

Professional Studies for Screen-Based Media

Media Law – Exercise 1 – Actual Case

Once you have completed discussions in the court case scenario, read the following statements from the actual court case for a comparison to see if your conclusions are correct.

Actual court case and outcome

The first court ruling in England on the issue of Internet defamation involved a posting on a newsgroup (*Godfrey v Demon Internet Ltd (2000)*). Godfrey brought a libel action against Demon, an Internet service provider, alleging that postings about him on a newsgroup hosted by Demon were defamatory. Prior to issuing proceedings, Godfrey asked Demon to remove the postings. Demon accepted that the postings were defamatory but claimed it was not responsible for material posted by its users.

The court accepted that Internet service providers such as Demon are excluded from the definition of 'publisher' under the Defamation Act 1996. This allowed Demon to raise the defence of 'innocent dissemination' under Section 1 of the Defamation Act 1996. However, because Godfrey had told Demon about the defamatory content, Demon was unable to argue that it was ignorant of the alleged defamation, a necessary element of the defence. The case settled out of court in March 2000 with Demon paying Godfrey damages and costs.

The E-Commerce Directive will have an impact on Internet defamation. Under Article 12, Internet service providers such as Demon in the *Godfrey v Demon Internet Ltd (2000)* case will not be liable for information transmitted on their sites as long as they do not initiate the transmission, select the recipient or modify the information contained in it. Under Article 15 of the E-Commerce Directive they will not be obliged to monitor the information and content they transmit and store. However, under Article 14 they will be required to remove unlawful material such as defamatory statements from their sites if it is brought to their attention. Publishers of online newspapers and magazines do not fall within the provisions.

The situation is different in the United States, where no liability is imposed upon Internet service providers for defamatory material.

Reference: Law and the Media Fourth Edition, Tom Crone (edited by Philip Alberstat, Tom Cassels, Estelle Overs), Chapter 4, pp66 to 67; pp68 to 69.