

## How should brands deal with objectionable online content?

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We've all read scathing online reviews and heard reports of malicious, or even abusive, tweets or content. Such content can be extremely damaging to a **brand**, particularly where it is unfair or inaccurate. So, where the content is objectionable and accumulating significant attention, what options do **brands** have?

There are a number of legal causes of action:

- Defamation: where something untrue has been asserted, without justification, which is likely to lower the **brand** in the minds of those reading it
- Trade mark infringement: where online content uses a registered trade mark without permission, in a manner which is not honest or fair
- And even harassment.

Whatever the basis of claim, a **brand**-owner will first have to find out who is responsible. This can be difficult, especially where the user conceals their identity.

If verifiable contact details can be ascertained, a formal letter might be enough to stop the user but equally, it might encourage them to increase online activity, meaning going directly to court can be more appropriate, but will be more expensive.

The claimant will seek an injunction, preventing repetition of the material, as well as compensation. The English justice system permits the winning party to recover reasonable legal costs from the loser, however there is no guarantee they will actually be good for the money so litigation can be an expensive way to deal with objectionable online content.

Legal action may appear overly-aggressive, resulting in worse PR repercussions than the original content so **brand**-owners should also consider: responding directly via **social** media; seeking takedown via the online platform; or manipulating search engines.

[Error! Hyperlink reference not valid.](#) to turn a **Twitter** complaint into a PR triumph. Recently, [Ashley Madison used take down notices](#), based on copyright infringement, to have the names of its subscribers removed from the web, after its data leak.

It can easily go wrong, however, with **brands** such as [Samsung coming under fire](#) for overdoing it with their **social** media efforts. Take down notices should not be sent in every situation.

There must be a legitimate legal basis for seeking removal, as content that amounts to 'fair use' can often stay online, as Universal Music Group found out. Attempting to take pre-emptive measures can also backfire, as [one hotel found out when it threatened to fine guests for bad reviews](#).

There is, of course, the option to do nothing. This won't be appropriate in all circumstances, but where the content has not (yet) really attracted much attention taking action might actually be counter-productive.

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