A Guide to Reputation Management & Risk Communications

Foreword by Arvin Maskin, Mayer Brown LLP
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How do we adapt and thrive in the “new normal,” with all of its dynamic challenges and ever-changing global threats — and to do so with your brand, reputation, goodwill, operations, finances and culture intact? That is what is expected by shareholders, investors, employees, business partners, regulators, the communities in which you operate and the public at large. Against the current backdrop of geopolitical upheaval, cyber and ransomware attacks, data breaches, global pandemics and natural disasters, severe supply chain disruption, the emergence of ESG and the rise of stakeholder (investor, employee and consumer) activism, economic uncertainty and labor unrest, the spread and persistence of disinformation and the participation of various social media platforms, among others, as accelerants, it has become a fundamental notion and expectation of corporate governance and stewardship for business managers to be less reactive, and more predictive, preventative and proactive.

The fact is, all companies are vulnerable to crisis-level events, which can present all of a sudden, with or without warning, on multiple fronts, often simultaneously. Key facts surrounding such events may be unknown, uncertain or rapidly evolving; compounded by the potential loss of control, and the risk of operational, financial and reputational harm — worldwide. And, besides the “fallout” from the event itself, all of the related decisions by management before, during and since the event, will be subject to intense scrutiny by those inside and outside the company, including the media, regulators, shareholders, customers and competitors.

The articles which follow present many of the fundamentals of reputation management, and the process of building a culture of risk avoidance and institutional resilience. They reveal more than salient approaches to forecasting, analyzing, preparing for and avoiding risk of a crisis-level event. They illustrate how you can leverage the lessons of history, as well as recent events, to help visualize and contextualize the likelihood and scope of potential threats, and to help generate options for evidence-based decision-making, which is the key to weathering any threat scenario.

Reputation management is comprised of sophisticated communications expertise, of course; but it also encompasses educating and mobilizing relevant stakeholders, including senior management, coalition building, thoughtful public outreach, taking into account the risks and opportunities presented by social media and global digital connectivity, prevention of operational knowledge gaps, particularly in global corporations, listening for “signals” which might portend near, mid and long term threats, a recognition that the company is making its record everyday by its conduct and communications, achieving a level of self-awareness and avoiding denial, alignment of internal structural incentives, ensuring that the communications strategy is consistent with, and supportive of, the company’s legal strategies, a commitment of necessary resources, training and reinforcement, “buy-in” from leadership and so on.

The point is, reputation management should be viewed within the broader framework of overall enterprise threat management, including optimizing crisis preparedness and mitigation — consistent with the company’s culture, organizational structure, risk appetite, resources and priorities.

In sum, these articles instruct us that effective reputational management requires thoughtful, holistic, strategic, innovative and advanced preparation. Informing such judgment requires a multidisciplined approach, drawing upon politics, history, the regulatory environment, economics, geography, demographics, psychology, an understanding of digital culture, advancements in technology, shifting human nature — all set against inherent unknowns and rapidly unfolding or escalating events, and unavoidable second-guessing. It all points to how we will ultimately adapt and thrive in the “new normal.”

Arvin Maskin
Partner and Practice Leader, Global Enterprise Risk & Crisis Management at Mayer Brown LLP
The Golden Hours

First in a Series on Reputation Management and Risk Communications
By Richard Levick

“But in all my experience, I have never been in any accident… of any sort worth speaking about. I have seen but one vessel in distress in all my years at sea. I never saw a wreck and never have been wrecked nor was I ever in any predicament that threatened to end in disaster of any sort.”
— J. Smith, Captain of the RMS Titanic

The Conflict

There is a natural conflict between the lawyers working on litigation and crises that are likely to garner public attention and the communications professionals working with the media. Lawyers need and want time to determine all of the critical facts, potential liability and necessary information, while the communications side of the house is working to meet reporter deadlines before the story — and likely a premature, negative narrative — goes viral.

The History

When the White Star Lines was preparing to launch its unsinkable cruise liner, the Titanic, it recruited its greatest captain, E.J. Smith, on the brink of retirement, to stay on for one more transatlantic crossing so he could skipper the new pride of the White Star fleet from Southampton to New York. He was chosen due to his unblemished history. So smart and experienced a captain, he had never so much as experienced a near accident. He was the perfect choice for the maiden voyage.

Two days prior to hitting an iceberg, he told his assistant telegraphist Harold Bride, who had been receiving messages of potential danger ahead, that he understood the warnings of icebergs and would adjust. He also told Bride that the new technology, the telegraph — the 1912 version of Twitter — should no longer accept incoming messages but instead be used exclusively for the many wealthy passengers who wanted to send ship-to-shore messages about being on the “Wonder Ship.”
To be forewarned is to be forearmed. When the Titanic did strike the iceberg, Captain Smith maintained his confidence in the guarantee of an unsinkable ship combined with his lifetime of sailing experience. The sinking of the vessel was beyond his comprehension. Over the next two and a half critical hours, unpracticed crew and passengers tried desperately but tragically ineffectively to load the lifeboats. Two ships fairly nearby — the RMS Carpathia and the SS California — replied too late. The California, six miles away, mistook the Titanic's desperate flares as “company rockets.” Its telegraph officer had shut down for the night and as a result there was no one to receive the frantic message: “SOS Titanic calling. We have struck ice and require immediate assistance.” Dreadfully, through misfortune and misunderstanding — two traits common in crises — the California would take no action to save any passengers. They too could not comprehend what was happening because of the unsinkable narrative they believed to be true. The Carpathia, fortunately, would navigate the ice flows and arrive in two hours, saving 705 passengers.

The golden hours are the opening hours of a crisis — when danger is rushing in and information is sparse. It is where history is made. In high-profile litigation and crisis matters, it is defined as the time between when we learn of the matter and when legacy and social media control the narrative. That means if we do not act with consideration to the public, others get to define the hero and the villain, influence future jurists and set the foundation for liability. No matter how independent justices and juries might be, by the times a matter goes to trial, as citizens, they have read the newspapers. Truth is a race. It is not what we know, but what we believe first. Once we assume our perception is accurate, we become believers, and shaking us from this viewpoint is exceptionally difficult. Just ask Captain Smith. He knew the ship could not sink.

In many areas of litigation — food, pharmaceuticals, labor and employment, etc.; the list is too numerous to mention — the plaintiffs’ bar has already optimized the web so that when a matter occurs they already have influential content at the top of the major search engines. As the old joke goes, if you want to keep a secret, put it on the second page of Google. Nearly no one looks past the first few links on a web search.

The plaintiffs’ bar is busily controlling search engines right now, which are designed not only to harvest plaintiffs but also encourage journalists and the public narrative. Control the search, control the story.

The result? The defense bar is often already behind on the public narrative before the first client meeting.

The Lesson
At 1:22 am on June 21, 2021, when the Champlain Towers South collapsed in Surfside, Florida, tragically killing 98 people, the initial media reports over the first three days — thousands worldwide — inferred that the volunteer condo board had been negligent in its oversight. It goes without saying that media on high-profile matters is viral. Reporters have to quickly post stories and go on air. Social media follows and codifies the earliest reports. However careful the journalists are, theories are presumed to be facts or certainly interpreted by the public to be so. Imagine the difference if we got to describe the wolf in Little Red Riding Hood first: ‘He's sensitive and endearing — and maybe a vegetarian’ rather than “Big and bad.”

In an environment where we see 5,000 to 10,000 advertisements a day, not to mention the other messages demanding our attention, all we can do is categorize. Good, bad; guilty, innocent. There is no time for analysis or processing. No one parses the media the way defendants and lawyers do. For everyone else, they just decide who deserves their empathy.

Once these initial impressions are made, audiences move on to the next news cycle. The only thing that remains is our categorization. In this case, early media reports made it appear that the board members — one of whom was killed; others who lost their homes, friends and fortunes — had been previously negligent.

Over the next 72 hours, hundreds of conversations were had with journalists globally to set the record straight, which changed the global narrative and the course of the litigation.

