



INFORMATION SHEET

Workplace Services

Current at: 17 February 2014
HIA ref no: ZFSIRE1125

NAT - The Ins and Outs of Online Reviews: What you Need to Know

Without a doubt over the past ten years the use of social media forums has evolved. Forums such as Facebook, Twitter, LinkedIn, Choice, Google + and a range of online review platforms, are extensively utilised by businesses as a form of brand positioning and marketing.

Social media is often a successful forum for businesses to platform their products/services by reaching appropriate target audiences. However, there too is a 'dark side' to social media. Social media is now being utilised as a mechanism to vocalise both the good and bad experiences of consumers. Problematic is the inability of businesses to have control over such 'blogs' or 'reviews' which can be detrimental to a business' reputation.

The Australian Competition and Consumer Commission (ACCC) is an independent statutory authority responsible for administering the Australian Consumer Law (ACL). The ACCC takes a range of enforcement action for misleading and anti-competitive conduct, including cases where such conduct is brought about through social media forums. The following 'dos' and 'don'ts' will assist you in avoiding the traps of online review platforms and focus on making the most of social media as a means of advancing your business in the marketplace.

What should I do if a 'fake' review is published about my business?

Negative consumer reviews posted on a review platform which do not reflect a reviewer's genuinely held opinion and are instead motivated by a personal dislike for a business can cause substantial harm. Businesses affected by fake negative reviews have the right to complain to the platform which publishes the review and to the ACCC.

In such cases, **do** notify the online review platform immediately. You should identify the affected reviews and, if possible, provide supporting evidence as to their falsity. The ACCC recommends that review platforms provide businesses with an opportunity to post a public response to a negative review. Online review sites are generally responsive to business concerns and provided there is evidence to suggest that a review does not reflect a genuinely held opinion, they tend to react swiftly.

Furthermore, the majority of online review platforms make their content moderation policies for publishing and removing consumer material accessible to all users (including businesses). This provides you with a clear understanding of when businesses have a right to request that consumer reviews of your goods / services be removed.

Finally, in extreme cases, businesses which are the victims of ongoing harassment or serious threats through fake negative reviews may also consider contacting the police.

Do not write a false or misleading review about your business in an attempt to counteract existing 'fake' reviews.

The writing of reviews by a business about itself as though it were a consumer is misleading; as is writing negative reviews about a competitor where you have not experienced their product or service. Similarly, engaging an individual or public relations firm to deliver reviews by persons who are portraying themselves to be, but who are not in fact, genuine consumers is misleading.

DISCLAIMER - The above is intended to provide general information in summary form. The contents do not constitute specific advice and should not be relied upon as such. Formal specific advice should be sought by members with respect to particular matters before taking action.

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Some businesses also offer incentives to customers to encourage them to write positive reviews about their goods/services. Incentives should only be offered in exchange for reviews of your business' goods/services if:

- incentives are offered equally to consumers likely to be complimentary and critical;
- positive and negative reviews are treated the same;
- the reviewer is expressly told that the incentive is available whether the review is positive or negative; and
- the incentive is prominently disclosed to users who rely on affected reviews.

If you are going to offer incentives for reviews of your business' goods/services, **do** notify the online review site of this, including details of your offer, so that the appropriate disclosure can be made by the platform to its users and viewers. Indeed, the ACCC has taken enforcement action in relation to misleading testimonials. In 2011 a removals business was fined \$6,600 for having made favorable representations about its services on an online review website that claimed to be testimonials by genuine consumers when in fact, they were not.

What about our business' Facebook and Twitter accounts?

It is also prudent to keep in mind that any content generated, including comments made by a business owner on their social media page/site regarding competitors, can also be subject to the ACL and ACCC intervention.

For example, if you 'tweet' that your business is the first in the industry to deliver a 100% environmentally friendly service without having conducted research to support this claim, and it comes to light that your competitor has in fact been offering this service for many years, you may have engaged in misleading and deceptive conduct.

Similarly, if a 'fan' of your Facebook page posts untrue comments about a competitor on your page and you know these comments are untrue but do not delete them, you may be held accountable under the ACL for the fan's comments. More serious cases could also lead to defamation suits.

In order to avoid the potential for an alleged breach of the ACL through the use of social media and online reviews, businesses should consider the above 'dos' and 'don'ts' in addition to monitoring their social media pages/sites.

***Should you require further information, please contact a Workplace Adviser on
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