

PR WEEK

Reprinted from PRWeek

The Agency Business Following regulations vital to financial work

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THE HIGH-PROFILE RAFT

of corporate scandals over the past few years has not only turned up the heat on companies to be transparent about their financial dealings, it's also put a brighter spotlight on their PR efforts.

Working in the financial sector, PR pros often confront tricky situations ranging from having a client courted by a publicly traded company to getting access to a corporation's financial report before it is released to the general public. These scenarios make it critical for PR executives to be familiar with regulations such as the Sarbanes-Oxley Act and Fair Disclosure, so that they can be compliant while still communicating effectively.

From a legal standpoint, agencies

are usually considered insiders, says Gene Marbach, group VP at Makovsky & Company. If non-public information leaks, it is treated exactly as if the material came from the company itself.

Some clients will ensure that their firms understand they are insiders by asking them to sign non-disclosure agreements. But that's "highly unnecessary if you know you are an insider and you can't speak of things that are not public," he says.

While there is no cut-and-dry definition for "sensitive" information, anything that could influence an investment decision is considered confidential and should be guarded, Marbach adds.

"That is probably the easiest way to be guided," he says. "Is it broad? Yeah, but it's kind of accurate."

If a company takeover is widely speculated, it's wise for a PR firm to have a lawyer counsel staff on what execs can legally say, advises Sabrina Horn, Horn Group CEO.

But when the situation at hand is a friendly acquisition or merger, there may be substantially less media attention, and sensitive information should be made available only to the agency's management and senior staff "until the point when it goes public," she adds.



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When news finally does go over the wire, she says, “then you call your team at [5am], and say, ‘Here’s what’s going down and here’s what we need to do today.’”

Whether a client opts to go public, is being acquired by a public corporation, or is entering into a major agreement with a privately owned company, these are the times its PR firm gets flooded with calls from reporters looking to confirm rumors. In most cases, Horn notes, the law clearly sets boundaries for what can be said.

“Where it gets dicey is when there is a gray area and your client isn’t comfortable with the messaging or how to position an acquisition or a partnership,” she explains. This can be especially troublesome if information leaks, and the client is uncertain how it wants to respond.

“It’s a training issue – that’s how we treat it,” says Michael Young, SVP at Access Communications, who says his firm regularly holds refresher courses to educate staff on how to deal with such matters.

Young also advises team members to adopt tactics more readily associated with undercover agents than PR account executives: He warns staff not to reveal sensitive information when a phone caller’s identity cannot be verified, never to mention clients by name in public places, and to clear their desks at the end of the day to secure confidential documents.

SIDEBAR TEXT

KEY POINTS:

- Working in the financial sector, PR pros frequently face sensitive communications situations
- Agencies are usually considered insiders: If information leaks, it is treated as if it came from the company itself
- Management should limit who has access to information both within and outside of the agency

