

ARE BUSINESSES' SUPPORT FORUMS RELIABLE?

Executive Summary
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Business support forums, also called community forums, support communities or Web-based communities, are currently very popular. Whether or not they are hosted by businesses, the information, advice and ideas discussed there can be very diverse. In particular, those forums make it possible to obtain information quickly, at all times, and with peers whom consumers often trust more than companies.

Given the attraction felt by consumers for the type of content found in forums, many businesses establish forums on their website. The forums offer businesses several benefits: more visitors (notably because the forums' content is indexed by search engines), consumer retention, product support, feedback and information-sharing between users that can help improve products, reduce information costs, etc.

However, the forums are not without risk to users, who can find erroneous information there, offers to alter electronic devices and affect their operation, abusive language, abundant collection and use of personal information, etc.

During our research, we tried to determine if consumers obtained, from community forums available on businesses' websites, services that met their expectations and needs, and if this type of forum complies with the various applicable frameworks, legislative and other.

To that end, we assessed the situation by reviewing the literature, mainly to identify the various types of business support forums and the possible issues raised by their practices. We also collected data from the businesses' websites and the contracts that users must enter into when subscribing to the forums. In addition, we conducted a study of applicable legislation.

It proved impossible to confirm with certainty some of our starting assumptions. One of them was that consumers will have more trust in users' advice if they find it in forums hosted by company websites. The indications in that sense don't appear sufficient, without stronger evidence, for us to conclude that users systematically expect accurate information from other users and that businesses should thus automatically be held responsible for any content posted on their forums.

Nevertheless, our visits to forums demonstrated that businesses don't make a serious effort to caution users that their impressions of what they will find in a forum have not been validated by the business.

We had also assumed that we would be able to find cases of consumers who had encountered major problems after using a forum or following advice received there. But what we found on the Web was anecdotal, and our survey of the actors concerned (businesses and government monitoring agencies) did not yield any precise information on the number and nature of consumer

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7000, avenue du Parc, bureau 201, Montréal (Qc) H3N 1X1

T : 514 521-6820 | Sans frais : 1 888 521-6820 | F : 514 521-0736

info@uniondesconsommateurs.ca | www.uniondesconsommateurs.ca

complaints – in fact, the few responses we received indicated that complaints on the subject are almost nonexistent. Accordingly, our concerns remain largely theoretical in this regard.

As for applicable frameworks, we quickly realized the practices that have been developed seem quite uniform. The forums we examined are all built on essentially similar templates, and the contracts stating the respective commitments of a business and a user contain essentially the same types of provisions from one business to another.

Given our concern with the nature and reliability of information users likely find on a forum, we examined the businesses' representations in that regard, and those pertaining to the businesses' responsibility for that content. As mentioned above, the businesses don't make much effort to caution visitors. A forum's home page generally presents the purpose of those pages minimally, and of course positively. Our analysis of the consumer protection laws of Quebec and Ontario, and the Competition Act, leads us to believe that those minimal indications could be considered misleading.

Regarding the content itself, i.e. the messages posted by users, we observed that the companies generally specify, in documents stating a forum's terms of use, that they assume no responsibility for any comment posted on the forum. The consumer protection laws (which a consumer can invoke only if he has entered into a contract with the company) and the Civil Code, to a certain extent, prohibit this type of disclaimer of responsibility. And yet, it's plausible that messages or answers posted by a user who identifies himself as linked with the company, or who acts on its behalf as a moderator, will be considered by users to emanate from the company (or at least to be validated by it).

As for privacy issues, we observed a number of troubling facts in the course of our research. Other than the consents obtained to collect and share personal information on the basis of vague provisions, we find it problematic that many companies don't deem it useful to inform forum users about changes, even important ones, that may be made to the forum's privacy or confidentiality policy.

Lastly, all those businesses require that users grant them very broad licence by means of subscription agreements, which appears exaggerated to us, if not abusive.

We conclude that existing legislative frameworks, while they can apply to some of the problems that may arise with the forums, have at best a vague application. We also conclude that available remedies under applicable laws are clearly not suited for this type of service, which uses and adapts itself to a contemporary approach to communications.

Our findings lead us to formulate recommendations, some of which pertain to forum moderators. Indeed, according to our findings, forum moderation could be an avenue to avoid several problems a user will likely encounter on a forum. In our view, such moderation must ensure that the information provided on a forum is accurate and exhaustive.

The other important aspect related to our recommendations is information, related both to moderation and to the very nature of the forums and their content. Businesses must ensure that a user who is led to a forum from their home page, or by a search engine, will know all the important information about the forum, so that his expectations will not be disappointed.

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