



engarde

Defending your online brand reputation

Turner
Freeman
Lawyers

SR|7

en garde is a joint venture between Turner Freeman and SR7 delivering online risk and reputation management solutions for brands, organisations and individuals.

An abstract graphic on a black background featuring three parallel diagonal lines. The top line is white, the middle line is a light grey, and the bottom line is a slightly darker grey. All lines slope downwards from left to right.

INTRODUCTION

Social networking through *Facebook* and other similar online platforms have revolutionised how people communicate and share experiences and photographs. Never before has it been easier for anyone to publish information.

Much of it is privately shared between friends. Occasionally however, malicious and slanderous material can be made public that can be extremely damaging to your company reputation and its brand equity.

en garde is a joint venture service offering between *SR7* and *Turner Freeman* that brings together the best of data analysis and strategic response into a single, streamlined system to ensure your brand and online reputation is constantly protected against threat.

en garde manages every aspect of social media and the impact it has on your organisation.

The decision by clothing retailer *Cotton On* to remove products that contained offensive messages due to negative online feedback would not have been as big a problem if the company had monitored its reputation on social networks.

The company was hit with a wave of criticism on the internet, with hundreds of *Facebook* and *Twitter* users voicing their disapproval, with some even calling for a boycott of the product.

SINK

LOOSE LIPS

SHIPS

THE PROBLEM

Online social networking has revolutionised how the world communicates. Australians in particular are increasingly using social media to research and discuss brands, express their feelings and document their opinions. Much of it is shared privately between friends, but occasionally malicious or slanderous material can reach the public domain. No longer can an organisation's reputation be measured in newspaper column centimetres alone. Blog posts, *Facebook* pages and *YouTube* videos all have the capacity to dramatically impact the way an organisation is perceived by consumers, the sharemarket and potential employees.

Social media's democratisation of opinion can create serious issues for an organisation, if they are not listening. The management of online risk should be approached with the same diligence afforded to traditional risk factors such as financial, operational and material. Social media risk can be managed properly if appropriate mechanisms and procedures are put in place and legal counsel who understand the medium are used. What sort of risk management framework does your business have to deal with a crisis that begins online and quickly spreads to being reported by traditional media?



5

**DO YOU HAVE
SOCIAL MEDIA CRISIS
RESPONSE &
RECOVERY PROGRAM?**

6

**DO YOU HAVE
'SOCIAL MEDIA
FRIENDLY' CONTENT
TO DISTRIBUTE?**

7

**DO YOU MONITOR
AND TRACK YOUR
REPUTATION IN
REAL TIME?**

8

**DO YOU USE
ANALYTICAL REPORTING
TO ENGAGE WHERE
NEEDED WITHIN
SOCIAL MEDIA?**

9

**MAKE IT
YOUR BUSINESS
TO KNOW!**

THE SOLUTION

en garde is a joint venture service offering between SR7 and Turner Freeman that brings together the best of data analysis and strategic response into a single, streamlined system to ensure your brand and online reputation is constantly protected against threat. *en garde* manages every aspect of social media and the impact it has on your organisation. It provides management with clarity, security and competitive advantage, allowing you to accurately understand your exposure, identify risks and act upon the opportunities.

The *en garde* relationship begins with education of senior management of the often, unforeseen ramifications and issues related to social media usage. Internally, correct legal frameworks are then put into place for staff to engage in social media. Externally, on an ongoing basis, *en garde* monitors the global social media space, reporting early warnings and actionable intelligence for *en garde's* around-the-clock analysts and legal counsel to mount a strategic response if required. *en garde* solves the real and present need to understand, and be at the ready, for the risks associated with social media.

CASE STUDY – iSNACK 2.0

The *iSnack 2.0* branding campaign demonstrates the power of social media to shape discussion and sales outcomes in households around Australia.



Kraft's launch of its new Vegemite product *iSnack 2.0* demonstrated the power of social media in determining purchasing behaviour and sales outcomes in the Australian market.

Kraft decided to engage members of the public in the launch of the new product by providing customers with the opportunity to have a say in the naming of the product via an online competition, attracting over 40,000 entries.

Following the final selection of *iSnack 2.0* as the new product name and its launch in the Australian market, over 60 *Facebook* groups were immediately established attracting highly negative commentary and opinion.

