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## Defamation cases increase by a third

- Defamation cases brought by businesses more than treble
- More than 1 in 5 defamation cases brought by celebrities
- Number of “new media” defamation cases more than doubles

The number of reported defamation cases increased by a third (32%) last year (to May 31 2009) from 59 to 78 cases, reveal statistics from legal information provider Sweet & Maxwell.

Sweet & Maxwell, a Thomson Reuters business (NYSE: TRI; TSX: TRI; LSE: TRIL; NASDAQ: TRIN), says that the increase was driven by a surge in defamation cases brought by businesses, which more than trebled from five to 16.

Sweet & Maxwell suggests that the increase in reported defamation cases launched by businesses might be caused by the financial pressures of the credit crunch as companies react more aggressively to perceived attacks on their reputation.

Sweet & Maxwell says that the increase was also underpinned by growth in “new media” cases, which more than doubled from three to eight cases this year as the proliferation of new media outlets continued to result in defamation cases.

The research is based on figures drawn from Sweet & Maxwell’s Lawtel & Westlaw UK services. Westlaw UK & Lawtel have an archive of over 250,000 law reports and transcripts online.

### **Increase in Defamation cases brought by businesses**

According to Sweet & Maxwell’s research, most defamation proceedings started by businesses were issued against other businesses or individuals (11 cases) rather than media companies (5 cases), as the pressure cooker commercial environment fostered by the recession increased the likelihood of companies turning to litigation.

Sweet & Maxwell says that in some instances companies used defamation laws to protect themselves against claims that their businesses might become insolvent, a trend that could increase next year if more recession-related defamation cases feed through the courts.

Jaron Lewis, Head of Media at Reynolds Porter Chamberlain LLP (RPC), the City law firm, says that defamation claims are being launched by companies as part of a broader strategy to protect their reputations, but warns that the process can be expensive and time consuming.

Jaron Lewis comments: “Companies have started to make more use of the libel Courts as part of their overall PR strategy. The claims are rarely about money. When claims are against the

media, businesses would usually be better served by using the complaints procedures operated by the Press Complaints Commission and Ofcom.”

Jaron Lewis says that whilst the costs of defamation cases for media organisations can be huge the actual damages that corporates can win in a defamation case are immaterial to the financial performance of large companies.

### **Examples of defamation cases brought by businesses last year**

- Tiscali UK Ltd v British Telecommunications plc

BT was alleged to have sent a letter to Tiscali’s customers warning them that Tiscali could become insolvent and it would therefore be sensible switch to BT for broadband.

- Hachette Filipacchi Ltd & Kevin Hand v Haymarket Media Group Ltd

The magazine Media Week was alleged to have published a story saying that Hachette Filipacchi was struggling financially and might be dropped by its parent company.

- Pentagon Capital Management plc v Express Newspapers

The Sunday Express was alleged to have claimed that the management team of the fund manager Pentagon intended to keep their investors’ money for themselves.

### **Number of celebrity cases remains stable**

Sweet & Maxwell’s research shows that the number of cases brought by celebrities remained fairly stable this year, down one from 19 last year to 18. Despite the small decrease, cases involving celebrities still represent nearly a quarter (23%) of reported defamation cases (see below for examples).

Jaron Lewis of RPC explains that recent developments in privacy law spurred by court decisions have given celebrities another tool to use against the publication of defamatory stories.

Jaron Lewis: “You don't really get injunctions for libel claims so celebrities now use privacy laws to try and stop defamatory stories from being published in the first place.”

### **Increase in new media cases**

Sweet & Maxwell’s research also shows that the number of cases involving “new media”, where the defamatory statement is published in an email, a blog or a website, more than doubled from three cases last year to eight this year.

Sweet & Maxwell says that the proliferation of instant web publication sites like Twitter – where people can immediately broadcast their thoughts to thousands, if not millions – has led to a steady increase in “new media” defamation cases over the last three years.

Sweet & Maxwell suggests that “new media” are often under more pressure than traditional media outlets to publish lots of content quickly, which can lead to errors that lead to defamation cases.

## Examples of defamation cases involving new media

- Applause Store Productions Ltd & Matthew Firsht v Grant Raphael

In this case the defendant was alleged to have set up a Facebook profile, which he used to accuse the claimant of lying.

- Nigel Smith v ADVFN

In which unemployed trader Nigel Smith brought court proceedings against the internet service provider ADVFN alleging it to have hosted a chatroom which was used by others to post insulting comments.

## Results of Sweet & Maxwell defamation research

		Number of cases	Percentage of total
Cases brought by businesses	2008-9	16	21%
	2007-8	5	8%
Cases involving celebrities	2008-9	18	23%
	2007-8	19	32%
Cases involving "new media"	2008-9	8	10%
	2007-8	3	5%

## Examples of cases over the last year involving celebrities

Katie Price & Peter Andre v News Group Newspapers Ltd

Christiano Ronaldo v News Group Newspapers Ltd

Sharon Osbourne v News Group Newspapers

Josh Hartnett v MGN Ltd

David Williams & Matthew Lucas v Express Newspapers

Ozzy Osbourne v Express Newspapers

Sir Elton John v Guardian News & Media Ltd

Kerry Katona v MGN Ltd

Charley Uchea v Express Newspapers

**ENDS**

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