While speed, triage and instantaneous decision making is required in crisis matters, our training as lawyers is to gather all the facts and be certain before making any public statements, if any. While this training makes perfect sense it also creates a vacuum filled by others, few if any with your client’s sympathies in mind.
While every situation is different, the Champlain tragedy identified four key strategic steps:

1. Communications discovery: Immediately identify the facts as best as can be determined. Limit your public statement to these incontrovertible facts and only update your statement if and when more known facts become evident.

2. Stop playing Whac-A-Mole: It is human nature to answer the ceaselessly ringing phone, texts and emails but this is usually a fool's errand. It is tsunami-like and virtually impossible to handle. It also makes you defensive and empowers the narrative of journalists, not your client's. Instead, draft a brief holding statement which stays within the lines of what the lawyers approve and reply with this to almost every inquiry. It will immediately slow down the clock and start to allow you to be proactive rather than reactive.

3. Be Selective: Identify a trusted journalist(s) or the most influential — the ones other journalists are reading, such as The New York Times, Financial Times, Wall Street Journal, Washington Post, Politico or others and give them exclusive information which begins the process of introducing your narrative and influencing other journalists.

4. Employ one-on-one communications: In the case of national and global stories, there are hundreds of media who want information, almost all at once. In the case of Surfside, many hundreds of conversations were had with journalists over three days, one on one and off the record, to provide them with facts which they could independently verify and to help save them time and point them in the right direction. It changed everything.

Every matter is different and requires sui generis strategies developed in concert with the lawyers and communications. The critical question for all matters is how we use the “golden hours.”

While this was not true in Surfside, it is best for the lawyers and crisis communications professionals to have a relationship in peacetime. There are too many judgment calls required not to have developed a trusted relationship ahead of time when no one is watching.

Lawyers are among the best educated and trained professionals in the world. But just like with Captain Smith, there are limits to that expertise.

“Sometimes, though, you make a pact with yourself. I’ll pretend there’s nothing wrong if you pretend there’s nothing wrong. It’s called denial, and it’s one of the strongest pacts in the world. Just ask all those people who were still drinking champagne while the Titanic went down.”

— Neal Shusterman

Richard Levick
There But For the Grace of God Go I

Second in a Series on Reputation Management and Risk Communications

By Richard Levick

“If you don’t stick to your values when they’re being tested, they’re not values — they’re hobbies.”
— Jon Stewart

The Corporate Social Compact

If we have learned anything over the past six years, and certainly after January 6th and the midterm elections, it is that the Social Compact is real and serves as the bedrock for a civilized society.

The political philosophy which our Founding Fathers universally believed — that “government must be based on an agreement between those who govern and those who consent to be governed,” however, is no longer limited to just government. Commerce — public and private — now have their own social compact with multiple constituencies. Companies that recognize this, such as Apple, Marriott, Nike and Starbucks, have customer relationships which approach tribal and are theological in nature. They are not just a company, they are part of their customers’ identity.

This contractual bond is often taken for granted by many companies who view their customer relationships as merely transactional. But customers, shareholders and increasingly stakeholders — those individuals with influence but no direct financial interest — believe they have a social compact with the companies they choose to follow, whether or not they are buyers or investors. Breach that compact and you have eviscerated trust and will long postpone the time when you become a part of their identity.
Today, we are overwhelmed with commerce and receive between 5,000 and 10,000 advertisements per day, most whispering ‘Unless you buy our product, you are inadequate.’ No wonder so many consumers feel disempowered. We are not individuals, just a fractional part of a demographic.

The Choice

In corporations as in government, executives must make hard choices daily. Unfortunately, other than rising stock prices, the media is almost always only interested in the mistakes and their consequences.

The difference between youth and experience is that when we are young we are convinced we know with certainty exactly what we would do when confronting Faustian choices. For the experienced, we suffer the lure and consequences of temptation. There is something about financial comfort which make us Odysseus-like, listening with longing to the songs of the Sirens.

How is it we make the choices we make, especially when we know there could be risks ahead? The road to perdition is littered with fallen heroes.

Balancing Risks

It turns out that Bob Dylan did not hand sign his own recently released limited edition book, The Philosophy of Modern Song, despite its price tag of $600. Mr. Dylan’s vertigo and the pandemic are the reasons for mechanization and they make perfect sense. I am always reluctant to criticize companies for decisions they make when I am not in their war room to witness it firsthand, but I am still having a hard time understanding why Mr. Dylan’s renowned publisher Simon & Schuster, which sold 900 “hand signed” limited editions, originally refused to issue refunds and had denounced as “online rumors” the possibility that the signatures were machine made. When faced with the truth, run to the light.

Adidas knew of the risks of working with the controversial entertainer, entrepreneur and rogue, Ye (aka, Kanye West) going back to 2018, and discussed it at length at the most senior levels. With his products representing 8% of sales, this was a painful decision. So, little was done until Ye’s bridge-too-far antisemitic tweets in October made it too problematic to continue the relationship.

These close decisions — between pecuniary results and eliminating a substantial risk — are determined by what we measure. If the short-term bottom line is the only calculus then we will always retain our Ye’s. What is the long-term cost?

When Johnson & Johnson went to the great risk and expense of pulling all of its over-the-counter pain medications in 1982 as a result of the Tylenol poisonings, it then proceeded to out-perform expectations most quarters and become one of the most trusted pharmaceutical companies for the next three and a half decades. Short term sacrifice can pay long term dividends.

As the old Russian proverb goes, “The leopard cannot change his spots.” Ye was never going to change and be risk free.

Say it ain’t so, but product searches on Amazon are now overwhelmingly paid advertisements, not organic searches for the best product to meet our needs. As Stephen Covey wrote, “Trust is the glue of life. It’s the most essential ingredient in effective communication. It’s the foundational principle that holds all relationships.” I am a huge fan of Jeff Bezos, but isn’t this similar to the road that Mark Zuckerberg and Facebook took to infamy?

Eight major universities — including Michigan State, LSU, TCU, Syracuse, the University of Colorado at Boulder and others, with more coming — have now partnered with bookmaking companies and are promoting gambling to their students in exchange for lucrative sponsorship deals. College presidents have been sending out university-wide emails promoting gambling. A large percentage of recipients are under 21 — which violates the gambling industry’s own code of conduct due to the highly susceptible nature of young people. Some of the recipients are current athletes. Can you say Pete Rose, anyone?

When faced with social transformative decisions, look backwards from the future. If this blows up — and it very likely will — will the money have been worth it? And when it does, the national media will pick out as a poster child a single university. Knowing that, would you still make the same decision today?

No matter how much you understand your market, it will change. No matter how private a decision seems, it will likely go public at some point. The key to reduction in risks occurs before you make the bad decision. Slow down. Look at this through your constituent’s eyes. How will they view this decision?
Group thinking, fear of telling truth to power, taking comfort in the fact that “everyone else is doing it” or “this is the way we have always done it” and that no one will ever know are just a few of the handmaidens of bad decisions. When faced with choices that expose your company to risk, step outside yourself and ask your trusted team, “What do customers, shareholders, stakeholders, journalists and Mom think?” If you cannot justify it to Mom, it is not going to be a good decision.

Remember, if it goes wrong, none of these justifying arguments will carry any weight. As Ayn Rand wrote, “Rationalization is a process of not perceiving reality, but of attempting to make reality fit one’s emotions.”

“From us alone, they say, come all their miseries, yes, but they themselves, with their own reckless ways, compound their pains beyond their proper share.”

— Zeus, from The Odyssey

Richard Levick
The Ghosts of Groundhog Day

Third in a Series on Reputation Management and Risk Communications
By Richard Levick

“Generals are always prepared to fight the last war.”
— Winston Churchill

The worst decisions I have ever made are those that try to correct the past.

We overcompensate or second guess or simply take the road “less traveled” and think, as Robert Frost so beautifully wrote, that it will make “all the difference.” While the past is a wonderful teacher, it is but a factor, not a blueprint.

