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## LINKS<sup>1</sup>

### 1. Introduction: The International Nature of the Internet

The international nature of the Internet is an obstacle in determining the law applicable to operators of Internet sites. Sites operated in Israel may be subject to the laws and judgments of each and every country from which they may be accessed.<sup>2</sup> In copyright law, some international covenants adopt the doctrine of "national treatment," i.e., where copyright laws in one signatory state are applied to a work originating in another signatory state if the work is

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<sup>1</sup>This document was prepared at the request of the Government Internet Committee, in the discharge of my duties as legal advisor to the committee. This document is meant for use of the Committee in elaborating guidelines for government offices. It is presented to the public on the Internet site of the Government Internet Committee as a service to the public and to the community of lawyers in the Civil Service in particular. *The author of this document states emphatically that he does not have an attorney/client relationship with the public and this document does not represent legal advice to the public in any respect whatsoever.*

<sup>2</sup>In the *United States vs. Thomas* (Nos. 94-6649, 1996 U.S. App. Lexis 1069 (6th Cir. 1996), the owner of BBS in the San Francisco area published pictures of unclothed women. In Tennessee, dissemination of material that is pornographic by the standards of the local community is a criminal offense. After a Tennessee resident was given access to BBS, the owner of BBS was issued an extradition warrant. He was brought to Tennessee, prosecuted for disseminating pornographic material, convicted, and sentenced to 37 months in prison.

Electronic Commerce<sup>3</sup>, U.S. President Bill Clinton called for the creation of uniform commercial principles concerning trade on the Internet, in order to assure legal certainty in this global environment. However, as long as no agreed upon international arrangement exists, we will have to cope with the reality as it is, strive to learn from others' experience (foremost that of the United States and Europe), and try to adapt this experience to local law in Israel.

One of the "hot" legal issues today is the use of links on the World Wide Web. Apart from the GUI, link technology is the factor underlying the success of the World Wide Web. In early 1997, the Internet world was shocked when two civil claims were brought in the United States<sup>5</sup> to restrict the right of the owner of one *commercial* site to refer to another *commercial* site by means of a link, in the absence of prior permission for said link from the owner of the latter site. These claims focused public attention on the legal issues pertaining to use of links. Notably, however, they stemmed from trends of thought that have been circulating in the Internet world for some time.

The two aforementioned claims were based mainly on arguments in the field of intellectual property in a dispute between one site owner (the linking site) and the owner of another site (the linked site). One may typify these actions as commercial claims in which the

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<sup>3</sup>The Berne Convention and the TRIPS agreement, which is based thereon.

<sup>4</sup>Presented by President Bill Clinton on June 1, 1997.

<http://www.whitehouse.gov/WH/NEW/Commerce/read.html>.

<sup>5</sup>The Washington Post Company et al. v. TotalNEWS, Inc., et al., 97 Civ. 1190 (PKL), United States District Court, Southern District of New York, Feb. 20. 1997.

<http://www.ljx.com/internet/complain.html>

Apart from commercial disputes between site owners, the use of links can cause another kind of problem: a site owner's liability for the contents of another site to which he links. This liability may arise in the civil domain (as in liability for damage to a user because of use of material on the linked site) or in the criminal domain (e.g., referral to a linked site in order to commit a criminal offense).

This document presents practical recommendations for Internet operators in government offices concerning the use of links in their sites. At first glance, commercial issues do not seem relevant to governmental offices. However, they do appear to have implications, if only indirect, for all Internet site operators in all fields. Accordingly, it is important to understand the commercial issues, even if one cannot draw direct conclusions from them concerning the use of links in government sites.

The organization of this document corresponds to the foregoing thematic presentation. I begin with a discussion of the commercial issues and continue by discussing the other issues. Recommendations are presented at the end of each chapter and are listed in full at the end of this document. Finally, an appendix provides an example of terms concerning links that should be added to the terms of use of any Internet site. However, before discussing the legal issues, we should pause to consider the basic principles of link technology, in order to create a proper factual infrastructure for the discussion to follow.

