Publications

Businesses Must Not Unfairly Impact Online Reviews

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Today, a business's online reputation is a large component of how it is perceived by customers and potential customers. Businesses must be aware of what customers are saying about them online and via social media.

Given the significance of online reviews these days, many businesses are afraid of receiving bad online reviews. Accordingly, many will take some action (e.g. attempting to silence critics or incentivizing others to post positive reviews) that, while their intentions may seem good, may unfairly impact online reviews.

Businesses must be careful in how they go about influencing reviews. Certain actions may be illegal; others, while lawful, could lead to public backlash and may end up worsening the potential problem. Thus, while the prospect of receiving negative reviews may worry business owners, businesses must avoid both legal and reputational risks.

Paying for reviews

When it comes to online reviews on websites such as Yelp, under no circumstances should a business pay for online reviews (cash, gift cards, etc.), whether to boost one's own reputation or to slam a competitor's.

As regular readers of our blog have seen us mention before, last year the New York attorney general's office cracked down on deceptive online reviews, which resulted in $350,000 combined in fines for 19 businesses. According to The New York Times, this crackdown was part of a yearlong investigation of companies creating fake reviews and those that purchased them.

Eleven months earlier, The New York Times reported on a "sting operation" in which Yelp caught several companies paying $5 to $200 for reviews. As a penalty, a "Consumer Alert" graced those companies' pages for the next 90 days – what one ABC reporter referred to as an online "Scarlet Letter" – notifying consumers that the businesses had offered incentives in exchange for reviews.

Companies often do give out freebies (sometimes money) to bloggers in exchange for product reviews. This is permissible, so long as the companies comply with the Federal Trade Commission (FTC)'s guidelines concerning endorsements and testimonials. Specifically, the FTC requires full disclosure of the receipt of any product or payment – or, "material connections."

Fining customers for negative reviews

We have also recently discussed the hotel that was threatening wedding parties with $500 fines if any of their guests staying at the hotel left negative online reviews. This a perfect example of a policy that – while legal – upset some people, went viral, and ultimately caused far greater reputational harm than a few negative reviews. The story was picked up by major news outlets and the hotel's listing on Yelp – the forum presumably the catalyst behind enacting this anti-negative review policy – may never be the same.

Similarly, in 2013, an online retailer fined and damaged the credit score of a Utah couple following a negative online review. The company – as many have done recently – had snuck a non-disparagement clause into the customer agreement. In May 2014, a federal judge awarded the couple more than $300,000 indamages, after they filed sued the retailer following the credit score damage.

In early September, California passed legislation prohibiting similar behavior from companies, making it illegal for businesses to utilize non-disparagement clauses to attempt to silence critics from publishing negative reviews. The following week, two U.S. Representatives from California introduced a federal bill aimed similarly at penalizing customers for publishing negative online reviews.

Overcoming online reviews dilemma

To cope with online reviews, it is recommended that businesses increase the quality and quantity of reviews without creating legal or reputational risks. The question is how exactly to increase reviews.

In general, it cannot hurt to ask. Yelp, for one, discourages businesses soliciting reviews. Of course, there is a gray area – there is a difference between encouraging someone to write a five-star review and asking someone to consider sharing their experiences in a review.

Studies have shown that with a small sample size of reviews, review pages tend to be disproportionately negative, but there is a better balance as more reviews are submitted. Besides, a few negative reviews can make positive reviews seem more legitimate — for example, a business with 10 five-star reviews and nothing else looks fishy.

Although it is important to be proactive, businesses also must try to provide the best service and experience possible (which should lead to positive reviews). In doing so, they may consider seeking reviews through online surveys – whether a customer types in a URL, or if a link is emailed to them – and having a review platform on the actual company website.

While these will not influence a star-rating on Yelp, it is a great opportunity to generate honest feedback in order to resolve any individual issues and make informed business decisions based on what customers are saying.

Moreover, any negative feedback can be addressed before similar complaints spread to other websites; customers perceive companies who make reviews available to the public – positive and negative – as more trustworthy; and, finally, some positive reviews on Yelp may be filtered out anyway, so a business cannot rely solely on Yelp reviews.

Regardless of how a business chooses to handle online reviews, it is important to monitor and understand what is being said about them online. This is helpful for customer service in general, but also gives a company the opportunity to react quickly and appropriately in the event of an online reputation attack.

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