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Terms of Use

You ever download a program or sign up for a cool application and when the Terms of Use pops up, you scroll down to the very bottom and accept without reading? I have done that many times and it hasn't always been a good thing. "What? I thought this was free?" is the general response after three months or a year goes by. I never really appreciated or understood how a "Terms of Use" option worked; I always just thought it was annoying more than anything. However, upon taking many business classes and even some C.I.T. classes I have learned that there is need for Terms of Use because of legal implications with the use of someone's program, property, and etcetera. As a matter of fact "in a court of law, agreeing to Terms of Use designates entry into a written contract in most cases" (*Wikipedia: Terms of Use*) which can essentially get you into a lot trouble if you don't know what you're agreeing to. The purpose of this topic is not just to make the user aware of the ins and outs of a Terms of Use page but to provide an owner of a site with information on what is important in a Terms of Use page and the essentials of that page.

Wikipedia defines Terms of Use as, "rules set up by the owner of an intellectual property or service to govern how they may be legally used," (*Wikipedia: Terms of Use*). This, in fact, is a very sensible and logical for the creator or owner of such work because it is theirs and they are willing to share, "It not only legally protects me but also allows me to offer services and products to customers without being taken advantage of," responds Kevin Hoggan, as I ask him his

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thoughts on creating a Terms of Use for his web site. We know that Terms of Use are important on any website, even one that creates custom bag and gear like Kevin's. The major topics and components of Terms of Use page vary depending on the type of business model and service that is offered.

Every business model has its unique characteristics. For example, let's look at Google and Apple for similarities and differences. Google's Terms of Use consist of twenty points of interest. Some of these are; the relationship with the party, services that Google provides, the use of services by the user, propriety rights and licenses, exclusion of warranties, limitation of liabilities, copyright and trademark policies, and other legal content (*Google Terms*). Google offers a lot of free resources and free services and their income is mainly generated from advertising. Apple on the other hand creates computers, mp3s, and software, a slightly different source of income, which all contains different terms to use their products. Apple's Terms of Use in their iTunes store consists of terms of sale, including sales tax, preorders, billing, etcetera and terms of service consisting of twenty-four point of interest. Some of these are; privacy to you and them, user account and security, usage rules, agreement to pay, intellectual property, disclaimers and warranties, and notices (*Apple Terms*).

So you see, if you were to study the Terms of Use in different companies, you will notice that there are provisions that are set forth in one company that may not be in another. There are also the *key* points that mostly all Terms of Use have and these are usually found at the end of the document. These help protect the company from any liabilities that there may be with the

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usage of the site or service. These help spell out how to use their product or services in an appropriate manner as pertaining to their trademarks, copywrite, and privacy.

So even if you don't have a business model and you are just running an informational page on the wild Serengeti, it may be wise to set up a terms of service page on you website. National Geographic has just that! On their Terms of Service page they spell out the acceptance of the terms of visiting their site, registration, intellectual property issues, educational use of content, liability, and user conduct. Some of the same points of interest we have seen before and others are unique to the web site. So now we can sum up the sections or key points to have in a terms of agreement page.

The first is **an agreement to the use of or relationship with the site**. The next thing is to spell out specifically, and in plain English as lawyers put it, **the exact terms that are being agreed upon**. Then ultimately you need to **address any privacy, liabilities, copyrights, trademarks, and intellectual property that may be involved with the use or relationship with the site**. To be clear this is a general and basic setup of generic Terms of Use page. This in no way means that it is adequate for your own web site unless it conforms and address all the legal and protection based facets of your own web site. There are companies and services that will write and create a Terms of Use page for you. You can even ask a lawyer and ask what would be need for your specific circumstance and most of the time they can give you point in the right direction and sometimes for free. There is even a place on the internet where you can pull off a "sample internet policies and notices" blueprint for free at businesslink.gov.uk (*Business*

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Link). To prove a point, you can even check out their terms and conditions for using their free stuff. Here are examples and wording of points that should be included on a Terms of Use page:

- Your use of any information or materials on this website is entirely at your own risk, for which we shall not be liable.
- This website contains material which is owned by or licensed to us. This material includes, but is not limited to, the design, layout, look, appearance and graphics. Reproduction is prohibited other than in accordance with the copyright notice, which forms part of these terms and conditions.
- All trademarks reproduced in this website, which are not the property of, or licensed to the operator, are acknowledged on the website.
- Unauthorised use of this website may give rise to a claim for damages and/or be a criminal offence (*Business Link*).

To have a Terms of Use page is essential for any type of site. It is also a source of credibility for people who visit. This is the protection they and you need while doing business and/or associating with each other. "Terms of Use may be set up in order to let an audience know specifically what can and cannot be done to the work with or without the creator's permission" (*Wikipedia: Terms of Use*). From a consumer and business standpoint, hopefully I can now look at what I'm getting into when a Terms of Use box pops up and say, "I understand and I know how you feel. Thanks for letting me know that you are going to charge me!"

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