A viral Adolf Hitler parody video clip of the *iSnack 2.0* food spread was viewed 46,000 times in under 48 hours, making it the No. 1 comedy clip for Australia on *YouTube*.

The online momentum of negative commentary flowed into traditional media driving consumer outrage and the dumping of the expensive marketing campaign. According to the *Herald Sun*, *Kraft's* spokesman admitted *iSnack 2.0* was a 'donkey'.

Overnight *Kraft's* reputation in the market was significantly diminished. Julian Lee, the *Sydney Morning Herald's* marketing writer said of the campaign, "the sheer energy poured into the protest as it spilled out to every corner of the internet should confirm one thing: social media has the power to make or break a brand or product like no other medium".

en garde provides critical market intelligence and early warning systems for brands wishing to engage in social media campaigns.

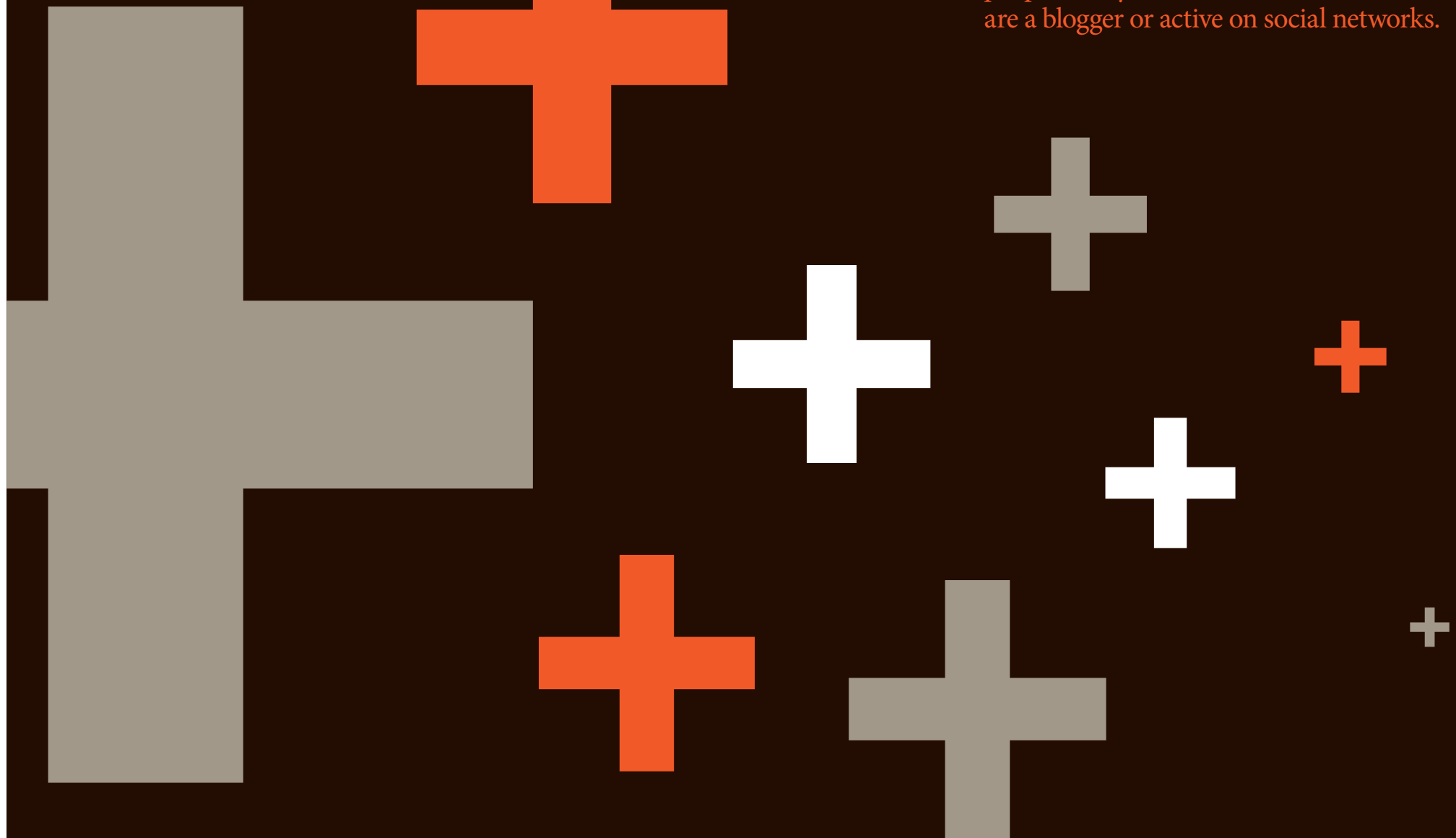


If *Facebook* were a country, it would be the fourth most populated in the world.

