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Legal Implications of Public Communication Strategies

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ABSTRACT

In an era marked by rapid technological evolution and expanding digital platforms, public communication strategies have become pivotal for organizational success and public engagement. However, the deployment of such strategies comes with a host of legal implications that organizations must navigate carefully. This paper examines the intersection of public communication and law, focusing on critical legal dimensions such as defamation, privacy, copyright, intellectual property, and regulatory compliance. It explores how modern communication channels, particularly social media, have reshaped the risk landscape and imposed new ethical and legal responsibilities on communicators. The study highlights how failure to align communication efforts with evolving legal standards can expose organizations to litigation, reputational harm, and financial loss. Through detailed analysis of case studies and existing legal frameworks, this paper underscores the necessity for a proactive, ethically grounded, and legally informed communication strategy. Ultimately, it advocates for a hybrid approach that combines legal oversight, ethical practice, and adaptability to emerging technologies in shaping responsible public communication strategies.

Keywords: Public Communication, Legal Implications, Strategic Communication, Defamation, Privacy Law, Intellectual Property, Regulatory Compliance.

INTRODUCTION

Public communication strategy has increasingly gained attention in recent years. A key idea is that corporate management must engage with public affairs, as its well-being now heavily influences public perceptions regarding political risks and disputes. Public communication is defined as managing perceptions of an organization, involving communication with stakeholders through messages or knowledge. Organizations, whether commercial or governmental, not only provide products or services but also have information needs to establish boundaries between themselves and the public. This includes producing, selecting, or disclosing information that aligns with their interests. Public communication typically involves several steps: establishing a knowledge base, identifying a relevant audience, crafting an appropriate message, selecting intermediaries, and choosing a communication channel. The advent of Information and Communication Technology has dramatically changed this process. Traditionally, public communication relied on media or governmental relations through intermediaries, leading to delays. However, the internet and social media have created new channels for influence, prompting a rethinking of public communication approaches. Strategic communication monitoring now views communication as dynamic and context-dependent, emphasizing the need for continual adaptation. A deeper understanding of public communication, along with its modern channels, can enhance applied research [1, 2].

Overview of Legal Frameworks

A Public Communication Strategy, or Communication Plan, is a formal document outlining a plan for communicating with target audiences, intended messages, and proposed dissemination channels. Depending on its scope, it may evolve into a more detailed Communication Plan or remain a less detailed Theory of Change (ToC). Such strategies can face legal challenges, particularly in social media advocacy, where laws may prohibit certain actions despite technological capabilities. Important legal considerations include Copyright, Privacy & Personal Information, Anonymity & Image Rights, Speech issues,

Trademarks, Patents, and Secrets. Noncompliance can lead to negative perceptions online, potentially undermining years of effort in a matter of moments. Therefore, it's crucial to address potential pitfalls proactively. Copyright grants the author or holder exclusive rights and prohibits others from reproducing or commercializing protected works. While copyrights apply upon creation, many opt to formalize their work's status, such as obtaining an ISBN for books. General data cannot be copyrighted, with restrictions only applying to the elaborated database. Privacy protects individuals from unwarranted intrusion, asserting their control over personal information. When sharing data about a person, they must be informed. Data Protection principles, such as Collection Limitation and Use Limitation—should govern the management of personal information, despite potential difficulties in interpretation and implementation [3, 4].

Ethical Considerations in Communication

Professional communicators must uphold ethical practices to maintain trust. While there isn't a universal code of ethics for public communicators, organizations can adopt from various professional bodies. Ethics (moral principles) differ from law (enforceable rules), and legal considerations shouldn't replace ethical ones. Courts judge legality, while peers assess ethics. Ethical behavior is crucial even without official rules, as guidelines may conflict across stakeholders. Professional communicators should take their audiences seriously, ensuring fairness, accuracy, and balance to allow informed judgments. Their goals often include informing or entertaining, but they might also mislead for unfair advantage. Dramatic stories can obscure larger truths, highlighting the need for ethical practices. Codes of ethics should remain top of mind to navigate complicated communications responsibilities. Audiences may encounter misleading or biased messages, influenced by executives focused on personal interests. Journalists who submit inaccurate stories in the name of "public interest" can harm an organization's reputation. To mitigate risks, ethical standards must act as a safeguard [5, 6].

