



MEMORANDUM

Date: 2nd September, 2011

Subject: On the expected transcript of the presentation of Mr Peter Homoki of the Budapest Bar Association, Hungary

Good Morning ladies and gentleman. I am Peter Homoki, an attorney-at-law from the Budapest Bar Association, Hungary, and the topic of my presentation today is what our experiences are with the social media in Hungary.

I will start with giving you an overview of how important is social media for Hungarian people in general, and whether this is followed by the social media use of Hungarian lawyers in any way. After I have given you an overview of the current usage trends, I will go into details about the regulatory side of this question: what regulation is currently applicable for lawyers and what are the risks of regulation by the Hungarian Bar Association.

Before showing you how important social media is for Hungarians, let me show you how important Hungary is for the social media: this is a must for every small country. This dog is owned by Mark Zuckerberg, also known as the founder of Facebook, and is clearly of a Hungarian breed, the "puli". Of course the dog has its own Facebook page, with significantly more "likes" than that of the most popular Hungarian prime minister since the fall of socialism (150 000 vs. 110 000).

Let's move on to more serious points. It is important to note that even though broadband and internet penetration is not particularly high in Hungary, the number of Facebook users per population is very high, 33,7% of the total population. With an estimated daily 46 minutes spent by using Facebook, it could be a very effective channel for attorneys to reach their customers or other lawyers.

The next slide just shows you that even in comparison with the neighbouring countries, Hungary seems to be a strong user of Facebook.

On the other hand, it seems that Hungarian attorney-at-laws ("ügyvéd") are not involved in using social media to the same degree as the Hungarian population in general. Although internet connection of lawyers is widespread, they tend to use the internet in a passive way only, that is, for email, browsing etc., but not for establishing any online presence. The ownership of websites by lawyers is very rare, effectively non-existing outside the capital. The social networking presence of lawyers among the users of Facebook and LinkedIn, the most popular site, is a mere 5,8%, this is significantly lower than the use of Facebook by the general population. Most of the users are of the younger generation, that is, younger than myself.

Let me elaborate on the ways Hungarian attorneys do use social media.



At social networking sites, we use only the standard functions, that is, description about ourselves. Even the most sophisticated use is about merely providing information to clients about what documents to bring with themselves. A small number of lawyers even post recommendations about themselves, even though this could be considered unethical by the current code of conduct in Hungary.

We share photos and videos not only at social networking sites, but also at dedicated photo and video sharing sites, like Flickr or Youtube. Most of the lawyers just post and share their own TV and radio appearances, some even invest in creating clearly promotional photos and videos.

There are also a number of blogs created by attorneys. There are very few blogs that could be considered as an attorney's own blog. In these blogs, the attorneys post their own opinion of some events, or anonymously discuss cases the attorney had (which could be problematic from an ethical point of view.)

However, most of the blogs written by attorneys are part of popular legal portals, where the blog itself or even the subjects are determined by the professional editors of the portals.

You can also find legal blogs that were founded in order to discuss certain high profile legal cases, but most of the commenters here are not by attorneys or even by lawyers. The most popular blogs are frequently used by clients to receive free "legal advice", even though those who give advice are frequently not attorneys themselves, and thus it is illegal to do so.

So summing up the use of the social media by lawyers, it is the promotion part of our services that is most clearly and directly affected by it. The way we give advice and the advice we give to customers is less affected, which is not a surprise, as the appeal of an attorney is its confidentiality, which not really suits the advantages of social media.

So user generated content, as a core to social media, is mainly useful for lawyers in finding out what is important for our customers, and how to effectively tailor our services to follow their habits.

Now, let's move on to the self regulation of social media use by attorneys. In Hungary, we also have a code of conduct in place, and this is applicable even when the attorney is online.

We have to meet e.g. professional confidentiality obligations, and this means also not to discuss cases in a way that a well informed third party could, like in a puzzle, put enough pieces together to find out confidential information. Even the published social network of a lawyer could give away a lot more information than it is professional, and we also had an issue with this in Hungary.

It is prohibited to directly contact the client of another attorney, but it is hard to meet this obligations when that client initiates contact with the lawyer.

It is also a requirement to uphold the dignity of the profession and the court, and not to speak in any forum about the other attorney, judge or prosecutor in a way that could be seen as very impolite.



Based on the requirement of incompatibility of occupations, it would be necessary to separate our online professional presence from the non-professional one, but if we take a look at the Facebook pages of attorneys, this currently does not seem to be successful at all.

We also have a number of rules on commercial communications. Although there has been very significant deregulation in this regard, there still are very specific regulation on the web page of lawyers (prohibition on use of: slogans, banners, hit counter, guestbook, specific work references). This is the point where the current self regulation seems to be made technically obsolete by the social networking sites as you will see in the next slides.

So there are serious risks involved in the regulation of social media. If we do not provide attorneys with a usable guideline (not necessarily regulation) on their online conduct, unprofessional conduct will definitely be more prevalent then necessary and will be harder to change later on.

However, if we overregulate the online conduct, we put our attorneys to a comparative disadvantage vis-à-vis other service providers giving (legal or illegal) advice. Clearly, the attorney has to follow the habit of its customers. If customers are using Facebook, lawyers have to use Facebook in every possible way.

In conclusion, let me summarize that although social media use in Hungary is prevalent, lawyers are not making good use of it. Current and previous regulation on websites could be part of the problem, because attorneys perhaps have become wary of having an active presence on the internet (publishing of prices were prohibited, publishing references to works are still prohibited etc.) Therefore, some practical examples by prominent attorneys could be of much help to boost the social media use of lawyers.

Finally, I'll be happy to answer your questions