.



Legal consequences of social media in the workplace

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Internet and social media users should engage on social media with caution and be aware of the potential consequences of posting inappropriate or offensive content online.

- Content that targets an individual or an organisation could provide grounds for defamation claims, where the person affected may sue the other for damages.
- Employers may take disciplinary action against an employee who has posted or shared inappropriate content or hate speech.
- The Human Rights Commission may lay a criminal charge for content that contravenes the Constitution, which could result in hefty fines or time spent in jail.

Social media liability insurance

For many people, social media platforms are simply a digital space to connect with family, friends and community, and to share content and opinions among like-minded people. However, social media puts the world at our fingertips and there could be serious repercussions for a poorly-worded post or comment, or for sharing inappropriate content. It happens so fast. Entire families are impacted by the legal ramifications that follow.

Fortunately, when it comes to social media liability exposure, there are risk and insurance solutions available for both individuals (and their families) and businesses.

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