Defamation and Libel

Societies rely on veracity of information and the ability to voice objections or disagreements in the public forums. Conversely, how truthfully information is conveyed and whether a person, group of people or company is characterized rightly in the media is the primary part of a society's reliable state. If character representations or news injures the person or the company, refuting allegations becomes one of the most complex tasks. Defamation laws aim to cultivate the healthy discussion of viewpoints and conflicts in the public forums, i.e., those discussions crossing into allegations or disputes on factual truth and untruth are one of the most litigated conflicts. Defamation lawsuits can also contain securities fraud claims and owe special origins to the First Amendment. However, much public discussion has moved into or obtained forms of mass public communication that are either inaccessible to or underutilized by the primary legal gameplayers: courts, legal scholars, lawyers and law enforcement versus media with mass public influence, mass readership and mass broadcast ability. For politicians, a vast mode is designed as a check on the rule of public person: accountants and lawyers are dispatched as mass media lurk over a target like journalists chase a story, speaking or commenting before the formal go go go. Publicers inevitably receive legal advice before they choose to initiate events, write a news story, formulate an expose and select the reception platforms. Economic disputes can result in a slew of initial public offerings with a foregone conclusion to the announced price, financial performance or corporate government structure. A scheduled acquisition by an investor can see early court litigation refining a litigation strategy that seeks a public ruling on some of the issues or losses on motions to dismiss with careful consideration to avoid prior losses on appeal in closely-watched cases. The legal selectorate then sees the corresponding design of campaigns to carry out Mass Schiller's instructions with news-stopping laws followed by changes to swing states' laws covering voting rights. Whether the corresponding changing of the law or cares about duly passed laws when attempting or carrying political retribution is difficult or impossible to rationally discuss, the main idea is the reproduction of a public choice scenario where successful information dissemination induces raises [7, 8].

Privacy Laws and Public Communication

Public communication offers significant advantages for organizations, facilitating financial gains, market entry, a strong public image, awareness of goals, and community accountability. Strategies should be purpose-driven and aligned with strategic plans. However, increased visibility brings legal and reputational risks tied to the gap between promotional messages and actual practices. Awareness of potential fallout from public relations issues is essential. Risk management within communication strategies must account for the legal landscape, ensuring compliance with national privacy laws. This assessment involves examining local interpretations of public communication, obligations, scrutiny of data and technology, coverage of professions under publishing laws, enforcement methods, legislative

movements, alternative communication mediums, and supportive laws. Compliance can be achieved by maintaining a legal team versed in relevant information, communication, and technology laws, closely monitoring changes. The team should possess quantitative expertise to navigate new regulations and the complexities of wrongful publication laws. Additionally, a filtering process should be established for communication output, involving legal review and tracking of permissions granted under publishing laws. Communication output review guidelines should also be implemented [9, 10].

Intellectual Property Issues

When using digital information, numerous rights and restrictions apply. Digital platforms enable the creation of diverse and original works, involving multiple parties with varying rights from creation to exploitation. Licensing, clearance, and purchasing can legitimize and share usage rights, while rights ownership dictates copyright protection. To be copyrighted, a work must be original, creative, and fixed in a tangible medium. Copyright safeguards both the economic market and the creativity of a work, granting the creator economic and moral rights, including exploitation, reproduction, translation, and adaptation rights. Typically, artists hold economic rights for a limited time, often 50 years, which may extend 50 years posthumously in some jurisdictions. Unlike economic rights, moral rights are non-transferable and independent of jurisdiction. In the digital landscape, works are stored in databases, making unauthorized copying far easier, resulting in potential copyright infringement and unlicensed works. Public communication strategies can only seek protection through contractual means like non-disclosure agreements (NDAs). Without proper licensing, economic rights are unenforceable, allowing galleries and festivals to communicate works without compensation if they are copyright-free. Moreover, enforcing the moral intent of a work remains challenging without licensing, hindering the prosecution of imitations of concepts or intentions. To adapt a work, intent, effort, and resources must be demonstrated; however, third parties may reject inquiries based on their subjective motivations [11, 12].

