

Defamation Basics for 3CR Programmers and Guests

Defamation is a statement that will:

Lower a person's reputation in the minds of reasonable members of the community;
Lead people to ridicule, avoid or despise the person and/or;
Cause injury to that person's reputation in business, trade or profession.

It has been judged defamatory to say that a person is a coward, dishonest or cruel.

It is defamatory to say:

- that someone is dishonest
- corrupt
- unfair
- unethical
- is incompetent
- has an infectious disease
- is insane
- is insolvent.

It is defamatory to:

- Suggest that a public figure acted in his/her public capacity to further his/her private interests.
- Suggest that someone has committed a criminal offence, prior to conviction.
- Publish anything which makes a person look ridiculous or which lowers that person's standing.

You can defame a person without intending to do so, without naming them or even without knowing of their existence.

Companies cannot sue.

Unless they are a private body and are either a not for profit org or employ fewer than 10 people and unrelated to another corporation.

Programmers' personal disputes should never be raised on air.

The dead cannot sue.

Except for Tasmania, neither the dead nor their reps can sue for defamation.

Examples of Defamation:

re Nike's labour and wage conditions

You can't say "Nike has a policy of employing slave labour in order to make millions of dollars in profit."

You can say "Nike is able to make record profits each year because it places its factories in countries that do not have organised trade unions and governments who demand award wages and conditions for workers."

re Bill Gates Microsoft Corporation

You can't say he is obviously a criminal because he has so much money (even though he was found to have breached anti-trust laws in the USA).

You can make fair comment or opinion on the obscenity of one person having so much money when 90% of the world lives below the poverty line

Re Union elections

You can't say a Union Official is corrupt because he did deals with the bosses behind the backs of the rank and file.

You can say discuss the issues involved in a campaign and why there is a challenge to the incumbent leadership.

Re the effects mining has on the environment

You can't say that a Gold mine in PNG has a policy of dumping toxic waste in the sea.

You can say that this dumping has occurred and cite evidence that backs your claim.

If someone wants to sue for defamation, they must first prove that defamatory material about them was communicated by someone to **at least one other person**. They cannot sue if you say something nasty to their face (as long as no one else heard it).

What is Publication?

A **publication** for these purposes means a:

newspaper article or a book

letter or email

cartoon, poster or advertisement

gesture

television or radio broadcast or internet transmission.

The rules of defamation apply equally, whether you publish to a national audience or send a fax. (although the law varies from state to state.)

Who gets sued?

Anyone involved in the publication may be liable:

- the Publisher (ie 3CR)
- the editor (ie Producer/Paneller)
- the writer (ie Presenter/Programmer)
- the source (ie Guest/Talkback caller)

Your responsibilities as a 3CR programmer:

- You are responsible and can be sued for whatever you put to air.
- You are responsible for defamation that goes to air on your program even if you didn't say it ie your guest or a talkback caller said it.
- It is your responsibility to discuss potentially contentious issues with your programming team before you go to air, it is not a defence to say you didn't know or didn't mean to defame someone.
- The station cannot afford to defend a case of defamation let alone be found liable.
- Always talk with colleagues before going to air and call the station if you have questions about defamation.

If in doubt don't say it

Focus on issues not personalities.

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