No doubt students of history are far better positioned to understand the present and peek into the future, but everything is different the second time around.

New potential crisis matters may share similarities with past events, but each situation is unique. As we learned in the movie *Groundhog Day*, every single decision that Phil (played by comedian Bill Murray) makes, no matter how simple, affects the lives of others (including the target of his affections, Andie MacDowell) and, most critically, his own. The universe is filled with quantum particles impacting everything and everyone they touch.

Still, we are intoxicated by the past and often seek its guidance, like Shakespeare’s Julius Caesar and Macbeth seeking out soothsayers to tell them the future. Even when they are told what is going to happen next, it is subject to misinterpretation. Our eyesight is impaired by the glare of our past.

When I speak to CEOs and boards I am often asked what they need to be doing in the pre-crisis or early hours of an ascending negative event. While there are dozens if not hundreds of tactical and strategic recommendations, the first job of a leader is emotional, not tactical.
We Need To Slow Time Down.

As most of us recall, on Sunday evening April 9, 2017, Dr. David Dao was involuntarily deplaned from his seat on United Airlines Flight 3411 by the Chicago Transit Authority at O’Hare airport. He refused to deplane voluntarily due to a Monday morning medical appointment with a patient and was dragged screaming from the plane in a scene captured by at least two passengers with real time video on their mobile phones. By Monday morning the videos had gone viral and United was in the unenviable position of playing catch up. For Dr. Dao, it resulted in a concussion, a broken nose and two missing teeth. For United — “the friendly skies” — the damage was much worse.

Most of us watch companies misplaying a matter that blossoms into a crisis, and wonder, “How could they do this?” when really we should be asking, “What can we learn?”

As spectators, we are blessed with the advantage of hindsight. What have we learned so that when we are drinking from the tidal wave of our own burgeoning crisis and have no time to properly process, we don’t make the same mistakes?

Even though the videos first appeared on social media on a Sunday evening, no one at United either saw them or alerted CEO Oscar Munoz until he learned about it Monday morning in the newspapers — a form of communications better suited for an earlier age. He had lost his early warning advantage, severely limiting critical options.

Over the next two days, Mr. Munoz and United would make several missteps which made the crisis worse and turned a local domestic event into an international crisis. First, he issued a written “non-apology” apology which focused on United’s employees and policy for oversold flights rather than seeing things from Dr. Dao’s point of view. While this might have been understandable and temporarily soothing for United employees, the rest of the world saw things through Dr. Dao’s eyes. He had come to represent every United passenger. “Will this happen to me?”

On the following day, Mr. Munoz sent an email to United’s 84,000 employees, doubling down on the points from his letter. This too is understandable since, prior to Mr. Munoz’s arrival, there had been a crippling strike at the airline and Mr. Munoz apparently saw an opportunity to soothe past rough waters between management and employees.

Of course, when you send an email to 84,000 people, it will leak, which resulted in another negative news cycle. With so much adverse media coverage and increased pressure, Mr. Munoz watched the videos, changed course and then masterfully handled the crisis from that point forward, but not until 20 million Chinese citizens per hour were downloading the videos. For 30 years, United had been penetrating the Chinese market and now that was threatened by some poor decision making at O’Hare.

With apologies to William Shakespeare’s Mark Antony, I come here not to bury Caesar but to praise him. We had the honor of working with Oscar Munoz when he was the CEO of CSX and watched him masterfully handle a derailment that included a toxic spill. He perfectly balanced safety, the community, customers and shareholders. If Oscar Munoz can make the mistake with Dr. Dao, what chance do the rest of us have?

From my perspective, Mr. Munoz’s desire to look back and fix the past overrode his reasoning for addressing the present.

In a crisis, everything is upside down. William Faulkner wrote that “The past is never dead. It’s not even past.” The past may not be dead but sometimes it is not a very good guide for the present.

When Martha Stewart was first under investigation by the Securities and Exchange Commission (SEC), she was reportedly offered a settlement of $250,000 but told her lawyer, Bob Morvillo, ‘I’m innocent and didn’t do anything wrong.’ Regardless of the legal issues at stake, the public viewed her as guilty and the SEC saw this as a “message case.” If they cannot regulate everyone, then high-profile sacrifices such as Ms. Stewart are a good way to inhibit potential future wrongdoers. Perception trumps reality once again.

For Ms. Stewart, she appears to have been looking backward, as an icon with multiple media platforms, and was unable to see clearly into the present. She was no longer perceived as America’s “Sweetheart” but a potential felon. Bad things can happen to good people and all that brand building goes to waste.

While I was not in the room with Ms. Stewart, we were in March of 2008 at AIG, when it elected to pay approximately $218 million in bonus payments to employees of its financial services division while it was under a bailout from the U.S. federal government.
Once again, it was perception over reality. AIG was contractually obligated to pay these bonuses, but they had two solid options to avoid the problem. Unfortunately, too many senior executives, though certainly not all, were looking backwards and counseling AIG Chairman and CEO Ed Liddy — an American patriot who took over the nearly impossible task — to pay the bonuses. It was a terrible look and made AIG the poster child for the financial crisis.

Few outside of Wall Street remember that, like Chrysler a generation earlier, AIG paid the federal government back ahead of time with interest. It turned out to be a good investment for the U.S. government but it painfully hurt the AIG brand.

Looking backwards often dominates our decision making, when really we need to stare down the present. Each morning is different no matter how similar the sunrise.

The value of a brand is not in its advertisements but in how it responds in a crisis.

Tabula rasa

Potential crisis situations hardly give us the time we need to gather full information, seek advice from contrary quarters, reflect and proceed apace with events. This is why interdisciplinary team drills one or twice a year are so helpful. “How would we respond if this happened to us?” “How does legal and communications or IR and HR effectively discuss differences and reach difficult decisions in a highly charged moment?” “If the right sacrifice properly timed will deflate a crisis, how do we make that decision?” “How do we respond when we are perceived as the villain of a news cycle, not the hero?”

One of the first things we need to do when seemingly normal events become abnormal is to stop and ask the question — “What internal or external events, people or symbols make this a more challenging risk?” Is it race, sex or sexual preference? Is it a political movement or election? Is it a trend in the industry? A forthcoming shareholders’ meeting or competitor activity? The sympathy of an accuser or alleged victim? What is happening externally impacts perception.

We tend to be too insular and employees often look at policy and the past rather than explore the unique factors of the moment. When they report up the food chain, they are often limited by this perspective, influencing the most senior executives. “This is the way we have always done it,” is a thought process suitable for the road to perdition.

The job of senior executives is to look at the outside factors, be Talmudic, and ask a variation of the Passover question, “Why is this [moment] different than all others?”

Time is not our ally in a crisis but if we use our peacetime wisely to prepare not just tactics but emotions and learn from the past rather than be slaves to it, it can give us the perspective we need for the present.

“Don’t look back. Something might be gaining on you.”
— Satchel Paige

Richard Levick
Use Your Peacetime Wisely

Fourth in a Series on Reputation Management and Risk Communications

By Richard Levick

“You must learn from the mistakes of others. You can’t possibly live long enough to make all of them yourself.”

— Sam Levenson

At 7:02 am on December 7th, 1941, Privates Joseph Lockard and George Elliott, using a new technology known as radar, saw what looked like a formation of 180 Japanese aircraft 132 miles outside of Hawaii. Unable to reach their immediate supervisors, Private Elliot contacted the Intercept Center on the island but received no direction, though the Center did inform Army Air Corp First Lieutenant Kermit Tyler. Inexperienced in the Intercept Center’s operations, having received virtually no training and on his second day on the job, Lieutenant Tyler downplayed the report, thinking it was likely a formation of B-17 aircraft coming from the continental United States. Twice he told a protesting Private Lockard, “Don’t worry about it.”

53 minutes later, “a day that will live in infamy” began.

