



WHERE CAN YOU RUN INTO TROUBLE ONLINE?

- Speaking ill of others
- Being discriminatory
- Posting a misleading review
- Breaking the law on social media
- Discussing court proceedings
- Using images or content that doesn't belong to you
- Running a competition or giveaway
- Disclosing commercial arrangements

DEFAMATION

Defamation law exists to protect people's right to a good reputation. While in Australia, we have no constitutional right to free speech, it's generally considered an implied right. You can voice your opinion until it interferes with someone's reputation and good name.

Defamation occurs when your words, images, gestures, actions, etc cause other people to shun, ridicule, or otherwise expose a person to hatred and contempt.

Defamation requires three things:

Imputation: You have 'published' something that might harm someone's reputation

Identification: The person to whom you are referring is obvious, whether you've named them or it can be guessed.

Publication: You have 'published' the imputation to a third party (other than you and the defamed).

Retweets and Facebook "thumbs up" Likes can be considered defamatory (whenever you are complicit in 'publishing' defamatory information you can be liable, even though you never wrote the original piece), and you are responsible for the comments people leave on your blog or Facebook page.

:: You can read more at [Bloggers are Publishers too: Some Legal Stuff you Really Need to Know and Blogger Legal: Defamation for Bloggers.](#)

REVIEWS

Reviews are best if they are your honest opinion, and based on provable fact. They should be fair and balanced, and never malicious.

DISCUSSING COURT PROCEEDINGS

You can run into trouble when writing about or chatting on social media about current court proceedings. Under sub judice contempt laws, publishers are restricted to certain information so as not to prejudice a fair trial.

Steer clear of discussing the guilt or non-guilt of the accused, their previous criminal history, their identity if it might be in question, or any apparent confession.

Remember - innocent until proven guilty in a court of law! You would hate for a trial to be called off simply because the media around the case meant the accused cannot be given a fair trial with an unbiased jury.

COPYRIGHT

Copyright protects the work of a creator, and covers the expression of ideas, not ideas themselves. It ensures the copyright holder has the right to reproduce their work, and to be compensated for their creations.

You do not need to apply for copyright, it is immediate.

You do not need to specify your work is copyright, but you would need to let people know if you allow free use or use with restrictions.

If you would like to use the work of others, you need to:

- Get their permission in writing
- Pay a license fee to use copyrighted material, if that is part of the terms of use
- Correctly attribute the work to its author (if you use an image, or are quoting something), although this isn't failsafe, and is still considered copyright infringement unless you have permission to use it. It is not enough to credit "Pinterest" or "Facebook". You need to find the person who took the photo, created the image, wrote the article, etc.

Under the fair dealing defence, you can reproduce portions of the work for reporting the news, to review, as part of teaching, research, or study, or for parody/satire.

Recipes are a particular issue - you cannot copyright a list (i.e. the ingredients), but you cannot reproduce the method word-for-word.

:: Read more about Copyright [here](#), including Infringement, What Can I do?, Permission, Do I Need it? and Fair Dealing - What Can I use Without Permission?

DISCRIMINATION

You must not write about a person that discriminates against their sex, marital status, disability, etc. Similar to defamation, you must monitor what comments others leave on your blog too.

SECURITY

Be careful with topics of terrorism, national security, and secret investigations. It is an offence to name an ASIO officer or mention anything about their investigations.

PRIVACY LAWS

In Australia, privacy laws really only cover financial and medical details. Your right to privacy is similar to free speech in that it is implied, but there is no constitutional guarantee.

The laws of data protection, trespass and breach of confidence may cover some aspects if you feel your privacy has been compromised.

TRADEMARKS

Trademark law basically exists to prevent confusion in the marketplace. It's a recognisable expression of a business, to differentiate it from other businesses that may be the same.

You can trademark a colour, a logo, name, word, phrase, symbol, design, image, or a combination of these.

If you are thinking of trademarking your blog, it is something you may need to think about sooner rather than later. It can help protect all you've worked so hard to achieve.

You should trademark if your blog is like a business (however small). If you share unique, original information that you have created, and you have a significant audience, you should protect that.

Be careful talking about trademarked items on your blog. Use the word "tissue" unless you literally mean a Kleenex, for example.

:: Read more about trademarks at [How do I Trademark My Name in Australia?](#) and [Apply for a Trademark](#).

COMPETITIONS AND GIVEAWAYS

You do not need a permit to run a giveaway if it is a game of skill (i.e. answering a question) rather than a game of chance (i.e. randomly drawn prize).

You may still be required to meet the terms and conditions in each state for running a trade promotion.

If you are allowing all residents in Australia to enter your randomly-drawn competition, then you will need to get a permit from NSW. You can apply [here](#).

The permit (as at August 2014) costs \$80 for prize value \$10,000 and under.

You must have terms and conditions on your blog (for example, how you will announce the winner, time and place of draw, how prizes will be awarded, etc).

For a game of skill (not needing a permit) then you cannot require liking your Facebook page or signing up to your newsletter (or something similar) as a condition of entry.

:: You can read more at [How to Run a Giveaway on Your Blog in Australia, and Trade Promotion Lotteries Fact Sheet](#).

DECLARING SPONSORED CONTENT

While there is no law in Australia that requires sponsored blog or social media content to be disclosed, it is vital that you do. Your credibility is at stake.

Also while there are no guidelines, it is accepted practice to disclose sponsored content, gifted content, or affiliate links at the top of your post. You can further your disclaimer at the bottom of your post, if you so wish.

With reviews of gifted or sponsored items, the ACCC requires you to publish honest reviews that are not misleading, or edited to be confusing. This includes omitting pertinent information.

:: You can read more at [What You Need to Know About: Online Reviews - A guide for business and review platforms](#).

RESOURCES

Bloggging and Tweeting without Getting Sued - Mark Pearson (available [here](#))

Australasian Legal Information Institute: <http://www.austlii.edu.au/>

Arts Law: [Legal issues for bloggers](#) (Very comprehensive. Could be your first port of call)

copyright.org.au

ipaaustralia.gov.au

business.gov.au [Register a Trademark](#)