

Website Evaluation

Buchanan

Each year hundreds of public lawsuits and thousands of private arbitration claims are filed against companies with consumer facing and even “B2B” websites: from use of pixels and cookies without users’ explicit consent, to misleading discounting and “comparison” pricing, to ADA accessibility issues. Buchanan can be your partner long before your company faces the threat of litigation related to claims or technology on its website. We come in at the ground level to help companies identify areas of exposure and liability on their public facing websites to avoid these costly nuisance claims.

With a real-time understanding of trending issues that affect consumer facing companies with an online presence, our team is a true partner in the development of website terms and conditions, arbitration clauses, and privacy policies and workstreams to comply with an ever-changing landscape of state and federal law. Our consumer and privacy attorneys conduct in-depth evaluations of our client’s websites and then work them to navigate potential future challenges—all while recognizing the needs of marketing teams and a seamless website user experience.

Buchanan’s consumer and privacy law experts have developed a flat-fee website evaluation offering for existing and developing websites to better assist our clients with avoiding future challenges and potential litigation. The scope of service includes:

- Introductory collaborative meeting with the legal, marketing, and/or web design team to discuss goals and concerns.
- Analysis of the website’s current or potential features, representations and claims, and tracking software (such as cookies, session replay, chat, and Pixels).
- Analysis of the website’s applicable agreements (like terms and conditions, privacy policies, and arbitration agreements).
- Analysis of risks and exposure associated with the current or proposed design of the website, including ADA accessibility and software running on the site.
- Conduct a national search of available case law and lawsuits filed within the last 5 years and provide an analysis of the litigation landscape of similar websites.
- A list of recommendations for the marketing and legal teams, including but not limited to the following:
 - The current litigation landscape for similar websites.
 - Recommendations on how to limit liability with minimum impact on marketing and web design priorities.
 - Estimated hourly and/or flat fee pricing for mitigation measure such as writing/rewriting terms and conditions, arbitration clauses, and privacy policies.



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The scope of services outlined above are covered by a flat, mutually agreed upon fee. Any services rendered beyond the scope of services outlined above will be considered outside of the flat fee arrangement and a new, mutually agreed upon structure will begin.