There are three things in life we are most afraid of — death, change and public speaking, though not necessarily in that order. Having to digest new information that suggests a paradigm shift, especially one that requires an imminent quantum leap, is onerous for humans.

In the world of crisis prevention and communications, we are often asked to read the tea leaves — the 180 dots on a radar screen — and advise what is likely to happen next. Its arduous because you often have to ignore popular opinion and seek out a single data point amongst hundreds or thousands and understand why this time is different. Added to the difficulty in predicting the future is the mockery from peers for seeing things differently.
Unlike meteorologists, political and sports prognosticators, the expectation is that in crisis communications you will always be right or suffer the slings and arrows of being called “Chicken Little.”

“Don’t Worry About It.”

Which brings us to Southwest Airlines, the 15,000 flights they canceled and the approximately one million passengers they stranded and inconvenienced over the 2022 holiday travel period. Why, angry customers and the market asked, were approximately 90% of Southwest flights cancelled when only about 2% of all other domestic airline flights were suffering the same plight?

There are a number of reasons for this, originating, of course, by a once in a half-century arctic blast. The thing about unusual events is that, though rare, they still happen.

Although I only occasionally fly Southwest, I have been a fan for more than a quarter century, going all the way back to reading the book Nuts! Southwest Airlines’ Crazy Recipe for Business and Personal Success. Just as then, the rules Southwest learned to build an airline that has been profitable for nearly four decades and the ones they learned during the arctic blast apply now, when their fortunes are moving in the opposite direction.

There are a number of reasons cited for Southwest’s colossal failure. They fly “point-to-point” with planes flying destination to destination rather than “hub and spoke” that most major American airlines fly. Point-to-point is more efficient and profitable most of the time, but during unusual weather events such as the arctic blast, what starts as a few delays cascades quickly into the maelstrom we have just witnessed — or personally experienced.

There is, also, Southwest’s policy of not exchanging tickets with other airlines (though other airlines started to pitch in over the holidays, regardless). This prevented Southwest from exchanging tickets for passengers with other airlines. Thousand of passengers stood in line for hours only to learn what they already knew — “You’re stuck.”

But most critically, there is an antiquated computer system as the root cause which, other than important but ultimately small fixes (e.g., improved reservations system, maintenance records and baggage handling), has not been overhauled in many years. Warned by unions, flight attendants and internal memos that the system could not handle the modern load, the airline chose to ignore the warnings and luxuriate in their profits — nearly $6 billion in fiscal year 2022 — pay dividends and use their $7 billion pandemic bailout funds for other purposes.

The system is so antiquated, pilots and flight attendants are forced to call in when they arrive at their destinations (rather than use an app), calls that can last for hours and are counted by the Federal Aviation Administration as part of crews’ work-hour limits. Stay on hold long enough and Southwest loses valuable crew members…during the best of times. The hold times over the holidays were glacial.

Passengers trying to rebook fights found the website, airport kiosks and overwhelmed airport desk agents unable to help them. When delayed passengers called the airline they too were often put on hold for hours.

As Zeynep Tufekci, a professor at Columbia University and guest columnist for the New York Times wrote,

“It’s been an open secret within Southwest for some time, and a shameful one, that the company desperately needed to modernize its scheduling systems. Software shortcomings had contributed to previous, smaller-scale meltdowns, and Southwest unions had repeatedly warned about it. Without more government regulation and oversight, and greater accountability, we may see more fiascos like this one, which most likely stranded hundreds of thousands of Southwest passengers — perhaps more than a million — over Christmas week. And not just for a single company, as the problem is widespread across many industries.”

Lessons from the Arctic Blast

Southwest will ultimately recover from this brand-damaging moment, but not without a heavy cost far in excess of doing the right thing with their computer system when the need became obvious. For companies still in the “before” moment rather than Southwest’s “after” debacle, here are a few helpful lessons:
Denial

In October of 2021, after another computer glitch caused some delays, then-Southwest CEO, Gary Kelly, after admitting to some challenges, said Southwest had “wonderful technology.” Denial may work for a while but reality will return with a wicked bite. In most companies, one of the hardest things for employees to do is tell truth to power. Welcome constructive criticism, not with a one-time pronouncement but with an open door policy which is cultural in nature. Many ideas will not be helpful, but the ones that wisely point out significant future problems need to be embraced, not denied or punted down the road.

Your Trust Bank Account Is Never Big Enough for the Worst Moments

Southwest deservedly has a great brand, is known for its customer loyalty and, despite some periodic challenges, has strong employee relationships. If the pain they are going through now — negatively impacting all three — can happen at Southwest, it can happen anywhere. You can never build strong enough bonds or an impervious enough brand, so keep building your trust bank. The stronger these relationships are, the faster your company will recover and the sooner the event will fade into memory. Like exercise, this is a daily habit.

Fix It Before the Federal Government Steps In

If you needed an incentive to fix a likely future problem, remember that when a crisis is big enough and public enough the federal government will step in and control the narrative. Before the inquiries and investigations begin — in this case, the Department of Transportation and the Senate Commerce Committee for starters — President Biden made it clear who was responsible, just as President Obama did with the BP Gulf Deepwater Horizon spill in 2010 and the United States Senate did with Wells Fargo over the years-long credit card scam in 2016.

This means three more likely extended negative news cycles — the White House, regulatory agencies and Congress, each of which can last days or weeks. There is an old saying in Washington — “Never kick a man while he is up. It’s too much work.” You don’t want to put your company in a position to be subject to Washington’s favorite sport, “the pile on.”

If You Break It, You Own It

It is not just courts of law which look at companies and ask not only what they knew but what they “should have known.” The public follows this rule as well. “We didn’t know” is an unimpressive defense and only emphasizes incompetence, not innocence. Colin Powell and Richard Armitage used to call this the Pottery Barn rule. “If you break it, you own it.”

You Can’t Talk Your Way Out of Something You Acted Your Way Into

“What is the worst that can happen?” While the short-term costs to fix a significant problem almost always look higher than the long-term ones, that math is seldom accurate. A stock price drop, regulatory fines, class action lawsuits and, most expensively, a significant decline in brand loyalty often take significant time to overcome. Like a losing baseball team, it’s always easier to fire the manager than the team. When foreseeable things go badly, you won’t be able to talk your way out of it.

People Do What They Are Rewarded For

Companies — like Southwest — that tie their corporate executives’ compensation to stock prices and quarterly earnings provide a strong incentive for current executives to kick problems down the road, rather than make an investment that negatively impacts short term profits. It is obvious why this is an attractive form of incentive, but it comes with a potential unfortunate downside. If your company uses this approach, it may be time for a review before the next CEO is hired.

Two more things to add to your mantra: It can happen here and brand loyalty is earned daily. Not believing in the first is the triumph of hope over experience and forgetting the second is negligence. After all, as the inexperienced Lieutenant Tyler said over 80 years ago, “Don’t worry about it.” There is always someone else willing to take your customer.

“Time is free, but it’s priceless. You can’t own it, but you can use it. You can’t keep it, but you can spend it. Once you’ve lost it you can never get it back.”

— Harvey Mackay

Richard Levick
The Art of Not Listening

Fifth in a Series on Reputation Management and Risk Communications

By Richard Levick

“These are the times that try men’s souls; the summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now, deserves the love and thanks of man and woman.”

— Thomas Paine, December 19, 1776

According to Sir Thomas Malory’s masterful work, Le Morte d’Arthur — the mainspring tales of the legendary Camelot and the Knights of the Round Table — a young King Arthur romanticized Merlin’s soothsaying abilities. Since the mighty magician lived backwards — his past was our future — he was wise and always accurate in his predictions (at least until Mark Twain’s 1889 novel, A Connecticut Yankee in King Arthur’s Court, turned Merlin into a jealous and small-minded competitor to protagonist Hank Morgan). As Merlin instructed the boy king, ‘It is a curse to know the future.’

It is indeed no blessing to know the future, but it is a gift, particularly in times of crisis, to have a pretty good idea of what is coming next.

