

Focusing on Licensing and Entertainment Law

Brand or Product Crisis Management – Part 1: Crisis Communications Planning

By Joey Arnel Sayson

Is your business prepared to handle a brand or product crisis? Here, the term "crisis" means any event that can have an adverse effect on your brand, even if the event is only perceived and not proven. On Wednesday, January 23, 2013, I received some important information from a LIMA webinar entitled "When Bad Stuff Happens: How To Deal With a Brand or Product Crisis" that I want to share with you. This is Part 1 of a 2-Part website article covering brand or product crisis management.

The first half of the webinar was a presentation by Joan Cear, Vice President of Kellen Communications, about the 4 primary considerations for Crisis Communications Planning -Prevention, Preparedness, Response, and Recovery. It's in your company's best interests to have an overall safety, emergency or disaster management plan and that plan should include a Crisis Communication Plan because the statements vour business makes during a crisis can influence the overall outcome as much as its actions. Let's look at the 4 primary considerations for Crisis Communications Planning:

I. PREVENTION: The first consideration for Crisis Communication Planning is Prevention. Knowing that there are 2 kinds of threats – natural (such as hurricanes and earthquakes) and man-made (such as design or manufacturing flaws, product tampering or misuse, or cyber attacks) -- a business should take all commercially reasonable actions to establish threat prevention measures. Such measures may include instituting strict quality control and safety procedures, conducting inspections and independent product testing, following best practices, and properly training personnel.

Whatever steps you take to prevent threats in your business, you should document what actions have been taken because that information becomes important in a crisis since people will want to know what you did to try to prevent a crisis.

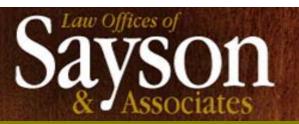
Here's one prevention caveat: Regulatory compliance is viewed as *the minimum* you should do, thus you should consider exceeding any regulations governing your industry.

II. PREPAREDNESS: The

second consideration for Crisis Communication Planning is Preparedness and here's a checklist to help you:

A. <u>Identify Threats</u>: You should collaborate with your organization's key experts to identify risks or threats in your business. These experts may include people from your product design, manufacturing, sales, customer relations, information technology, communications, and legal teams. A good place to start is to research what preventative measures have been taken already and then ask -- what more can be done? Another good place to start is with the headlines of your favorite newspaper or trade publication – is another company in your industry or a related industry going through a crisis or what threats are they under?

B. <u>Identify Stakeholders</u>: The same experts identifying threats can also help you identify the stakeholders in your business. Stakeholders may include customers, consumers, employees, shareholders, suppliers, the media, regulatory agencies and others in the industry (such as trade associations). It is important to identify stakeholders because the



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information you provide may be different for each group and should be tailored to address their concerns.

C. Communications Planning:

Once you've identified the threats and the stakeholders, then it's time to begin communications planning with the following steps:

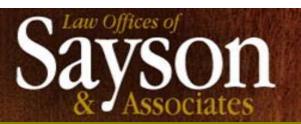
- i. Designate a crisis team and leadership. Your crisis team should include both internal and external members from your business. Internal members can be high-ranking executives, communications professionals, onstaff experts and support staff. External members can be third party experts, outside legal counsel, insurance company reps, law enforcement and regulatory agency officials.
- ii. Select spokespeople and media train them. Your spokespeople should come preferably from your organization's highest level executives, internal topic experts and/or third-party experts and should be trained to interact with the media.
- iii. Instruct other personnel that in the event of a crisis they are not to speak to news media. It's important to control the message and information you release.

- iv. Develop messaging for all anticipated threats. Your messaging should be customized for each audience and should be in readily usable formats (e.g. press releases, statements, key messages for spokespersons, FAQs, letters to shareholders, scripts for customer service/call centers).
- v. Identify influencers. You should identify influencers such as key news media outlets or journalists, industry analysts, regulatory agencies, or trade organization that can help you convey your message.
- vi. Identify internal and external resources. You should identify internal and external resources that can be used to communicate your message or help you create your message. There are technology and telecommunications resources such as laptops, cellphones and video conferencing; physical and logistical resources such as conference facilities, testing labs, the nearest hospitals and airports; and production resources such as camera crews, editing facilities, satellite trucks, and helicopters.
- vii. Build a social and mobile media presence. You should build a social and mobile media presence by using services like Twitter, Facebook and LinkedIn to communicate updates and engage in "truth squadding" or rumor

control. Don't be afraid to use text messaging to communicate with your key constituents.

- viii. *Practice*. Your team needs to practice your communications plan. Practicing allows you to test your key systems, helps your team members understand their roles and knowledge base, identifies weaknesses in the plan or team; and presents a structure for plan review and revision.
- III. RESPONSE: Thanks to the Internet and wireless technology word travels faster than ever. Thus, in the event of a crisis, an organization should "circle the wagons" quickly; monitor traditional media, the Internet and social media; refresh your messaging as pertinent updates become available; and be swift but cautious. Use online tools like crisis-dedicated webpages on your website, short videos, virtual news conferences or educational webinars to deliver your message. Engage your followers via short updates or social media press releases on Twitter or Facebook. Follow what's being said online by using social media monitoring services. Use traditional media tools like media alerts and news releases, news conferences, conference calls and media monitoring services.

When working with reporters, remember the following: a)



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communicate wisely; b) screen your inquiries; c) if you cannot provide an interview, then provide a statement or refer the reporter to another source; d) a swift reply improves your chances of having your information included in a story; and e) you will not always be treated favorably or even fairly by news media.

When you formulate the content of your response, you should follow the Rule of 3s for your key messages and sound bites, thus your key messages should cover: i) what you know; ii) what you feel; and iii) what the organization is going to do about it.

As you monitor the traditional media and social media coverage of your crisis, you should note: 1) which outlets and/or reporters are involved; 2) what is the sentiment/tone of the coverage; 3) who else are they interviewing; 4) is the coverage factual? If not, then seek to educate and correct;

and 5) adjust your response if necessary

IV. RECOVERY: When your organization moves into the Recovery phase of your crisis communications planning, there is good news and bad news. The good news is that: The pace of communication is so fast that news coverage can move quickly on to the next issue. The bad news is that: news coverage, misquotes, erroneous blog posts or social media content will live forever online.

Therefore, the Recovery phase is a good time to conduct a thorough assessment of the crisis by taking the following steps:

- A. Analyze the media and public response.
- B. Determine whether the crisis is over or is only dormant.
- C. Evaluate the effectiveness of

your messaging and spokespersons.

- D. Contemplate and institute improvements.
- E. Think about what might be the next big threat.
- F. Get ready for the next threat.
- G. Gauge the benefits and timing for proactive measures and initiatives.

Finally, you should recognize that the Recovery phase after a crisis also represents an opportunity for your organization – an opportunity to lead the charge for change which may be within the organization, among your business partners, within the industry or in the regulatory sphere. A positive change can create or renew any goodwill that may have been lost during your crisis.

Let's Talk Licensing! If you have any questions or comments about any of the foregoing, or if you have any questions about intellectual property creation and preservation strategy as it relates to entertainment law or license agreement matters, I welcome the opportunity to discuss them with you. I invite you to contact me at (310) 581-2868 or JSayson@saysonlaw.com. I look forward to speaking with you and helping your business grow.

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