As of 15th September 2009, there were 300 million users, from more than 180 countries.

On average, a recipient of good customer service will tell five others.

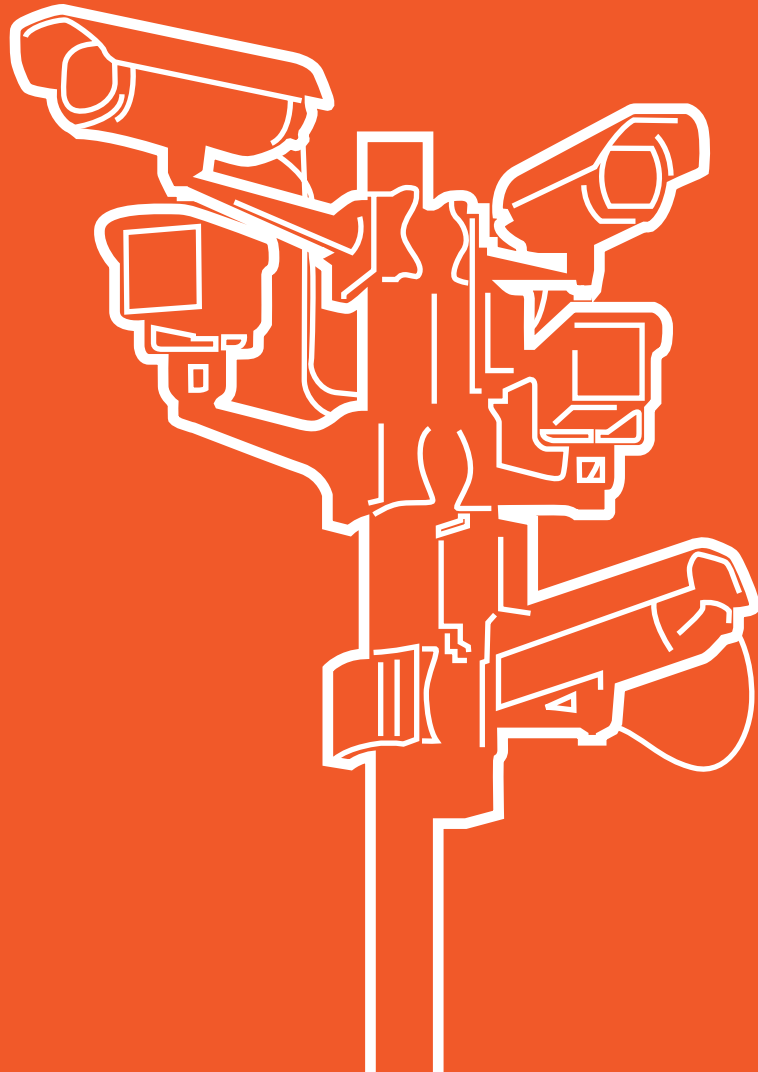
A recipient of bad service will tell ten or more people – maybe hundreds or thousands if they are a blogger or active on social networks.



CASE STUDY – MI6

“It is a most distressing and unfortunate security lapse that will take a great deal of money to put right.”

Professor Anthony Glees, Director of Security and Intelligence Studies, Buckingham University.



The *Facebook* page of the wife of the head of British Intelligence agency *MI6* opened a Pandora's box for government and businesses in the online world.

Lady Sawers had limited privacy protection on her account, making it visible to any of the site's 300 million users around the world.

According to the *Times Online*, “the extraordinary lapse exposed the couple's friendships with senior diplomats.”