## **2. Two Types of Links**

To understand the legal issues surrounding the use of links, we should preface our remarks by noting the existence of two kinds of links that are supported by HTML, *href*

The second action is the presentation of a new page at a different address (URL) from that of the referring page. In this case, the address of the new page is behind the link. When the link is selected, the computer contacts the server directly, finds the desired page, "brings" it to the referring computer, and displays it on the browser. Today, the new page may be presented in one of three ways: (1) The new page replaces the previous one in the open window on the browser, (2) the new page is shown in a new window on the browser, while the previous page remains open but in background, and (3) the new page is shown within a frame of the referencing site.

In an *img* link, the user's computer goes to another Internal address (URL), imports a file that contains graphics or a picture, and inserts this file into a page already displayed on the browser of the referring computer. For example, one may place a graphics file containing the emblem of the State at a given URL and decide that this file be embedded at the top of every page on an Internet site of a government office by means of an *img* link.

Now, we may look into the legal issues.

### **3. Copyright**

#### *IMG links*

The use of an *img* link may create an infringement of a third party's copyright. Such a link must be used cautiously. The problem comes up when this type of link is used to embed graphics, an illustration, a drawing, and/or a picture (hereinafter, the work) to which a third party holds the copyright-within the Internet site of the referring site, without receiving the copyright holder's consent. Such a display may constitute a "derivative work" created in

## *HREF Links*

Usually, the use of *href* links does not lead to legal problems in the field of copyright law, as long as the link causes the new page to be presented in the browser independently (i.e., replacing the previous page or displaying the new page in a new window).

Just the same, in October 1996 a court in Scotland was asked to issue a temporary injunction against a newspaper on the grounds of copyright infringement stemming from the use of links. The facts of the case are as follows: the "pursuer" of the inju, a newspaper called *The Shetland Times*<sup>6</sup> has an Internet site on which it publishes an Internet newspaper called *The Shetland Times Online*.<sup>7</sup> The home page of the Internet newspaper presents headlines of articles and commercial advertisements. The headlines are used as links to articles on other pages on the site. (Each page has its own URL.) The respondent in the claim (a newspaper named *The Shetland News*<sup>8</sup>) set up an Internet site of its own, on which it showed the same headlines that appeared on the home page of the "pursuer"'s Internet newspaper. The headlines on the respondent's site served as direct *href* links to articles on the "pursuer"'s site, in circumvention of the "pursuer"'s home page and advertisements. Notably, the "pursuer" gave his prior consent to link from the respondent's site *to his headline page* but not to link directly to the pages containing the articles, *in circumvention of the ads*.

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<sup>6</sup><http://www.shetland-times.co.uk>

<sup>7</sup><http://www.shetland-times.co.uk/st/index.html>

<sup>8</sup><http://www.shetland-news.co.uk>

is a protected work under copyright laws, then the copyrighted material has been infringed. The court admitted that it had not been presented an adequate factual (and technological) infrastructure and suggested that the results of the full adjudication might change once said infrastructure is adequately established.<sup>9</sup> The case is to be discussed in full in October 1997.<sup>10</sup>

The court seems to have based itself on an erroneous factual infrastructure by assuming that a link to another site causes the linked page to be shown on the user's computer by means of the referencing site. In fact, the link causes the user's computer to contact the server of the linked site and to ask it for the file (or files) of the desired page. The server of the linked site (not of the linking site) sends the desired file (or files) to the user's computer. Therefore, the "copying" of the linked material is carried out by the server of the linked site and not by the referencing site. The referencing site neither copies nor disseminates nor broadcasts material from the linked site. The only function of the link on the referencing site is to give the user's computer an Internet address with which it may download a file (or files). One should hope that this factual situation will be presented to the court properly in the October hearing and that the court will make the correct legal inferences therefrom.