Listening When Life and Liberty Are at Stake

“Will You sweep away the innocent with the guilty?”

— Genesis 18:23

A little more than a year after 9/11, when Americans were understandably incensed and inconsolable by the horrific tragedies on American soil, many Arabs in the Gulf region were caught in a dragnet and taken to Guantanamo Bay, Cuba, a U.S. prison not fully subject to Constitutional protections. While hundreds of detainees would be found guilty, hundreds more languished in the prison for years without charges or trial. In a post-9/11
America, heartbreak, fear and anger meant there was little interest in separating the
guilty from the innocent. Even the George W. Bush administration, fully sensitive to the
politics of the moment, was unmoved by three U.S. Supreme Court rulings which
required due process.

Leaders in Kuwait — one of America’s closest allies in the region — invited us to meet
with them to develop a communications approach to support their legal strategy and
ensure due process for their sons, brothers and fathers. All but one would turn out to be
innocent, but they were also a politically convenient collateral damage.

On departure from Washington, D.C., we had been told by our perspective client that
we should rest upon arrival and then meet with them the following morning. And rest
we did until moments after closing our eyes the hotel room phone rang and we were
invited to a diwan — a large meeting room in a private home.

As is custom, it was two dozen Arab men in thawbs and kaffiyeh, only two of whom
spoke English fluently, all sitting on couches in a large rectangle, with us in the middle.
How, they asked, were we going to proceed to ensure justice?

It must have gone well enough, for the next day we were invited to a private home and
granted entrance before the man of the house — a retired Kuwaiti military officer —
returned. We were invited in by his wife and daughter who had made tea and cakes for
our wait. While this may seem an old custom to many Americans, it is highly unusual
in the Arab culture for unknown men to be alone with the women of the house. Being
welcomed into a home under such circumstances indicated a high degree of trust. We
knew at that moment we had won the business.

Over the coming years we would work closely with these families and, in concert with
legal counsel, succeed in release, trial and rendition for all but one of the detainees.
Due process and justice had prevailed even at a time of highest tensions.

What always impressed me was despite the cultural differences, legal challenges and
issues of life and liberty that were at stake, the clients listened to us every step of the
way, from a protest march at Old Bailey in London to media interviews and editorial
meetings. It was a long process and terrifically unpopular in the United States at the
time, but due process and justice prevailed.

Not Listening When the TV Lights are On

“It takes a great man to be a good listener.”
— Calvin Coolidge

During the financial crisis of 2007-2008, we were embedded at AIG and counseled
extensively against paying the $454 million in bonuses to 73 employees just after the
$170 billion U.S. government bailout (a loan the company would pay back with interest
well ahead of time). While AIG was contractually obligated to pay the bonuses, there
were alternatives with lesser risks. We counseled that if AIG paid the bonuses at that
time they would instantly replace Lehman Brothers as the poster child for what was
wrong with Wall Street, doing far more harm than good. Our advice, though seriously
considered in a number of quarters, lost out, and the rest, as they say, is history. The
newly appointed CEO — the heroic Ed Liddy — and leading legal counsel were willing
to listen but too many people inside the organization feared the consequences of not
paying the bonuses. The brand damage was brutal.

What Do I Do When The Cameras are on Me?

“All the world’s a stage and most of us are desperately unrehearsed.”
— Sean O’Casey

Speaking with journalists, shareholders, customers and stakeholders is easy when the
going is good. As the old saying goes, “We are all capitalists on the way up but
socialists on the way down.” But when things turn bad? Communications suddenly
becomes much more challenging. As another old saying goes, “The gods of crisis
demand a sacrifice.”

I’m no Merlin but years of experience in the trenches of the most challenging matters
globally provide the experienced crisis communications professional a sixth sense
about what's next.

Here’s a cheat sheet for CEOs and other decision makers responding publicly when
things are moving in the wrong direction:
Who is driving the bus? Legal counsel in a crisis is essential and needs to be on the bus, but unless legal exposure is the single greatest market cost, it shouldn’t be driving the bus. First, determine the greatest exposure and the likely sacrifice and then let that department or counsel drive the decision making.

What are the interests of the people giving you information? As a leader in a crisis, you need information quickly and accurately, but it is often the thing in shortest supply.

In a crisis, everyone should bleed the company colors. Unfortunately, personal interests often get in the way. Frequently, direct reports provide select information to avoid highlighting any of their potential culpability. It is always easier to point fingers after something has gone wrong, so this instinct is understandable. Consume as much information as you can but be sure to question the personal interest of the messenger.

Encourage robust debate amongst different experts: You cannot get to the best decision without a healthy debate amongst disciplines. Have legal, IR, brand, C-Suite, HR, crisis communications and others calmly debate it and determine what the risks and benefits of each path are. The goal isn’t perfection but the lowest market cost.

Embrace sacrifice: A true crisis is defined by the fact that there is no perfect path. There will be a price to pay no matter which road you choose. Identify the least costly and simultaneously most beneficial sacrifice and make it early. Pulling a product, firing a team, selling a brand, making an apology or whatever the situation demands can be the most effective tool for deflating a calamity. You cannot make that determination without having trusted counsel mentioned above do the math and determine the sacrifice.

Never lead with the Ego: Too often, when a crisis involves a CEO, founder or other high-profile executive, we hear concerns about their “reputation.” Reputation management is, of course, critical, but the business issues come first. In time — and less time with effective communications efforts — bad news on the internet can be replaced by good news in a post-crisis environment. As we say, ‘If you want to keep a secret, put it on the second page of Google.’

We often see executives worried about their reputation and desiring to set the record straight. This can be an important strategy for the right moment, but if the narrative is already written, it is often wise to keep your head down and set the record straight later, when you control the communications, not the critics.

In a crisis, everything is upside down: All the rules that got you here won’t necessarily get you out of the crisis. Start with a tabula rasa and reconsider all of your options. Don’t pay the bonuses. Consider a deal with the prosecutors. Recall the product voluntarily. Keep quiet or run to the light, depending on what will make the story go away. Rather than look backwards at what you have always done, understand that in a crisis, all the rules have changed. You cannot get to rebuilding reputations and brands if you have not gone through the crisis first.

What will your adversaries do next? Many business crises have adversaries — regulators, the plaintiffs’ bar, politicians, activist shareholders, unions, NGOs and others. What are their interests and what will they do next? How will they zig if we zag? Never make decisions in a vacuum. Instead, ask, “If I were counseling them, what would I do next?” Then, plan accordingly.

Silence can be golden: Fighting back is a natural instinct and, under the right circumstances and timing, is precisely the right strategy. 1988 presidential candidate Michael Dukakis famously learned the cost of not fighting back against the Vice President and presidential candidate George H.W. Bush, watching his double-digit lead disappear before it occurred to him to throw a punch. But sometimes silence is golden. Before you raise your head above the parapet, balance the costs between fighting back and remaining silent. In today’s exceptionally fast-moving news cycles, some crises will either be over in a day or two or be elongated if you fight back. Make sure you make the proper determination, lest you break into jail.

“I love the man that can smile in trouble, that can gather strength from distress and grow brave by reflection. ‘Tis the business of little minds to shrink, but he whose heart is firm, and whose conscience approves his conduct, will pursue his principles unto death.”

— Thomas Paine

Richard Levick
How Good Is Your Company at Managing Political Risk?

Sixth in a Series on Reputation Management and Risk Communications

By Richard Levick

The following article by Richard Levick first appeared in BRINK, a publication of conversations and insights from the edge of global business, on April 4, 2022.

The most oft-asked question I get from C-suite executives and board members is, “How do we navigate these rocky political shoals?” We have studied and consulted on mercantile activism for years, and while we have identified many rules, we also find that the rules change rapidly with so many exceptions that it requires extremely honest and ongoing 360-degree discussions to apply them effectively.