Companies and institutions are now aware that their people and corporate information can be put at risk by social media platforms.

The threat of information leakage and subsequent international media coverage of the scandal resulted in a significant embarrassment for *MI6* and the British Government.

According to General GJ Allen of the United States Military, “the very nature of social-networking sites creates a larger attack and exploitation window, exposes unnecessary information to adversaries and provides an easy conduit for information leakage”.

The British Government acted immediately to minimise the fallout by removing the offending material and publicly defending the incident in the media to regain control of the news cycle.

en garde specialises in developing social media usage policies backed up with real time monitoring giving companies peace of mind in reducing the risk of critical information leakage in the marketplace, whilst strengthening the business and commercial opportunities presented by social media.

en garde provides businesses and institutions with processes and policies that deliver clarity and security. The early warning monitoring service provides actionable intelligence to facilitate a strategic response to potential or emerging risks that may exist in social media.

60% of people online trust the recommendations and comments of other Australians.

Social media has given every customer the opportunity to share their opinion about your company and products...positive or negative.



CASE STUDY – DOMINO'S PIZZA

When two *Domino's Pizza* employees filmed a prank in the restaurant's kitchen, they decided to post it online. In a few days, thanks to the power of social media, they ended up with felony charges, more than a million disgusted viewers, and a major company facing a public relations crisis.

In videos posted on *YouTube*, a *Domino's* employee in Conover, N.C., prepared sandwiches for delivery while putting cheese up his nose, nasal mucus on the sandwiches, and violating other health-code standards while a fellow employee provided narration. Within three days, the video had been viewed more than a million times on *YouTube*. References to it were in five of the 12 results on the first page of *Google* search for "*Domino's*," and discussions about *Domino's* had spread throughout *Twitter*.

As many companies now realise, social media has the reach and speed to turn tiny incidents into marketing crises. According to *Domino's*, the employees told executives that they had never actually delivered the tainted food. But the crisis was not over for *Domino's*. "We got blindsided by two idiots with a video camera and an awful idea," said a *Domino's* spokesman, Tim McIntyre, who added that the company was preparing a civil lawsuit. "Even people who've been with us as loyal

customers for 10, 15, 20 years, people are second-guessing their relationship with *Domino's*, and that's not fair."

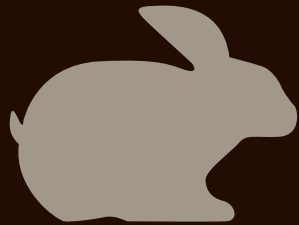
In just a few days, *Domino's* reputation was damaged. The perception of its quality among consumers went from positive to negative according to the research firm *YouGov*, which holds online surveys of about 1,000 consumers every day regarding hundreds of brands.

Domino's Pizza reacted within 24 hours to the video. Their response was an apology address on *YouTube*, the same social media platform used to post the offending video, giving the online world an opportunity to absorb the apology video as immediately as they did the original. Importantly, *Domino's* appeared to have a social media 'worst case' scenario plan that they put into action. *Turner Freeman* specialises in developing and implementing such plans.

Do you have one?



University graduates furious at a decision by *HSBC Bank* to charge interest on previously free overdrafts, used *Facebook* to create a viral campaign against the bank. The campaign attracted thousands of supporters and traditional media coverage.



BAD NEWS SPREADS FAST

OUR SERVICES

Turner Freeman

For over half a century, *Turner Freeman* has provided expert and innovative litigation advice and transactional legal advice to local businesses, public and private companies, and multinational organisations.

With a solid reputation for implementing long-term strategic solutions for our clients, we work hard to determine and highlight potential risks, as well as the upside, of new laws and amendments in legislation. We pride ourselves on maintaining robust, ethical and sustainable relationships.

We were first to spot the legal issues apparent in the emergence of 'online social media' and we were also first to offer commentary and solutions on how it will affect individuals, companies, schools and organisations.

Turner Freeman, more broadly, offers legal advice in: Corporate, Banking & Finance, Litigation & Dispute Resolution, Property, Business Restructuring & Insolvency, Clubs, Sports & Leisure, Not For Profit, Employee Relations, Defamation.