This case is typical of development of law in the world of the Internet. One has the feeling that the defendant may have done something improper but finds it hard pinpoint precise legal grounds for said misconduct, since appropriate legislation and legal precedents are lacking. The problem at issue in the above case seems to be one not of copyright but of

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<sup>9</sup>The court's ruling is posted at <http://www.shetland-news.co.uk/opinion.html>

<sup>10</sup>One can monitor developments in this case at <http://www.shetland-news.co.uk/appeal/html>

copyright in the original work.

Additionally, presenting a linked page in the frame of the linking site may modify the form and nature of the page displayed. For example, if the linked page is meant to fill up the entire field of the browser, its presentation in the frame of another site inevitably causes the size of the page to contract relative to the field of the browser. Instead of taking up the entire area of the browser, the displayed page must now compete with the frame of the referencing site, and the frame itself takes up precious space in the browser. Additionally, the artistic nature of the frame in which the linked page is displayed will not necessarily correspond to the nature of the page displayed. These factors may be detrimental to the nature of the displayed page, thus creating an infringement of the moral right of the creator of the page to his or her work. A "live example" of this problem follows:

Eight companies that manage Internet sites, including CNN, sued a firm named TotalNEWS for displaying their sites within its own frame.<sup>11</sup> The statement of claim alleged, among other things, that displaying the plaintiffs' sites in the respondent's frame was an infringement of the plaintiffs' copyright. (Trademark infringement, trademark dilution, unfair competition, and other claims were also alleged.) The dispute was not brought to judgment; the sides compromised out of court, the respondent agreeing not to display the plaintiffs' sites within a frame on its site. Notably, in the absence of a court judgment, one cannot know what legal theory, if any, prohibits the use of a frame under the aforementioned

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<sup>11</sup>The Washington Post Company et al. v. TotalNews, Inc. et al. Fn. 5 *supra*.

judgments handed down in the United States also made to a rationale of contributory infringement of copyright. I will elaborate on this in Chapter 5 below.

Summing up-**recommendation:** Do not display a page from an external site *in a frame* of the referencing site without prior consent of the owner of the external site.

#### 4. Trademarks

A link may appear on the computer screen in any form whatsoever. It can be an address of another site, rendered in a given color and underlined. It may be the name of another site, the name of a business, or any combination of words that indicates the nature of the target of the referral. It can be a graphic element which, in one form or another, identifies the target.

The name of another site, or the graphic element that introduces the other site, is sometimes the trademark or the service mark (hereinafter: trademark) of a commercial entity. The letters CNN, for example, are a registered trademark of Cable News Network. The use of the letters CNN, the CNN logo, or the CNN URL as a link to the CNN Internet site is the use of a symbol which, under certain circumstances, may infringe on its owner's rights.

No binding law has yet been set forth in this matter. However, two claims filed in the United States have evoked questions about the use of links *in the commercial domain*. One of these claims was mentioned above, in the matter of TotalNEWS. The second is Ticketmaster v. Microsoft.<sup>12</sup> Both of these claims allege, inter alia, that the use of a link that is also a trademark of the linked site by a *commercial site* may mislead the public concerning

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<sup>12</sup>Fn. 5 *supra*.

Ticketmaster has been blocking links to its site from the Microsoft site. Practically speaking, this is the final outcome that Ticketmaster would like to achieve. Before the claim was filed, the sides negotiated over the terms of use of Ticketmaster's name on the Microsoft side, and these negotiations broke down because of Ticketmaster's financial demands. Ticketmaster alleges that Microsoft is making commercial use of its name and is deriving financial gain from doing so (by selling advertisements on the Microsoft site). Because advertisers are willing to pay for exposure on a successful Internet site, and because the success of the Microsoft site depends somewhat on the use of Ticketmaster's name, Ticketmaster considers itself entitled to a share in the profits of the site. By inference, while the claim rests inter alia on rationales in the domain of intellectual property, the purpose of these rationales is to establish commercial principles in the Internet world that will benefit the plaintiff's interests.

