



Parliamentary Briefing Note

Prepared by the Consumers Council of Canada for the Canadian Consumer Initiative

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Understanding Online Reputation Management & Repair

The Issue

People thoughtlessly, ignorantly or maliciously misuse information about others, damaging reputations as a result. The Internet has increased the significance of this behaviour, for several reasons:

1. The Internet has become a first recourse to answer almost any question.
2. A significant amount of information found is user-generated, raw and unfiltered.
3. Information can be quickly accessed, synthesized and cross-referenced; if misunderstood and misused, it can rapidly cause irreparable and wildly disproportionate damage.

The misuse of information, and the resulting reputational damage, is increasing, and giving rise to a new discipline – online reputation management and repair. The value and associated risks of using the services offered by these new practitioners is difficult to establish.

There are many reasons that managing one's online reputation is important, including avoidance of the risks of bullying, defamation, identity theft and scams, as well as damaged employment, tenancy and business prospects. A study conducted by Microsoft for Data Privacy Day, 2010, found that "fewer than 15% of consumers surveyed believe that information found online would have an impact on their getting a job" but that "70% of surveyed HR professionals in the U.S. have rejected a candidate based on online reputation information."¹

On the Internet today a person can be helpless if anonymously attacked, or if their personal information is presented in a false context. Outright untruths may be spread to a potential audience of millions or to the individuals who matter to them most.

The newness of the Internet to the Canadian courts brings uncertainty. For example, the courts allow access to the identity of anonymous bloggers, but generally only when a *prima facie* case of defamation is made. Canada's courts are struggling to balance freedom of speech with the right to protection from defamation. Perhaps counter-intuitively, some readers find statements credible just because they have been offered anonymously. Canada's courts have found anonymous bloggers able to inflict harm, making them susceptible to a charge of defamation – if they can be identified.²

1. *Online Reputation in a Connected World*, Microsoft/Cross-Tab for Data Privacy Day, January 2010, http://www.marketingtecnologico.com/ad2006/adminsc1/app/marketingtecnologico/uploads/Estudos/dpd_online%20reputation%20research_overview.pdf

2. *Barrick Gold Corp. v. Lopehandia*, 2004 12938 (ON CA)

THE CANADIAN CONSUMER INITIATIVE is a coalition of four major Canadian consumer organizations: Consumers Council of Canada, Option consommateurs, Public Interest Advocacy Centre and Union des consommateurs.

L'INITIATIVE CANADIENNE DES CONSOMMATEURS est une coalition formée des plus importantes associations de consommateurs au Canada, soit le Conseil des consommateurs, le Centre pour la défense de l'intérêt public, Option consommateurs et l'Union des consommateurs.

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The Problem

An individual can become a lightning rod for the criticism and concerns of others. Such reactions may never be removed from the Internet. Information can be misused when it is put up on the Internet, or when it is copied or used from the Internet. It can be misused unknowingly, carelessly or thoughtlessly – or maliciously.

The victim is often the source of information misused in a way that is harmful to them.

Very few individuals check their online reputation regularly. Many people do not know their reputation may be, or has been, harmed, and most are unprepared to avoid injury.

Knowing what to do when there is a problem may be an issue for many. Removal of information from the Internet is complex. If approached the wrong way, attempts to remove information may only exacerbate the situation.

Getting help to repair one's reputation can be difficult.

The new online reputation management (ORM) industry is in a fluid state. The efficacy of its services is uncertain. These services may require much time and effort to produce results. Accountability for results may be difficult to ascertain. What is called repair or removal in the industry is typically moving search results from the first page of Google further down the first page or to the second or third page of search results.

This service sector appears to be made up of many organizations with vague credentials as to location, history and personnel/management. Frequent name changes and unknown ownership provide good reason not to trust some of these services and do not portend easy redress for an aggrieved consumer.

Recommendations—For Regulators and Government

1. Get people to protect themselves. Guide them to an understanding and appreciation of the risks.
2. Explain to the public the laws of libel, slander and defamation. The Internet is turning individuals into publishers, and they need to learn their legal responsibilities when they communicate about others.
3. Encourage sites in Canada – particularly review sites – to take a reasonable approach to moderation, anonymity and value of information.
4. Make public through an awareness campaign the message that people need be aware of their online reputation. Consider the European Commission's themed campaign of "Think before you post!"³
5. Consider a campaign to work with universities, colleges and high schools to explain the implications.
6. Make public a simple outline of what can be easily agreed on as acceptable to communicate anonymously and what is not.

While being respectful of the right of free speech, consider options to encourage or require Internet search companies to provide reasonable means to improve protection of consumers from the arbitrary distribution of references to false, privacy-violating or damaging Internet content about them.

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3. Europa Press Releases, February 2010, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/10/22&format=HTML&aged=0&language=EN&guiLanguage=en>