SR7

SR7 is the market leader in providing a unique service that identifies, monitors and analyses social media online conversations and behaviour, mitigating potential threats in this dynamic environment as well as providing research and landscaping for proactive marketing and communications programs.

SR7 deploys best practice processes and technology to accurately capture relevant online conversations and provides detailed reports on what is being said.

The SR7 difference is we offer real time in-depth analysis of *Facebook*, *MySpace* and other platforms that are not captured by purely automated systems. This unique service is coupled with a comprehensive technology solution that captures the social media and blogging universe.

Our qualitative and quantitative reporting and analysis provides companies with valuable structured market intelligence rather than resource intensive data dumps.

EMPLOYMENT CONTRACTS AND POLICY AUDIT:

Comprehensive audit of employment contracts and policy documents for issues related to commentary about a corporation by employees in the online environment.

PRIVACY GUIDELINES:

Audit of employment contracts and policy documents to ensure awareness of third party and employee responsibilities with respect to National Privacy Guidelines under the Privacy Act.

CONTRACTS WITH THIRD PARTIES:

Comprehensive audit of contractual relationships with third parties and subsidiaries to determine rights and responsibilities relating to online comment.

EXPERIENCE WITH FREE SPEECH MATTERS:

Extensive experience in balancing the rights of free speech with contractual responsibilities to protect an organisation's reputation.

LEGAL ADVICE:

Consider any claim for damage to reputation in the online environment, and provide legal advice as to the options available to prevent further damage and to obtain compensation for damage suffered.

INTERLOCUTORY RELIEF:

Obtain injunctive orders to restrain conduct which may result in damage to image and reputation.

FINAL RELIEF:

Obtain damages, declarations and injunctions to recoup/minimise losses to an individual or organisation's reputation.

FACT FINDING:

Gather evidence of misconduct in an online environment (which can be very challenging) through preliminary discovery, discovery, subpoena, notice to produce and other means under the court rules.

COMMENCE LEGAL ACTION:

Commence legal action in the appropriate court or tribunal. Actions may be brought for defamation, injurious falsehood, breach of confidence, misrepresentation, breach of contract and under various state and federal legislation.

PUBLIC RELATIONS MANAGEMENT OF LEGAL DISPUTES:

In-house media management of matters at every step of the legal process.

ENFORCEMENT OF JUDGEMENT:

Recovery of damages awarded by the court or negotiated through settlement. Tricky if the defendant is overseas.

ALTERNATIVE DISPUTE RESOLUTION:

Negotiation and mediation between parties to reach an agreed settlement to avoid bringing a matter to court.

BREACH OF PRIVACY:

Provide advice on compliance with National Privacy Principles and assist with complaints to the Privacy Commissioner.

OUR TEAM

James Griffin

Partner, SR7 Risk Mitigation and Online Reputation Management

James has advised one of Australia's leading television companies on online content and interactive media strategy.

He managed an award winning and nationally recognised website that utilised social media tools, partnering with *MySpace* and *News Ltd* to encourage young Australians to participate in the political process and to lift awareness of issues and policies facing youth.

James also provides strategic advice to a range of government representatives, not-for-profit and community-based organisations. He has specialised in interactive media studies at the University of Notre Dame, Sydney.

www.SR7.com.au

Steven Penning

Partner, Employment & Industrial Relations
Turner Freeman

Steven is a Partner in the Employment and Industrial Relations practice at *Turner Freeman*. He has over 25 years experience in industrial relations, human resources and workplace issues and is an Accredited Specialist in Employment and Industrial Law with the NSW Law Society.

Steven assists clients with a vast range of matters relating to employment and industrial relations. He has a detailed knowledge of occupational health and safety law and extensive experience in related matters.

His practice includes:

Employment & industrial relations litigation, Policy advice, Corporations act compliance & Corporate restructuring, Contracts – drafting, negotiation & disputes, Negotiation of industrial instruments, Termination of employment & Redundancy, Discrimination & Harassment, Victimisation – bullying (online social media bullying), Restraint of trade matters.

Steven specialises in complicated legislative cases. His breadth of knowledge provides professional advocacy and litigation services to his clients. His extensive experience in tribunals and commissions means that he provides strong, balanced clear representation to his clients.

www.turnerfreeman.com.au

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