Regulatory Compliance

The increasing importance of communication strategies in organizations has led to new and complex legal responsibilities. Compliance with communication regulations can be challenging for organizations. Public communication strategies regularly involve potentially risky or negative messages, which can result in liability for organizations. Communication regulation is a complex area that changes quickly and can differ globally. The substantial risks created by public communication strategies should not be minimized. Considerable responsibility for potential legal implications lies with the organization and its servants or agents who design, settle, and/or make the public communication strategy. If an investigatory agency determines that legislation has been breached, litigation can ensue nearly a decade later. Organizations should take proactive measures to minimize such risks. In general terms, organizations should conduct a best-practice audit of their current public communication strategies. Organizations can avoid liability by properly monitoring and entrenching separate disclosure and communication functions, employing relevant experts, and training staff to understand what constitutes a public communication strategy. A compliance waiver can also be obtained if staff did not cause or contribute to a breach. Nevertheless, regulations evolve constantly and depend on many uncertain variables. Therefore, an organization's legal compliance can never be guaranteed. Organizations should create and entrench systems to regularly review and recalibrate their public communication strategies to ensure they comply with laws. When assessing communication strategies, an organization should ask whether a reasonable person within the organization or a relevant knowledge-base would expect the public communication strategy to be disclosed, communicated, or if a potential disclosure or communication should be discussed in currently relevant, material public disclosure or communication terms. Once an organization has developed a preliminary view pending management consideration of the public communication strategy, or a relevant inquiry by the market or a regulator, initial recommendations should be produced for senior executives' input. Senior executives should be involved in 99% of relevant public communication strategy processes. Care should be taken to regularly update the organization's assessment pending management input with new material facts or developments that could create or alter assessed liabilities or materiality levels of the communication strategy [13, 14].

Crisis Communication and Legal Risks

Despite public pressure and community concerns, PSU opted for a legal approach, issuing a limited statement that lacked detail. During a press conference, Lamb defensively maintained his stance, attributing problems to external factors. When criticized for this strategy, PSU's public relations reaffirmed the initial statement. Similarly, Paterno's attorney declared that Joe Paterno would not resign, insisting they would prevail. What started as a minor issue escalated as PSU faced a significant civil suit related to the Sandusky case, revealing numerous news items about the institution. Yet, they appointed

the low-level Assistant Vice President Gerdy as spokesperson, and legal representatives restricted communication, undermining transparency. This tactic ultimately backfired, failing to shield PSU from a surge of public backlash, especially with the once-revered coaching staff implicated, and amplifying the strain on communication teams. Observers criticized the legal strategy and expressed disbelief at the situation amidst present-day communication norms. Meanwhile, the city of Madison's police department faced scrutiny as citizens requested public records, only to receive a legal justification for withholding them. This response inadvertently led to intensified criticism of the department's legal position. As the situation unwound publicly, social media buzzed with citizens contacting law firms to challenge the reluctance to disclose records, further fuelling rumors and conspiracy theories related to the law firm's role in the unfolding crisis [15, 16].

Social Media and the Law

As the internet and social media expand, they create complex legal issues for employers and employees. Employees fear what employers might discover about them online, while employers worry about potential liabilities. To mitigate risks, employers typically implement policies to regulate employee social media use; however, these policies can face challenges from employees. Given the enduring nature of online posts, employers are incentivized to ensure compliance with laws, yet many lack guidance. Social media can inadvertently expose confidential information or reveal negative comments from former employees, sometimes resulting in significant consequences such as lawyers losing their licenses or firms facing fines. Legal professionals feel obligated to use popular platforms but do so with caution due to the risks involved. Social media's public, immediate, and permanent nature complicates ethical communication for lawyers and judges, leading to numerous articles and guidelines aimed at avoiding pitfalls. Despite the American Bar Association's efforts, clear social media guidelines remain largely absent from the Model Rules of Professional Conduct or the Model Rules of Judicial Conduct, leaving legal professionals seeking clarity in navigating these challenges [17, 18].

Emerging Trends in Public Communication

Significant shifts in public communication and strategies in both private and public sectors have been noted recently. New tactics like crowdfunding, changed consumer pressures, and the rise of social media as vital online marketing platforms are examples of these transitions. Similar transformations have occurred in cost-benefit analysis and public procurement policy, warranting examination to discern current public communication strategies by decision-makers. Evaluating the effectiveness of emerging tactics against traditional ones may yield insights. It is generally believed that these new strategies align with established public communication principles. Nevertheless, limited research has been conducted on the effectiveness of traditional approaches like Mass Media-Based Agenda-Setting and newer strategies like Crowdfunding. This gap in research may serve to obscure the rise of innovative communication methods in the corporate sector. Consequently, little is understood regarding new risk parameters and accountability measures associated with these emerging communication forms. We need more knowledge on the effectiveness and implications of these modes, akin to that achieved for established methods. While optimism abounds, careful evaluation of new public communication strategies is crucial to prevent negative outcomes and ensure productive feedback [19, 20].