As stated above, the dispute in the TotalNEWS case ended with a compromise. The compromise agreement was not released for publication; what we know of it comes from media reportage. According to these sources, the plaintiffs agreed to allow the respondent to continue to use their trademarks to link from his site to the plaintiffs' sites. This consent was given at no charge. However, it was also stipulated that the plaintiffs are entitled to rescind this consent in the future. Furthermore, as stated above, TotalNEWS agreed to stop displaying the plaintiffs' linked sites in a frame of its site.

The two aforementioned claims point to *a trend in the commercial domain*, in which a

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<sup>13</sup>In the United States: 15 U.S.C 114 (Trademark Infringement), 15 U.S.C 1125 (Trademark Dilution).

with regard to the use of links in sites of government offices-is not clear. As long as government sites do not engage in commerce, it would seem, at least according to American law, that there would be no impediment to linking to American commercial sites (using their trademarks/servicemarks as links).

*Israeli trademark law* is rather vague in the aforementioned context of links. Additionally, the Trademarks Ordinance (New Version), 5732-1972, does not define trademark infringement in the same way this concept is defined in the United States.<sup>15</sup> Additionally, the Ordinance does not mention trademark dilution as an offense. As stated in the Introduction, trademark protection depends on registering the trademark in each and every state. Accordingly, a trademark not registered in Israel is not protected in Israel.

The main problem today is that the information disseminated over the Internet reaches all corners of the globe, and there may be circumstances under which information on an Internet site operated in one country would be subject to the laws of another country from which the site is accessible. There are precedents for this in the United States (among the

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<sup>14</sup>The report on the committee's work is available at the ABA site:

<http://www.abanet.org/buslaw/cyber/groups.html@IntelProp>

<sup>15</sup>Paragraph 46 of the Ordinance states: "The valid registration of a person as owner of a trademark shall entitle said person to exclusive use of the trademark for the goods for which the trademark is registered and in everything concerning them, unless stipulated otherwise in any terms and restrictions recorded in the register." (Paragraph 2 of the Ordinance equates a "service mark" to a trademark.)

other way.<sup>18</sup>

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<sup>16</sup>A German court enjoined CompuServe from providing, within the borders of Germany, certain discussion groups that originate in other countries' on-line services.

<sup>17</sup>The TotalNEWS site presents the following announcement in capital letters: NO RELATIONSHIPS EXIST BETWEEN TotalNEWS AND THE PARENT OR SUBSIDIARY COMPANIES THAT OWN THE THIRD-PARTY WEB SITES ACCESSED BY THE USER. TotalNEWS HAS NO OWNERSHIP OR CONTROL OF THE COPYRIGHTED AND/OR TRADEMARKED MATERIALS FOUND ON THE THIRD-PARTY SITES.

The appendix provides an example of terms of use including such a notice.

<sup>18</sup>Below is a disclaimer from an Israeli legal site:

"The use of information found on the Internet requires extreme care and thorough investigation. Legal information, including that on the sites linked to from this site, is no exception. The existence on this site of links to other sites is not a warranty or assurance that the information contained on them is reliable, accurate, up to date or complete. The managers of . . . assume no liability whatsoever for any direct or indirect consequences of using information which is found through this site. The use of this site is subject to this disclaimer and attests to the user's agreement thereto."

Below are two further examples of disclaimers, from the Library of Congress site and the NASA site in the U.S.

"The Library of Congress Web and gopher services provide links to materials and sites which are not maintained by the Library of Congress. In providing this services, the Library of Congress cannot accept responsibility for the accuracy or the completeness of information found at other Web or Gopher sites."

