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New Technology Changing Substance As Well As Form Of Communications and Behavior

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media•insights is published periodically by OneBeacon Professional Partners to address the broad scope of exposures faced by our agents' and brokers' clients, as media-related companies scramble to meet the public's appetite for information, news and entertainment in an increasingly litigious society. Keeping current with modern communications practices is important for recognizing budding risk exposures. This issue of media•insights illustrates how the usage of technology-based communications is changing.

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Technology continues to drive the form, substance and frequency of media usage and is directly impacting the way people communicate, behave and even think. One of the latest means of digital communications is the microblog. Microblogs are short text messages sent to a pre-selected circle of friends or relatives that describe the sender's activities at the given moment of the communication. As distinguished from e-mails or text messages, such communications don't seek to elicit a

response – they are merely intended to update the recipient, who would presumably be interested in receiving such information from the sender. The first microblogging service and current market leader is Twitter. The fact that the internet is now being used so frequently and casually rather than for more serious and less frequent communications as was originally intended surprises many persons. However, this change reflects a similar usage change history consistent with past technological developments. The telephone, for example, was originally expensive to use and was used sparingly for only important purposes. As it became more common and its relative costs declined, it began to be commonly used for less formal and important communications.

The appeal of Twitter and other microbloggers seems to reflect more the psychological need for parties to stay in contact rather than the importance of the content. Thus, the significance of phrases such as, "I'm stuck in traffic" or "I'm at the coffee shop" is about staying in touch with your own circle of contacts and not the content of the messages, themselves. As with other less formal means of communications, users should take heed to avoid stating things in such casual communications, that they would refrain from doing in more formal communications.

Internet gathering places such as MySpace (115 million users) and Facebook (35 Million users) are now being used in unanticipated ways as well. A new site called "MyDeathSpace.com"

memorializes the dead and allows persons to peer into the lives of strangers. Many of the entries have been written by persons who later kill themselves as a form of self-epitaph or obituary. Some 3,000 deaths are listed and the site receives more than 100,000 visits per day. Unfortunately, another high profile, unforeseen activity on such sites is the cyber-stalking and sexual abuse of children. MySpace recently complied with a request from all fifty states' attorneys general and provided the names of more than 29,000 sex offenders that have MySpace profiles in which predators pose as minors and entice minors to contact them for illicit purposes.

In another unexpected result from the use of Facebook, an 18-year old University of North Carolina student was fatally shot during a Wilmington, North Carolina police raid. Three youths had previously taken pictures of themselves with a friend's gun collection and posted pictures of themselves posing like tough guys with unloaded rifles and handguns on Facebook. When one of the three was suspected of stealing property, police, having seen the provocative photos on Facebook, were concerned that they would be met with armed resistance at the student's residence. Police fired through the door when they heard a sound that sounded like a gun going off. The college student's death demonstrated a serious lesson on how clowning around on a social networking site could be misconstrued with serious attendant consequences. More recently, officials

finding similar photographs have charged some minors with juvenile possession of firearms. States' attorney generals from all states want the sites to do more to restrict access for minors and verification of age of users.

In another similar usage change development, live television is beginning to be broadcast on mobile telephones. Television industry analysts have begun referring to the mobile phone as the "third screen" after television and computer screens. A recent forecast is that twenty-five million Americans will be watching video on their phones in 2010, almost four times as many as today. It is predicted that in the relative near future, people will be able to watch whatever they like whenever they would like to do so, wherever they might be. This may become a huge new advertising content opportunity and will reflect new television watching times and locations.

Meanwhile, American cinemas are rapidly going digital. This has taken place as valuable cinema physical properties remain unused for much of the week, save Fridays and Saturdays. Digital transmission is resulting in live, high definition images being transmitted at other times to smaller more specialized interest viewers such as live opera, lectures and art films. Due to the low cost of digital reproduction and distribution, multiplexes may fill up as cinemas take chances with more specialized fare. The digital cinema may eventually become as known for varied content as is cable television. If so, the digital cinema will be able to shuffle films and show times with ease. Another high growth area for films is computer downloads. Sony

and Apple are both interested in developing their business in television and media downloads, as are Netflix and Blockbuster, which just acquired the movie download service "movielink".

Finally, self-publishers such as Author Solutions Inc. and Lulu.com are developing a market in which aspiring writers pay to have their books published and marketed, utilizing a print on demand model, making the publishing process cheaper since there is no wasteful overstock of unsold inventory. This will undoubtedly lead to more writers becoming published.

The foregoing technological changes have all made communications more informal and individualized, reflecting similar general behavioral trends in free societies, but have also resulted in further blurring of lines between entertainment and reality and greater overall ubiquity of the media. These changes have all led to a user-generated, democratized media which has effectively erased the relative value of opinion of experts and has been criticized by intellectuals as allowing entertainment to overshadow news and damaging our common culture and values by allowing excessive individualized content to become predominant, as Andrew Keen has described in his book "Web 2.0: The Cult of the Amateur". Where such changes eventually go is difficult to predict; however, such changes will continue to affect daily life, the media and ultimately media law and media insurance. Media content providers, lawyers, insurers and brokers need to remain alert to the rapid changes taking place or otherwise proceed "in the dark" at their own peril.

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