Best Practices for Legal Compliance

Developing an effective communication strategy is both an art and a science. Legal compliance is crucial in public relations content, necessitating awareness of legal parameters in all communications. Implementing best practices can help frame public relations content while mitigating potential liabilities. Engage legal counsel before beginning a communication strategy to review the approach and overall goals. Counsel can advise on risks associated with plans and help mitigate them beforehand. Ensure that specific components of the communication plan are reviewed thoroughly. A well-defined communication approach outlining messaging, topics, and details is essential for legal compliance in the messaging strategy. Additionally, utilize internal processes to mitigate risks prior to content publication. Focus on creating a comprehensive communication strategy that addresses various topics and goals for individual messages. Recommended language can be crafted early to reduce risk in public relations content before committing substantial resources to campaign planning. For instance, if addressing a celebrity's death, initial messaging could suggest acknowledging the event generally rather than detailing the cause, thus minimizing legal risks. After drafting a content strategy, it's important to engage legal counsel for review. Legal input is essential for maintaining strategy effectiveness while supporting organizational objectives. Legal barriers may not hinder the organization from acting on the content strategy, though they can suggest refined approaches, like implementing stricter screening for incoming commentary. Legal counsel can assist in generating public relations content for external audiences, reviewing

messaging, reinforcing internal processes to reduce liabilities, and interpreting relevant regulations or proposed regulations affecting communication [21, 22].

Case Studies of Legal Implications

This study investigates public communication strategies used by individuals and organizations facing potential legal liabilities, including criminal charges. It examines the interplay of legal and public relations considerations during crises, noting the conflict between the public's right to speak and the courts' right to silence, alongside the public's right to know and the need for secrecy in judicial proceedings. This conflict often complicates crisis response efforts in legal contexts, resulting in substantial legal risks that public relations professionals must navigate. Research questions focus on the strategies employed, detailing public communication efforts and the potential legal implications. A multi-case study analyzes five notable instances from recent years, including Harvey Weinstein, the USC Board regarding Dr. George Rekers, the Penn State Board concerning Jerry Sandusky, the Notre Dame Board related to Lizzy Seitz's shooting, and former Rutgers coach Mike Rice. Public relations professionals face the critical challenge of responding to information requests while minimizing legal risks. Often, they recommend silence and suggest involving attorneys when addressing potential criminal charges. However, institutions like universities must also weigh legal risks against perceived moral obligations to the public interest amidst ongoing civil litigation [23, 24].

Role of Legal Counsel in Communication

A Statement of Claim triggers numerous pivotal decisions in the courts, making it an intricate situation where controlling media interest becomes a challenging task. The resulting media frenzy often leads to a barrage of public communications that must be carefully managed. Each action taken in this context should align with established legal and ethical principles to avoid missteps. Embargoed statements, clarifications, and denials are crucial tools for managing the prevailing narrative and preventing the spread of harmful, unverified reports that can cause reputational damage. However, while these strategies are essential, they also carry inherent risks. Leaked information can significantly undermine attempted embargoes, while the issuance of clarifications frequently attracts increased media scrutiny and leads to inquiries seeking new angles or perspectives on the matter at hand. Publicly 'returning fire' in response to media narratives can help regain control over the narrative, but also implies that a reaction is necessary, indicating that new information exists that needs to be addressed. Consequently, media strategies devised for the CEO and Director must navigate this highly volatile environment, where rules and facts can change rapidly and unpredictably. Furthermore, communicating effectively with critical stakeholders like regulators and shareholders presents similar challenges and risks but also allows for more directed messaging that is not solely confined within the broader public discourse. Such focused communication can be instrumental in shaping perceptions while minimizing misunderstandings that can arise from more generalized media coverage [25, 26].

CONCLUSION

As communication channels evolve and stakeholder expectations grow increasingly complex, the legal implications of public communication strategies demand heightened attention. Organizations must recognize that the benefits of transparent, persuasive, and far-reaching communication are closely tied to potential legal liabilities, especially in areas like privacy, defamation, intellectual property, and compliance with dynamic regulations. Ethical considerations, while distinct from legal mandates, serve as an essential safeguard in maintaining trust and mitigating reputational risks. The paper emphasizes that effective public communication today requires a triadic balance: strategic intent, legal compliance, and ethical execution. Moving forward, organizations must invest in robust legal review mechanisms, continuous staff training, and adaptable policies to keep pace with emerging communication trends and legal developments. In doing so, they can not only avoid legal pitfalls but also enhance public trust and institutional credibility in a digitally mediated world.

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