"The links on this page take you beyond the realm of the NASA server. If you find a link that

In principle, one may distinguish between two types of liability. The first type of liability is for damage to a visitor to an Internet site, caused after the visitor has relied on a reference to an additional site by means of a link, and after the visitor has suffered damage as a result of using material on the linked site. The liability of the referencing site owner may stem from negligence (in tort), in the original choice of the linked material, or in failure to take reasonable action to ascertain that the linked material has not gone out of date, or has not changed, in a manner that may cause the visitor damage. To protect the site owner from damage claims originating in reliance on material on linked sites, it is customary to display a disclaimer at the referencing site that absolves the site owner of liability for damage to any party that uses the link, visits a linked site, and is damaged by use of the linked site.<sup>19</sup>

Such a disclaimer has an effect on the contractual plane and leads to legal problems and questions of its own.<sup>20</sup> The site owner should make sure that the terms he/she wishes to apply to the user on the contractual plane are presented in a manner from which one may

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is broken, please notify [wwwmaster@nas.nasa.gov](mailto:wwwmaster@nas.nasa.gov) about it so we may fix it if possible. Note that neither NAS nor the NAS WWW group are responsible for the data presented at the other end of these links. The data was deemed appropriate at the time the link was established, but the content may have changed over time. If you find that one of these links references data which you find inappropriate, please notify [wwwmaster@nas.nasa.gov](mailto:wwwmaster@nas.nasa.gov) immediately. That said, enjoy your foray into Net surfing!"

<sup>19</sup>For a concise and interesting article on disclaimers, see Graham J. H. Smith, "Web Page Disclaimers," at <http://www.twobirds.com/library.internet.disc.htm>

<sup>20</sup>Graham J. H. Smith, *ibid.*

place on the home page of the site. No custom of law has coalesced in this matter, and to the best of my understanding, the contractual force of terms of use and disclaimers on Internet sites has not yet been tested. Accordingly, one can only recommend that the site owner, when posting notice to the effect that use of the site will be subject to certain terms, make the notice sufficiently conspicuous as to attract the visitor's attention. The notice should serve as a link to the relevant terms of use and should appear in the conventional place on the page.<sup>22</sup>

Notably, a disclaimer is not always valid; its validity must pass the test of local law. What, however, is "local law"? Is it the law of the referencing site or of the site of the user who claims injury? This question is unanswered today, but presumably, if someone alleges that he was damaged by use of a site or by material from another linked site, he would also attempt to invoke the law most pertinent to him in terms of the validity of the disclaimer.

In Israel, the practice under the Uniform Contracts Law, 5742–1982, is that a court or the Tribunal for Uniform Contracts is entitled to strike down a disclaimer in a uniform contract if it is considered to unfairly impinge on the user's rights.<sup>23</sup> To the extent that a

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<sup>21</sup>At the TotalNEWS site, the notice is positioned more or less in the middle of the home page.

<sup>22</sup>According to Paragraph 5.3.4.4 of the *Takam* (General Rules of Public Administration), notices of copyright and terms of use should be placed together, and the terms-of-use notice should serve as a link to the terms of use themselves.

<sup>23</sup>According to Paragraph 3 of the law, "A court and the tribunal may strike down or modify, in accordance with the provisions of this Law, a term in a uniform contract that has the effect-in consideration of the entire set of terms in the contract and other circumstances-of denial of customers' rights or unfair advantage on the part of the supplier that may lead to denial of customers' rights (hereinafter-prejudicial condition).

of contributory infringement of others' rights. Just as an illegal act can be committed directly by dissemination of information through an Internet site, it can also be committed indirectly by means or with the assistance of links to other sites.

For example, in early June 1997 a British court issued temporary injunction in the case of Nottinghamshire County Council v. Gwatkin et al.<sup>24</sup> At issue was publication on the Internet of a report on sexual exploitation of institutionalized children with the knowledge of public figures (social workers, police, etc.). The report was banned from publication in England. However, it was placed on Internet servers outside of England-in the United States and in Belgium. The respondents in Britain operated an Internet site out of Britain and equipped their site with a link to the report that had been posted on the aforementioned sites. The court ordered the respondents to remove the links to the report from their site until the matter could be fully adjudicated, a stage postponed to September 1997. The court's order does not elaborate the legal grounds for the court order.

