

# Analysis: Why Twitter apologized over NBC Olympics flap

Erin Geiger Smith, Reuters

(Reuters) - The microblogging site Twitter has been so abuzz about NBC's tape-delayed coverage of the [Olympics](#) [1] that the #nbcfail hashtag was created last week as a way to consolidate criticism of the network.

This week, when Twitter executives suspended the account of one of NBC's most ardent critics, a Los Angeles-based reporter for The Independent, the twitterverse turned its ire on Twitter, which was quickly forced to apologize for its action.

But Twitter's crisis raised a critical question: Was the public relations nightmare just a problem of street cred with the twitterati or was Twitter's quick apology an attempt to ward off future liability for offensive tweets?

The scandal, such as it was, went like this: On Friday, Guy Adams of The Independent included the corporate email address of an NBC executive in a tweet critical of the network's Olympics coverage. By Monday, Twitter had suspended Adams's account. Twitter said NBC had lodged a complaint about disclosure of the email address and informed Adams he had violated the site's prohibition on publishing private information about someone else. The suspension got so much attention that "Guy Adams" became a worldwide trending topic on, you guessed it, Twitter.

Twitter's real crisis began, though, when NBC disclosed that Twitter actually told NBC about Adams' tweet and suggested the network file a complaint. (Twitter and NBC have a non-financial partnership to curate online content during the Olympics.) By Tuesday, NBC had rescinded its complaint, saying it hadn't understood the repercussions. And Adams was back on Twitter, asking what he'd missed.

Twitter issued a public mea culpa in the form of a blog post by its general counsel, Alex Macgillivray ([link.reuters.com/mux79s](http://link.reuters.com/mux79s) [2]).

Although Macgillivray defended the company's privacy guidelines, he apologized "for the part of this story that we did mess up."

The Twitter team that tipped off NBC and encouraged the network to file a complaint had acted out of the norm, the post said. Twitter does not "proactively report or remove content on behalf of other users no matter who they are," he wrote, and such behavior "is not acceptable and undermines the trust our users have in us."

As others have noted, Twitter is a private company and can make whatever rules it wants. But to avoid liability for offensive posts, social media companies such as

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Twitter, as well as blogs and news websites, have to be sure their policies and actions keep them under the big umbrella of protection provided by Section 230 of the Communications Decency Act.

Section 230 says that operators of interactive computer services will not be treated as a publisher of information provided by third parties, such as individual Twitter users.

The law permits sites to monitor, censor or take down content posted by third-party users, said Jeffrey Hermes, a fellow at the Berkman Center for Internet & Society at Harvard University.

But according to Hermes, when the site becomes so involved in the process of third-party posts that it is considered to be "contributing to what is unlawful about the content," it can face liability.

In other words, Section 230 protects Twitter if it merely corrects users' spelling or cuts all tweets down to 120 characters. But if it changes the meaning of a post or compromises its contract with users, the Section 230 shield may not apply.

That is why Macgillivray's post on the Guy Adams/NBC controversy is careful to outline Twitter's policy against meddling with posts, according to both Hermes and Jonathan Sherman, a partner at Boies, Schiller & Flexner.

Sherman said Twitter may have wanted to restate its policy of not actively monitoring tweets or favoring certain users over others to avoid future claims the site promotes a particular viewpoint or permits defamatory speech to be published on the site. He said the NBC-related suspension "is the sort of incident that a litigator will use to say 'Twitter does this.'"

Hermes pointed to a 2009 decision by the 9th Circuit Court of Appeals, *Barnes v. Yahoo*, to illustrate the limits of Section 230 protection. In *Barnes*, the court found that, if Yahoo Inc promised to take down a fake profile created by a woman's former boyfriend, the site could be liable to her for damages.

Twitter General Counsel Macgillivray was on vacation and not immediately available to comment. A Twitter spokeswoman confirmed the events and timeline of the Adams suspension, but said Macgillivray's blog post was the company's only additional comment.

NBC, which is owned by Comcast Corp, declined to comment further.

(Reporting by Erin Geiger Smith; editing by [Eddie Evans](#) [3] and [Andre Grenon](#) [4])

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