

Pass the mic

The usual voice may not strike the right tone in unusual times, says Brunswick's SHAHED LARSON

YOUR SPOKESPERSON IS YOUR LEAD SINGER, the person you trust to put a face on the company, and to convey a complicated message to the public in a way that's crisp and compelling.

But there are moments when the company's standard spokesperson has to pass the mic. When faced with an enterprise-threatening litigation or regulatory investigation, the identity of your lead singer becomes critical.

In those cases, the CEO may be the default choice, showing stakeholders that the company recognizes the gravity of the situation and is working to maintain the public's trust. However, activating the voice of the CEO also involves risk and the careful weighing of several key considerations.

TIMING Even during a legal crisis, the CEO voice should only be deployed for the most significant inflection points, such as the filing of a complaint or the launch of a government investigation. For lesser challenges, having the CEO speak publicly could inadvertently inflate the magnitude of a problem.

ROLE Is the CEO implicated in the matter? If so "the CEO is no different from any other witness," says Morris Fodeman, a Wilson Sonsini Partner and former Assistant US Attorney. "There is the chance she could be called to testify – any public statements could potentially be held against her or the company."

BRAND When a CEO is closely identified with the brand – as Steve Jobs was for Apple or Elon Musk is for Tesla – it is more important for him or her to be seen acknowledging the issue to show it has the attention of the company's leadership.

TENURE An extended tenure gives a CEO more authority on any issue facing the company. A new CEO, with a less detailed understanding, could undermine confidence.

In cases where neither your day-to-day spokesperson nor your CEO is the right choice, a general counsel, COO, CFO, board chairman or outside adviser are possibilities.

Once a case reaches trial, the lead singer decision becomes even more delicate. While attorneys have the background to answer relevant questions, not all are adept or at ease at commenting outside the

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courtroom. In-house communications professionals can engage comfortably with the media, but are not always qualified to answer legal inquiries.

One solution is the appointment of a designated coordinator who can balance legal and communications priorities and ensure that the right voice is deployed depending on the specific technical, business or legal need during trial.

"In times of legal crisis, internal groups usually somewhat siloed from each other – investor relations, government affairs, HR, comms, legal – must work together so that everyone is singing from the same song sheet," says Lauren Casazza, a litigation Partner at Kirkland & Ellis who counsels corporations in crisis management and legal communications. "A dedicated liaison is critical in helping set up the right structures to make sure these teams play well in the sandbox and to bridge any gaps, so that the communications strategy is supporting and enhancing the legal strategy."

Finally, do not let the perfect be the enemy of the good. As important as the lead singer role is in a crisis, companies too often spend so much time making the decision and crafting the perfect

message that they miss the critical first window to communicate and are subsequently absent from the initial wave of media coverage.

Similarly, waiting to be formally served or to engage counsel before making a statement can create a dangerous void that media savvy adversaries will fill. Companies simply cannot afford to suffer the reputational harm caused by months or years of unchecked narratives while waiting for legal proceedings to unfold.

Key stakeholders – including the media, investors and regulators – expect companies to communicate

during all stages of legal proceedings. When the stakes are high, the messenger can be just as important as the message itself.

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