

# ABA, Social Media and a time to panic?

In the book *The Hitchhiker's Guide to the Galaxy* the main character faces a huge crisis. He discovers the Earth is about to be destroyed to make room for a hyperspatial express route. Fortunately, a tip and a certain guide book are able to help save his life. Recent events have made me wonder if I might be facing a similar crisis.

On the 20th of September, 2010 the ABA Commission on Ethics 20/20 put out an [Issue Paper Concerning Lawyers' Use of Internet Based Client Development Tools](#).

On October 28th, 2010 I received an email from Larry Bodine copied to his list-serve and most of the legal marketers in the industry. The subject read:

## **RED ALERT: The ABA wants to regulate the internet**

It was basically a call to action for attorneys and legal marketers to bind together to stop the insidious threat of the ABA limiting the use of the internet for marketing and business development by attorneys.

I have a lot of respect for Larry and his efforts to organize this effort, and Larry has been effective in getting this message out. [A LinkedIN discussion has been started](#), a Twitter hash tag created “#ABAREGS,” [Law.com picked up the story](#) and people's parents have been called. I think Larry may have overstated the emergency though.

What is really going on here?

Basically, the ABA has put together a panel to take a hard look at online marketing in its myriad forms and provide some guidance. The fear is that this panel will end up regulating the use of the internet by lawyers and make it harder for the small firms to compete with the larger ones.

Don't you think “RED ALERT” is a little sensational? The ABA is trying to understand what is happening online. It should come as no surprise that they are woefully behind in terms of understanding the technology involved with social media and the internet. I'm curious to see how this will play out.

[Cayolyn Elefant has some great insights on the commission and has been reporting on it since before the paper was issued](#), she also has no fear of State or National bar associations which she proved by declaring on Twitter during the <http://mylegal.com> conference she was “the best lawyer in the world.” Clearly, she has strong feelings on the subject as do many others.

Here are a few of the other headlines:

[ABA's Rules on Social Media and Social Networking Necessary Guidance or Big Brother?](#) by Heather Morse-Milligan

[RED ALERT: The ABA Wants to Regulate Online Lawyer Marketing](#) by Larry Bodine

and

[Is the ABA Trying to Kill Lawyer Blogs, Facebook Profiles, Twitter Updates, Forum Posts and Lawyer Websites?](#) by Enrico Schaefer

Rather than rely on the sensational, I prefer the reasonable. The message that resonated with me the most came in a comment on Heater Morse-Milligan's blog from [Doug Cornelius](#), active blogger, social media user and Chief Compliance Officer for Beacon Capital Partners:

“I think it's useful to go back to 1999 and look at what the ABA did for email. They issued an opinion that using email could preserve client confidentiality. That opinion opened the floodgates for lawyers using email. (I looked back at my email archives and saw an enormous spike in email traffic that began in 1999.)

I agree that another layer of regulation is not going to help. But positive guidance from the ABA would be a good thing.”

Thousands of lawyers are waiting in the wings afraid to use social media because they aren't sure how to use the tools- and there is such little guidance from state bar associations and the ABA that many are simply staying away.

It is about time the ABA took a look at online marketing and helped provide some assurances to so many attorneys that look to these governing bodies for advice. As lawyers it is our responsibility to let the ABA know our opinions on the topic. The ABA is accepting comments until December 15, 2010 to guide them in their decisions- feel free to make your voice heard.

Comments should be sent to: Natalia Vera, Senior Research Paralegal, Commission on Ethics 20/20 ABA Center for Professional Responsibility, 321 North Clark Street, 15th Floor, Chicago, IL 60654-7598. Phone: 312/988-5328, fax: 312/988-5280 and email: [veran@staff.abanet.org](mailto:veran@staff.abanet.org).

And please, follow the guidance inscribed on the back of the Hitchhikers Guide to the Galaxy:

DON'T PANIC