Companies are being forced to navigate issues publicly that impose upon them political decisions whether they seek them out or not. Sanctions are the latest and the fastest, but there are others. The SEC recently proposed climate disclosure rules, which promise to be highly complex and challenging; in response to restrictive new abortion laws in multiple states, companies are having to choose if their health insurance includes travel reimbursement for abortions; and anti-LGBTQ laws in Florida, Georgia, Louisiana, Oklahoma, Tennessee, Texas and other states are also forcing U.S. companies to take a stand. Add to that the questions of whether you leave Russia, how, to what extent and, if you’re considering a return, how you would manage reentry.
When to Speak Out and When Not To

The tales of Delta and Disney illustrate how difficult this can be. One company was excoriated for saying something and the other for staying silent.

Delta was heavily criticized for appearing to support Georgia’s legislation to restrict voting access, when in fact, it had tried to make the legislation less onerous and had written an internal memo highlighting the changes. Delta, as the largest employer in the state of Georgia, regularly comments internally on much of what happens at the statehouse without necessarily lobbying for a particular change. Nonetheless, Delta appeared to the public to be supporting the legislation. You break the glass, you own it.

Contrast that with Disney who initially remained silent on Florida’s “Don’t Say Gay” legislation and was denounced for it by its own employees and others and has since changed its position (though it continues to remain silent in most other states where it does business and similar legislation is on the books). Darned if you do, darned if you don’t.

The bottom line is that none of the rules, including the ones below, are written in stone. Work with “a cabinet of rivals” — lawyers, lobbyists, brand experts, HR, communicators and more — so that you holistically understand the forthcoming issues. Know and trust each other now, so that in the moments that count, you have license for difficult conversations and constructive disagreement.

Don’t Be First In or Last Out

Since the invasion of Ukraine began, over 400 companies have announced their withdrawal from Russia, while others have stayed. Jeffrey Sonnenfeld and his team at the Yale Chief Executive Leadership Institute have recorded these activities, categorizing them by their level of commitment to departure and excoriating over 30 companies that have stayed in their “Hall of Shame.”

The first day the list went public, many of the Hall of Shame companies saw their stock drop 15% to 30% when the key market indexes fell by one-tenth of that.

As Sonnenfeld points out, those companies that have stayed risk becoming tarred as a number of American companies did three-quarters of a century ago for their “constructive engagement” with Hitler’s Germany in the run up to World War II. Beware, this is a scarlet letter that lasts for decades.

Unless you are planning on making this your corporate-defining moment, the best strategy for most companies leaving Russia is to be neither first nor last.

Your Brand Can Be a Buffer

All great companies struggle to go from a product to a brand to a theology. Nike, Apple, Starbucks, Marriott, the NFL — these aren’t just brands. They take on theological importance, which creates its own significant buffer. When Nike or Apple does something wrong, the first instinct is to trust them and give them the benefit of the doubt. A luxury enjoyed by few companies.

Simon Sinek’s Start with Why asks an essential question — why are you in business? Maximizing profits for shareholders and servicing your customers are no longer enough. Understand your tribe.

Nike’s advertising campaign embracing Colin Kaepernick was no accident. Nike understood exactly where its market was going and decided to embrace an icon who, as a controversial figure, was Kryptonite for most other advertisers.

Nike took on the NFL — the second most powerful sports league in the world and one of its key customers — and won. The results weren’t even close. Nike increased its market cap by billions, and the NFL did a 180-degree turn and, at least publicly, embraced diversity.

Does your company know where its market is going? Do you have patience to wait out 10 days of online vitriol and calls for boycotts, including online burning of your product? Nike did, because it knew its customers, knew the place it holds not just in customers’ heads but in their hearts and, most critically, knew in which direction the market was moving.

B2B Companies Are Not Exempt

Since Foxconn and Takata, there is no such thing as a business-to-business company. We are all consumer brands now and have earned the “success tax.”

Any company can be the target of calls for boycotts, protests, online shaming, employee and shareholder revolts, etc., not just consumer brands. While this may feel obvious, most historically, B2B companies are largely untested under the clique lights and prefer to think “it can’t happen here.” Yet Sonnenfeld’s Hall of Shame has more than its share of B2B companies.
Our best decisions are not made when we feel the anxiety induced by inquiring reporters on deadline. Use your peacetime wisely. Test your interdisciplinary teams multiple times a year. Reverse engineer what other companies do in difficult public situations. Look forward to tomorrow’s issues — such as Taiwan — and game it out. Know and have relationships today with third-party allies and NGOs.

There are two moments when an issue goes from a one-day story to a negative viral sensation. The first is the moment a decision considered a mistake goes public. The second is when reporters ask other experts. If they pile on, you risk becoming a poster child of what not to do. Know your potential allies before you need them. There are few who will jump in the quicksand once accusations are made.

**Political Donations Are a Minefield**

One of the unintended consequences of the U.S. Supreme Court’s *Citizens United* and its progeny decisions is that while companies gained First Amendment rights, they also acquired First Amendment responsibilities.

Already challenging prior to the January 6th insurrection, political donations are now a minefield. Heretofore opaque PAC, 527 and association donations and alliances are now largely *transparent* and draw heavy and sustained critical fire from the media, social critics, employees and even shareholders. Companies have to increasingly ask the question if playing the political donation game is worth the cost.

Most of the time, a single tweet is not hugely consequential, yet the early warning on the Saudi-Emirati blockade of Qatar was uncovered through a single, suspicious tweet. If we do not understand the context, then the power to predict the future is lost in a pile of pixels.

The blinding speed and unanimity with which the U.S. and NATO applied sanctions over Ukraine is historic and remarkable. Governments, working in unison, worked at a speed few could imagine.

If this is now the speed of the possible, never has it been more important to anticipate and plan for a world that is much different than it was yesterday.

Richard Levick
Risk Mitigation in the Age of Sanctions

Seventh in a Series on Reputation Management and Risk Communications

By Richard Levick

“I cannot fathom why any of these companies are remaining in Russia helping the evil empire. It is indefensible and gravely troubling.”

— General David Petraeus

We have now, all of us, looked into Russian President Vladimir Putin’s eyes and we are troubled by what we see. As U.S. Senator Mitt Romney of Utah put it, he is a “man who is trying to shape the world in the image where once again Russia would be an empire.”

Like so many things today, the battlefield has changed. International diplomacy is no longer the purview of just the Madeleine Albrights, Henry Kissingers, Dean Achesons and Ralph Bunches. If you lead a company, you have long been an ambassador but now you are a diplomat too. As Eleanor Roosevelt said to Vice President Harry Truman four hours after President Roosevelt’s passing, “Is there anything we can do for you? For you are the one in trouble now.”

For the past 50 years, we have more or less followed the Milton Friedman Doctrine — “the social responsibility of business is to increase its profits.” Historically, when faced with a delicate public problem, we could issue a statement talking about our responsibility to our customers and our shareholders. Crisis averted. Today, that won’t even buy a news cycle.

Another signpost we have sped past is the age of the Lexus and the Olive Tree. Tom Friedman’s theory may no longer apply. Countries with a middle class strong enough to support a McDonald’s network do go to war with each other. There were 850 McDonald’s in Russia and 81 in Ukraine. The calculus between trade, investment, prosperity and freedom has been broken.
A half century ago, I was a young social activist and cut my political teeth on the nascent environmental and anti-Vietnam War movements and spent my first career as a grassroots organizer and lobbyist, extensively trained in Saul Alinsky methods. I dreamt of the day when a corporate brand would have a social purpose. But like so many aspects of youth, I am not so sure anymore.

How ironic that I now increasingly long for the day when, as Sigmund Freud would say, “Sometimes a cigar is just a cigar.” The new reality, for the foreseeable future, is that brands are increasingly defined by where they stand on some topical social issues as much as they are on price or quality.

The most oft-asked question I get from C-suite executives and board members is, “How do we navigate these rocky political shoals?” We have studied and consulted on mercantile activism for years and while we have identified many rules, we also find that the rules change rapidly with so many exceptions that it requires extremely honest internal and ongoing 360-degree discussions to apply them effectively.

