

Coronavirus: do brands have any recourse if the media wrongly alleges they have furloughed staff?

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The press has jumped on decisions taken by some famous brands to furlough their employees, pouring out scorn that it is morally reprehensible behaviour by a business which the media believes is wealthy.

The Government scheme is designed as a temporary form of protection for employees' from redundancies, but hostile media reports about the decision by the VB label to furlough staff illustrate just how ready-and-waiting the press are to savage famous names. VB is, of course, the eponymous fashion house of Victoria Beckham and no distinction is drawn in the press between a business and its famous figurehead. Victoria Beckham has since confirmed to The Guardian that the VB label will not be drawing on the Government scheme, a decision which might itself have been made as a direct result of the negative media coverage which ensued following the original announcement.

Richard Branson became a similar target for his comments that Virgin Atlantic, and other airlines, would require a Government bail-out. But what if the media *wrongly* allege that a company has furloughed its staff? Can it complain?

Whilst furlough is a lawful Government scheme and there is, of course, nothing inherently wrong in using it to protect employees' jobs, a bit like '*tax avoidance*' it is now being reported by the media that it is a morally dubious decision when used by some.

If the article falsely alleges that a brand is furloughing staff and therefore exploiting public resources in order to benefit its wealthy owners, we think that is defamatory. The publication may well also be defamatory of the company's figurehead or any wealthy individual associated with the company, if an article suggests that they are undertaking the scheme to preserve their own wealth at the taxpayers' expense.

To bring a libel claim you have to show that an untrue defamatory statement has been made. A defamatory statement is one which identifies or refers to the company, is communicated to a third party, which tends to lower the company in the estimation of right thinking members of society, and that by publishing the statement the publication has caused, or is likely to cause serious financial harm to the company.

As the lockdown period extends, many retailers and brands are either making decisions to furlough staff, or weighing up the associated reputational risks of doing so. If a company is wrongly labelled 'immoral' in this way then it might well incur costs of public relations professionals to deal with the reputational fall-out. This will satisfy the requirement to show that the untrue statement has caused financial loss to the business.

In the current climate, the reporting by the press with accuracy and the avoidance of fake news and misinformation about company decisions has never been more crucial.

In addition to a complaint in libel, an article which makes false claims about a business could be inaccurate and contrary to Clause 1) of the Editors' Code of Practice for newspapers and magazines regulated by the Independent Press Standards Organisation (IPSO). Under that Code, the press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text. A significant inaccuracy alleging that a company has invoked furlough should be corrected promptly and with due prominence.

For further information contact [our Media and Reputation team](#).

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