However, the content of court order does suggest a rationale: infringement of the plaintiff's copyright in the report. The respondents were enjoined from causing publication and dissemination of the report without the plaintiff's permission. Implicit in the order is the understanding that linking to a document posted on an Internet site in violation of copyright, constitutes in itself a civil offense of contributory copyright infringement. In the United States, courts have recognized the contributory infringement rationale when a person who knows of an infringement committed by another person, contributes to said infringement in a substantial

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<sup>24</sup><http://www.users.globalnet.co.uk/~dlheb/legal1.htm>

6. **Notice by Site Owner Prohibiting Unauthorized Links to His/Her Site**

At times, a site owner advises the public or a specific person/organization that no link to the site should be made without his or her consent, or that the link to the site must be made solely under certain terms. This notice may be included in the terms of use of the site<sup>27</sup> or may be sent directly to specific players.<sup>28</sup>

Is such a notice valid, and must it be honored?

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<sup>25</sup>Jonathan Rosenoer, *CyberLaw*, Springer, New York, 1997, pp. 5-6.

<sup>26</sup>The Appendix presents an example of a disclaimer that brings together all the elements mentioned in this Opinion.

<sup>27</sup>See terms of use at the CiAS site, which stipulate that links to the site by means of the site logo may be established only if the site owner is given notice thereof.

<sup>28</sup>Ticketmaster informed Microsoft that a link to its site may not be made without remuneration. CNN et al. advised TotalNEWS that links may not be made to their sites, nor may their sites be displayed in a frame of the TotalNEWS site, without their consent. The *Shetland News* linked to the *Shetland Times* site against the latter's wishes. Although the site owners had expressed their explicit and unequivocal opposition to these links to their sites, the links were established.

In "Hypertext Links: Are They Legal?" (by the Russel McVeagh McKenzie & Bartleet law office), it is reported that New Zealand Television regularly instructs designers of local Internet sites to refrain from establishing direct links to pages within its site (i.e., links that circumvent the site's home page) or to use the NZTV logo as a link to its site without obtaining consent therefor.

If a contractual relationship of this type is created, the terms prohibiting creating a link to the site from another site without the site owner's consent would seem to be valid-unless there are legal grounds to conclude otherwise.<sup>30</sup>

The copyright notice on the CiAS Internet site<sup>31</sup> states that links to the site may be established by means of the site logo (a type of intellectual property-a trademark) as long as notification about such is given to the CiAS site beforehand. Is this statement meant to protect an existing right under intellectual property law, or does it create a contractual right? This is an important question because the statement does not distinguish between commercial and non-commercial use of the logo as a link. According to the rules of intellectual property, as seen above, only *commercial* use of a logo as a link may be an infringement or dilution of trademark. Accordingly, the rules of intellectual property present no legal impediment to the use of a logo as a link on a non-commercial site. However, if the aforementioned statement has contractual force, it would apply equally to commercial and non-commercial sites.

In view of all of the foregoing, how should the designer/builder/maintainer/owner of an Internet site behave when confronted with notice, of any kind, that prohibits links to a given site without the site owner's consent or under restrictive conditions?

As the foregoing legal analysis shows, this matter is still in its infancy and these questions do not have unequivocal answers. Accordingly, one should behave with redoubled

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<sup>29</sup>See Chapter 5 *supra*.

<sup>30</sup>See Chapter 5 *supra*.

<sup>31</sup>Fn. 27 *supra*.

Some argue that the requisites of "netiquette" require tendering of notice to every *external site* that is linked (including non-commercial sites). My opinion is that this is unnecessary except where the owner of the referencing site fears that the owner of the other site may object to the link and wishes to avoid problems in advance. (Wherever the site owner serves explicit notice that links to his site needs his consent, this demand should be honored, as stated above.) In other cases, serving of notice to *every* linked site would place the ongoing management of Internet sites under an onerous and unreasonable burden, for this is an environment of rapidly changing content, in which many documents and much material may be presented with numerous links.

Furthermore, the link is the fundamental building block of the HTML language, on which the World Wide Web is based. In this reality, those who set up Internet sites on the World Wide Web should be regarded as having, as a matter of rule, given their consent to the establishment of links to their sites-insofar as they have not given notice to the contrary, or insofar as no legal rules (such as those of intellectual property) require a different position. Accordingly, I do not believe that every linked site must be given notice about the link to it.