If the rise of the Internet has done nothing else, it has blurred boundaries. The nation’s second online bookstore — Amazon — is now the world’s largest grocery retailer. Accounting, consulting and law firms no longer have entirely separate lanes. World War II-era Senator Arthur Vandenberg’s old adage that “Politics stops at the water’s edge” is, tragically, now not always true. Politics is no longer the third rail of business. It is a part of your brand.

Companies are being forced to navigate issues publicly that impose upon them political decisions whether they seek them out or not. Sanctions not only being the latest but the fastest.

The SEC has newly issued proposed climate disclosure rules, which promise to be highly complex and challenging. In response to restrictive new abortion laws in multiple states, companies are having to choose if their health insurance includes travel reimbursement for abortions. Anti-LGBTQ laws in Florida, Georgia, Louisiana, Oklahoma, Tennessee, Texas and other states are forcing companies to take a stand. Add to that the questions of whether you leave Russia, how, to what extent and how you would manage reentry.

But You Said…

A case in point about how difficult all of this is are the tales of Delta and Disney. One company was excoriated for saying something and the other for staying silent. In the case of Delta, they were heavily criticized for appearing to support Georgia legislation to restrict voting access, when in fact, they had tried to make the legislation less onerous and had written an internal memo highlighting the changes. Delta, as the largest employer in the state of Georgia, regularly comments internally on much of what happens at the statehouse without necessarily lobbying for a particular change. Nonetheless, they appeared to the public to be supporting the legislation. You break the glass, you own it.

Contrast that with Disney who initially remained silent on Florida’s “Don’t Say Gay” legislation and was denounced for it by its own employees and others and has since changed its position (though it continues to remain silent in most other states where it does business and similar legislation is on the books). Darned if you do, darned if you don’t.

The bottom line here is that none of the rules, including the ones below, are written in stone. Work with “a cabinet of rivals” — lawyers, lobbyists, brand experts, HR, communicators and more so that you holistically understand the forthcoming issues. Know and trust each other now, so that in the moments that count, you have license for difficult conversations and constructive disagreement.

Nothing Stays in Vegas

Since the invasion of Ukraine began, over 400 companies have announced their withdrawal from Russia while others have stayed. Jeffrey Sonnenfeld and his team at the Yale Chief Executive Leadership Institute have recorded these activities, categorizing them by their level of commitment to departure and excoriating over 30 companies that have stayed in their “Hall of Shame.” The first day the list went public many of the Hall of Shame companies saw their stock drop 15% to 30% when the key market indexes fell by one-tenth of that.
As Sonnenfeld points out, those companies that have stayed risk becoming tarred as a number of American companies did three quarters of a century ago for their “constructive engagement” with Hitler’s Germany in the run up to World War II. Beware, this is a scarlet letter that lasts for decades.

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Is it Hegelian Dialectic time?

The seemingly boundless arcs of history are ultimately constrained by Hegelian moments which eventually define peaks and nadirs. World wars, plagues, depressions and other significant events tend to get people and governments to do extensive soul searching, re-evaluate and realign. The Russian invasion of Ukraine, which threatens to escalate into a World War II-like conflict, feels like one of those moments, which cuts through our differences and may offer unity as a silver lining. Once Vladimir Putin “makes you feel uncomfortable” it has the ability to change a lot of attitudes.

If we are indeed at one of those moments, expect fundamental attitudes to change very quickly.

Start with the Why

All great companies struggle to go from a product to a brand to a theology. Nike, Apple, Starbucks, Marriott, the NFL — these aren’t just brands. They take on theological importance which creates its own significant buffer. When Nike or Apple does something wrong, the first instinct is to trust them and give them the benefit of the doubt. A luxury enjoyed by few companies.

Simon Sinek’s Start with Why asks an essential question — why are you in business? Maximizing profits for shareholders and servicing your customers are no longer enough. Understand your tribe.

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NIKE took on the NFL — the second most powerful sports league in the world and one of its key customers — and won. The results weren’t even close. Nike increased its market cap by billions, and the NFL did a 180-degree turn and, at least publicly, embraced diversity.

Does your company have the certainty to know where its market is going? Do you have patience to wait out 10 days of online vitriol and calls for boycotts, including online burning of your product? Nike did because they knew their customers, knew the place they held not just in their heads but in their hearts and, most critically, knew which direction the market was moving.

Your Customers No Longer Define You

Since Foxconn and Takata, there is no such thing as a business-to-business company. We are all consumer brands now and have earned the “success tax.” Any company can be the target of calls for boycotts, protests, online shaming, employee and shareholder revolts, etc., not just consumer brands. While this may feel obvious, most historically B2B companies are largely untested under the clique lights and prefer to think “it can’t happen here.” Yet Sonnenfeld’s Hall of Shame has more than its share of B2B companies.

It’s Not Easy Being Green

I’ve had a number of conversations with DEI, HR and ESG officers over the years which is often accompanied by a certainty that they are wearing the white hat. Not so fast. Public narratives change quickly. Already diversity issues are splitting normally supportive and allied communities. The definition of green is changing as more Americans come to realize the supply chain for “renewables” goes straight through mines, indigenous lands and national security risks (Russia and China).

Nothing stays the same forever or even for very long. Our ideas on diversity will (and need to) significantly expand. Coal, nuclear, natural gas and other energy sources will have a period of greater acceptance due to economics and domestic production. The “S” in ESG will only mean more things in the coming months and years.
The critical take away is to always remain humble and recognize that the goal line is constantly moving. Facebook went from one of the most popular companies to the least trusted digital company in an inordinately short period of time. The brand trust you have earned is fleeting unless you re-earn it every day internally and externally. Marketing ESG and DEI is a lot different than living and evolving with it.

*Use Your Peacetime Wisely*

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*Scrub Your Political Donations*

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Already challenging prior to the January 6th insurrection, political donations are now a minefield. Heretofore opaque PAC, 527 and association donations and alliances are now largely transparent and draw heavy and sustained critical fire from the media, social critics, employees and even shareholders. In this age of divisiveness and heightened public criticism, and when the old tropes about equal donations and not agreeing with everything a politician or group stands for fall on deaf ears, it raises the question for corporations about the increased risks and reduced rewards of political donations.

Is there a politician who won’t take a meeting with a large company, certainly one with jobs in their district? Companies have to increasingly ask the question if playing the political donation game is worth the cost.

To help companies navigate the risk of corporate political spending, the Center for Political Accountability provides multiple resources including a model code of conduct, Navigating the Risks of Corporate Political Spending.

*Canaries in the Coal Mine*

We are in love with the “new shiny.” For a while, “big data” was just that, the new shiny object. But big data alone is just math if it is not analyzed in context. It takes a team that understands social trends, interest groups, history, influencers, legal and business issues and more.

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*It Gets Faster and Faster*

The blinding speed and unanimity with which the U.S. and NATO applied sanctions is historic and remarkable. Governments, working in unison, worked at a speed few could imagine. If this is now the speed of the possible, never has it been more important to anticipate and plan for a world that is much different than it was yesterday.

(A shorter version of this article originally ran in BRINK.)

Richard Levick
Managing Through an Angry Marketplace

Eighth in a Series on Reputation Management and Risk Communications

By Richard Levick

“Sir, your Grace’s displeasure and my imprisonment are things so strange unto me, as what to write, or what to excuse, I am altogether ignorant…And to speak a truth, never Prince had wife more loyal in all duty, and in all true affection, than you have ever found in Anne Boleyn…”

— Final letter from Anne Boleyn to King Henry VIII
from her prison in the Tower of London

After being falsely blamed for King Henry VIII’s break with the Catholic Church and of infidelity, incest and seduction by witchcraft, Queen Anne Boleyn was beheaded. It was, of course, powerful gaslighting, gleefully engaged in not just by the King, but by the insiders of the Royal Court. Sensing her weakness, they piled on and, among other things, referred to the Queen as “the concubine.” The King had eyes for Jane Seymore.

