



ABA's Ethics 2020 Committee and the "Red Alert" Phenomenon

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By this time, anyone concerned with the topic of the ABA's interest in regulating online marketing has read [Larry Bodine's Red Alert](#) blog post and its progeny. Larry also started a LinkedIn group, [Chief Marketing Officers](#), which includes links to many follow-up posts on the topic. On Nov. 4, [Carolyn Elefant](#) held an hour-long teleconference that explained the formation of the Ethics 2020 Committee and the scope of their work. A recording of the conference is on her website [MyShingle.com](#), and her [Slideshare](#) presentation is extremely thorough and content-rich. Carolyn voiced significant concerns that none of the committee members are knowledgeable regarding use of social media and web 2.0 practice management applications, nor was there a representative from the solo/small firm segment of the legal industry present at their meeting in October to add credence to their perspective regarding the use of technology to run their firm. Most recently, [Adrian Dayton](#) posted [ABA, Social Media and a Time to Panic?](#), a really balanced and well-reasoned post on the topic, followed by many thoughtful comments.

Some people thought the use of the term "Red Alert" was over the top, and while that may be true, it accomplished one specific goal: it got everyone's attention, and that's what needed to happen. In this age where our profession is drifting along in a sea of change, lawyers need to be aware of what steps are being taken to regulate our conduct in the use of web 2.0 technology, for both marketing and management. More than ever before, we need to participate in this process because our profession is changing radically. We must now compete in a recessionary, global marketplace, where a tech-enabled profession is penetrating what once was a US-dominated marketplace from both Europe and the East. While the EU has a comprehensive regulatory system, as I discussed in [Oh, Data, Where Art Thou?](#), they have also facilitated such ventures as non-lawyer investments in law firms, lawyer/non-lawyer partnerships and other vehicles to advance access to legal services. LPOs in India are proliferating, and there is now significant interpenetration of Chinese and US markets.

With all the hype about attempts to control online advertising, my concern is that the Ethics Committee's review of law practice technology will be forgotten. They are equally important issues to be addressed, and the committee has generated two different issue papers. The links are: [For Comment: Issues Paper Concerning Lawyers' Use of Internet Based Client Development Tools](#) and [For Comment: Issues Paper Concerning Client Confidentiality and Lawyers' Use of Technology](#)

We can't go back and we can't stand still. That leaves only one alternative. Since we are moving forward, it would be wise to do so by educating our regulatory bodies (including the state bars) and establishing a cooperative advancement. We can start this process right now, by contributing comments to the Ethics 2020 Committee issue papers. If you are concerned about how the US will move forward in global technological era, take some time to participate.