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Faking it: The rise of social media impersonators and how you can be protected

28/01/2019 by: Edward Smith, barrister, Payne Hicks Beach

The Queen has spoken; apparently, it is: "Gin O'Clock", or at least that is what the Twitter account @Queen_UK will tell you. The account has 1.58 million followers on Twitter and has tweeted over 10,000 times since May 2010. It is also a fake.

The real Queen Elizabeth II has tweeted through the account @RoyalFamily but @Queen_UK is a parody. The fake account has been a great success for its author, with merchandise and publication of three books. It is a modern take on parody as satire, which is a form of speech protected by Article 10 of the European Convention of Human Rights.

The problems occur when the accounts operate on social media to convince society at large that they represent the real views of the impersonated individual. These fakes can be hugely damaging to both individuals and companies when they spread divisive, malign or false information.

Recent examples include a fake account of the investor Warren Buffett and the Russian President Vladimir Putin. Away from the public arena, there are also many examples of individuals setting up fake accounts as acts of revenge, often using the account to spread highly damaging personal information and defamatory allegations. Companies are also at risk where individuals set up fake accounts spreading false information or promoting fake offers.

The difficulty can arise when accounts mimic convincingly. This was the issue that JD Wetherspoon's faced when various fake twitter accounts succeeded in persuading people they were the real account of the pub chain. The fake accounts were abusive, promoted free beer offers and mimicked the promotional offers of other firms. In October last year, a tweet from the fake account stated:

"Due to the ever expanding multiculturalism of our clientele we will be taking no part in this years poppy appeal campaign and no staff will be permitted to wear a poppy or any other political paraphernalia while working. We appreciate your understanding and continued support."

This caused a heated exchange at the company's AGM where an individual thought the company was boycotting the Poppy Appeal.

Social media platforms regulate parody accounts, Twitter's policy states that an account: "portraying another person in a confusing or deceptive manner may be permanently

suspended". An account that: "clearly states it is not affiliated with or connected to any similarly-named individuals" is acceptable.

The fake profile @Queen_UK is allowed even though the profile picture is of the monarch because the caption below it reads: "(FICTION/SATIRE)". There are particular signs to look out for in order to spot a fake account on Twitter such as:

- The absence of a blue tick. Twitter verifies the accounts of prominent individuals, although the individual must request it.
- The age of the account.
- Incorrect spellings in the account name
- No links to other official sites.
- No cross-referencing to other social media platforms such as a Facebook or Instagram.

All the major platforms have notification procedures where you can report that your identity has been co-opted. In addition, it is worth considering claims for an unauthorised use of their trademark or brand, removal of which mark will make the handle less likely to confuse the public. Claims in defamation, privacy and copyright can also be useful tools in convincing platforms to suspend fake accounts.

The prevalence of these types of accounts has also caused the Crown Prosecution Service to issue guidelines on social media activity, and fake accounts could lead to criminal charges for harassment and other offences. There has already been a successful conviction in this area, which related to the spread of "revenge porn".

If you, or your company, are faced with an attack but cannot identify the person making the attack, it is possible to use the courts to find those responsible. JD Weatherspoon's took Twitter to court in December 2018 to compel them to provide the account information of those who set up the fake profiles.

The high court ordered the social media platform to reveal what they knew about the account holders. These "Norwich Pharmacal Orders", can prove useful in tracking the perpetrators down, especially when coupled with cyber forensics capabilities.

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