

Fact Sheet

Navigating online customer reviews

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Online reviews have become an increasingly useful way for consumers to do their due diligence on a product or service before they buy. However, businesses need to be careful in their handling of user reviews to avoid a possible breach of consumer protection legislation. Set out below is a summary of what the law says and some guidance on how businesses can take steps to avoid breaching it.

WHAT DOES THE FTA SAY?

The Fair Trading Act 1986 (FTA) contains a general ban on businesses engaging in misleading or deceptive conduct. It also specifically prohibits those in trade from engaging in conduct that is liable to mislead as to:

- the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of **goods**; and
- the nature, characteristics, suitability for a purpose, or quantity of **services**.

Businesses face fines for breaches of these sections of the FTA of up to \$200,000 for an individual and up to \$600,000 as a company.

HOW DOES THE FTA APPLY TO CUSTOMER REVIEWS?

If the way a business collects, handles or publishes online customer reviews has the effect of misleading consumers about products or services, it may breach the FTA and be liable to prosecution. The Commerce Commission is currently focussing on online retail and has recently prosecuted a business for allegedly misleading consumers by manipulating online reviews.

COMMERCE COMMISSION GUIDANCE

The Commerce Commission has published guidance to help businesses comply with the FTA in relation to customer online reviews ([click here](#) or visit comcom.govt.nz to view it). The guidance is set out below:

Collecting reviews:

- Only collect genuine reviews. Verify that reviews are from genuine customers.
- Do not exclude customer reviews (for example, from unhappy customers).

Processing reviews:

- Do not edit reviews to alter the message.
- Do not write, request or publish fake reviews.
- Reply on the business' behalf rather than changing a (negative) review.
- Have a review policy that staff are familiar with.

Publishing reviews:

- Clearly disclose any relationship affecting the impartiality of a review.
- Do not change the order in which reviews are displayed (to seem more positive).
- Ensure customers know how you will use their reviews.

OTHER THINGS TO CONSIDER

The following points may help you get the best out of online reviews:

- **Good feedback:** If customers give you positive feedback, why not suggest that they share it with the online community in a review.
- **Open communication:** Make sure consumers know how to contact you about problems or complaints and that you are responsive to them. This will help to prevent consumers resorting to the forum of online reviews to raise issues with you.
- **Review guidelines:** Have some guidelines available for customers to view before they write a review. This could include things like explain why you like or dislike the product or service and focus on the item's features and your own experience of it.
- **Don't engage with trolls:** If you respond to online reviews, do so in a polite, professional and factual manner – and continue to do so with all interactions. While the review may be unfair, your business will come out looking a lot better if it takes the high ground and remains professional.

FURTHER INFORMATION

For further assistance with this or to discuss how consumer laws may impact on your business, please call or email one of the Jackson Russell business lawyers listed.

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