**Recommendations:** Before a site is linked to an external site, make sure the terms of use of the external site create no impediment to establishing the link and that there are no prior conditions to establishing the link, such as obtaining the consent of the owner of the linked site. Where such conditions exist, they should be honored. If a site owner insists that a link to his site be removed, this request should be honored.

Notice to another site concerning the establishment of a link, where neither the law nor the owner of the site requires this, should be given at the discretion of the referencing site

carry advertising only per approval of the Interministerial Committee for Approval of Commercial Advertising. A link to an external site may be construed as an advertisement for the external site, especially if the site at issue is commercial and if there is no substantive connection between referral to this site and the topic of the site and the function of the office. As such, such a link would require the approval of the aforementioned committee.

In view of the foregoing, one should make sure that the material on the linked site is reasonably relevant to the topic of the government site. F, reasonable action should be taken to ascertain that there are no additional sites of relevance to the topic, the owners of which might argue that their exclusion from the referencing site constitutes illegal discrimination by a government agency. Finally, the site owner should make it very clear that reference to an external site does not amount to publicity for, or advertising of, said site.

**Recommendations:** Make sure that the material on an external site to which the government site is linked is relevant to the topic of the government site and to the function of the office that manages the site.

To avoid allegations of illegal discrimination, the terms of use of the site should include notice that referral to external sites does not express an endorsement or approval of linked sites or of any product or material displayed thereon.<sup>32</sup>

## 8. **Conclusion and Summary of Recommendations**

The foregoing review pointed to potential legal problems in using links on Internet sites. Law

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<sup>32</sup>The Appendix presents an example of recommended terms.

- \* A page from an external site should not be shown in a frame of the referencing site without prior consent of the owner of the external site.
- \* Any site that links to external sites should explain clearly the nature of the relationship between the sites. Where there is no consent concerning the link, there should be a message noting that the sites have no commercial or other relationship.
- \* The terms of use of the site should include a disclaimer of liability for damage caused to users by the use of material at linked sites.<sup>33</sup>
- \* It should be ascertained, at least at the *prima facie* level, that the linked material contains nothing that might be considered illegal for publication in Israel.
- \* Before a site is linked to an external site, make sure that the terms of use of the external site contain no impediment to establishing the link and that there are no prior conditions for establishing the link, such as the site owner's consent. Where such terms or conditions exist, they should be honored.
- \* If the owner of a certain site demands that a link to his site be removed, this demand should be honored.
- \* Notice to another site concerning the establishment of a link, where neither the law nor the owner of the site requires this, should be given at the discretion of the referencing site owner or under circumstances where the owner considers this

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<sup>33</sup> The Appendix contains an example of a disclaimer that brings together all the elements mentioned in this opinion.

approval of these sites or for any product or material displayed thereon.

This document was prepared at the request of the Government Internet Committee, in the discharge of my duties as legal advisor to the committee. This document is meant for use of the Committee in establishing guidelines for government offices. It is presented to the public on the Internet site of the Government Internet Committee as a service to the public and to the community of lawyers in the Civil Service in particular. *The author of this document states emphatically that he does not have an attorney/client relationship with the public and this document does not represent legal advice to the public in any respect whatsoever.*

the owners of third-party sites, and the office has no control of, or rights in, the material found on these sites.

The State is not responsible for the content of the material found on third-party sites.

Links to third-party sites shall not be construed as conferring endorsement, approval, recommendation, or preference by the State or by the office of said linked sites, including documents and any other material found thereon, of the operators of the sites, or for the products displayed thereon.

When each link in this service was established, it was found that the information on the linked site was appropriate to the purposes of the service and that the link itself was sound.

However, changes on the linked site may occur over time. If the user believes that the linked site or the material thereon is unsuitable, or if he/she finds the link to be broken, the user is asked to apprise the webmaster of this. Furthermore, users who believe there is another site of relevance to the topic of this service are asked to apprise the webmaster thereof.