It is nearly 500 years later, and yet I wonder how much we have evolved. Social media, it seems, has made us all members of a very large Royal Court, piling on, selective with facts and reducing epistemology into a debate over triggering. How does one achieve wisdom without debate?

With only a few historic exceptions — 1907 and World War II come to mind — corporations have largely stayed out of politics. Today it is no longer possible to “avoid politics.” Politics is coming for your company. The now almost certain reversal of Roe v. Wade is just the first in a series of Supreme Court decisions which will change what we thought was
well-settled. One needs no imagination to see how Congress and states are increasingly using companies — once longtime allies — as targets. Survival and success depend on planning for these changes.

Corporations such as Disney, Delta, AT&T and hundreds more are being pulled into the maelstrom, often regardless of their actual policies or positions. Today it is no longer possible to “avoid politics.” Politics is coming for your company. Survival and success depend on planning for it.

If our recent forbearers of the World War II generation were the “Greatest Generation,” our current tribal divisions make us almost the perfect opposite. We see the possible and put it out of reach.

There is no perfect strategy, but there are a number of things that companies can do to reduce exposure and avoid pushback from an angry public. Here are a few of them:

1. Blow up your silos. Integrate teams so that legal, investor relations, public relations, brand, HR, advertising and others work together seamlessly and see the world through a lens that includes an understanding of law, politics, business and history. Adversaries are increasingly grassroots organizations, not just competitors, the plaintiffs’ bar or regulators. They play by different rules.

2. Track issues using human intelligence over AI so that trends are instantly understood and anticipated before they become public issues. Too many companies rely just on “big data” without an understanding of the history or politics that dictate when a single tweet means a movement among others that are to be ignored.

3. “Know ‘em before you need ‘em.” Build your third-party allies now, during peacetime. In the early days of a rising issue, potential critics are looking to their trusted icons to determine how they will respond. Having dependable relationships with non-profits, think tanks, opinion writers, former members of Congress, academics and others with a tribal following can be a powerful — and sometimes last — line of defense.

4. See your company as your critics do. Understanding their perspective can help you anticipate why positives are perceived as negatives and vice versa. Seeing the world differently empowers you to become a change agent rather than thinking that more effective “messaging” alone will change minds.

5. Work to move your brand to a theology. Nike, Apple, Starbucks, Marriott and a few other corporations can more easily navigate crises because their customers and stakeholders feel that these companies are part of their own identity. How are you working to become part of the hearts and minds of your customers and stakeholders?

6. Plan for the long term. If you know your authentic brand, know who your new customers are going to be and know where the market is going, you can more easily make sacrifices and endure criticism.

The market of fairness and reason has been replaced by one of anger and guilt-by-accusation. We cannot navigate these rocky shoals by playing Whac-a-Mole. Instead, we need a multidisciplinary, long-term understanding of where the market is going and the discipline to abide by it.

“A lie can travel halfway around the world while the truth is putting on its shoes.”
— Mark Twain

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Richard Levick
We are an over-pollled society, a fact which subsequently influences politicians to prefer to follow rather than lead. Yet, how is it possible that up until U.S. Supreme Court Justice Samuel Alito’s draft in Dobbs v. Jackson Women’s Health Organization was leaked, only 20% of Americans thought Roe v. Wade was in danger of being overturned? It is like looking at a Monopoly game board and not recognizing that it is a square.

It is time for companies to think deeply about their positions on reproductive rights, health care as a political issue, same sex marriage and related matters. History sometimes moves backwards — one Court watcher referred to the leaked opinion as being akin to overturning Brown v. Board of Education with Plessy v. Ferguson — and it is going to be ever more difficult for companies to stand on the sidelines.

While few companies have yet to see this as “a business imperative,” as Levi Strauss uniquely argued immediately after the leak, they will soon. Taking sides on the most problematic issues of the day may not be advisable, but it may also be unavoidable. Companies should be using their peacetime wisely to plan and determine what and when to implement. Ten recommendations follow to help start the process:

1. **Understand these times:** For the foreseeable future — likely at least for a generation — understand that the Court will not be shy about overturning long-held norms nor concerned about winning popularity contests (historically this has often been a virtue). Surrounding yourself with decision makers who habitually look backwards is not going to be helpful in making critical decisions during these unprecedented times. You may choose to say and do nothing on choice, birth control, same sex marriage, etc., but do so out of a careful, multidisciplined analysis, not because “it is the way we have always done things here.”
2. Where to locate? Where you open your next establishment is no longer limited to the tax and regulatory rubric. Anti-choice states that criminalize currently legal behavior will not only impact your current work force but your future one as well. Since the “Pill” was approved by the Food and Drug Administration almost exactly 52 years ago, women have entered the workforce at 11 times the rate they did prior to its approval. While access to birth control and abortion are by no means the only reasons why women entered the workforce in large numbers, their impact cannot be underestimated. Already college-aged students and their parents are evaluating their college choice on whether their daughters might become a criminal. Consider recruitment in the coming years.

3. Understand your workforce: Levi’s acted in part because of its substantial female workforce and large female customer base. Unionized or not — and increasingly employee activism is coming as wildcat actions rather than organized labor — understand the thoughts and feelings of your employees. You may not always be able to lean in, but the more accommodating you are on other issues, the more room you will have with reproductive matters.

4. Where is the market going? Nike embraced Colin Kaepernick because it understood where the market was going and was willing to leave smaller groups of traditional customers behind. The question for you is not where your market is now, but where it is going.

Sacrifices will be required. No matter your position or whether you take no position at all, some constituencies will be offended. In this day and age, threats of boycotts are seldom realized, but neither is the hope of pleasing everyone. There will be no unanimity amongst employees, customers or critics, so do not let the perfect be the enemy of the good.

5. Your political contributions are transparent: Most corporate political contributions are no longer opaque. It is increasingly difficult to stake out positions while simultaneously funding politicians with opposing views. There is a 100% chance you will be exposed for contributions inconsistent with publicly expressed corporate views as there are now publications and NGOs that study these political contribution records and make them public. Traditional journalists closely follow their work.

For as little as companies receive in return for political contributions, rethink your strategy. Either align your political contributions or make none at all, like IBM. Never has doing the right thing been less expensive.

6. Plan for the long haul: The division over Roe is five decades old; the division in the country is a fifth of that, but both will get worse before they get better. This is not a “lipstick on a pig” moment. Neither play Whac-A-Mole with this issue nor think that you can get away with hypocritical or superficial positioning. Whatever you do, build it as part of a long-term strategy.

7. Listen: In these challenging days, conversations between people with sincerely held pro-life and pro-choice positions finding common ground are among the most inspiring moments. Explore this common ground and see if it can provide you a platform to remain both neutral and helpful, if that is the position you want to stake out.

There are lots of ways to carve out these issues. Have robust conversations with diverse leaders in your firm, including HR, diversity, legal, insurance, brand, medical, employees and more to determine what is the very best way to address reproductive rights and sexual preference issues and carve out a strategy that works best for your company. Build a communications strategy around it, rather than vice versa. This is not just a legal or political issue and should not be internally addressed as if it is.

8. Your brand will be defined by these decisions: Why is your company in business? It is no longer just for shareholder profit and customer satisfaction. The more senior executives understand why they are in business, the more easily they can carve out positions on these challenging issues. Starbucks has always been “the third place.” Apple was always for the creative in us. Understanding who you are has never been more important. If you have not already after DEI, ESG, #MeToo, global warming and more, it is time for a 360-degree review of the totality of your brand.

9. Don’t be first or last unless you want notoriety: If you want to get noticed — and there can be great value in that — then be first to win the media coverage. Otherwise, be anywhere but last.
10. Be sincere and authentic: Chick-fil-A’s since-largely-abandoned anti-LGBTQ positions never inspired organized resistance because they were based on authentic, sincerely held and well-articulated religious beliefs. Sincerity and authenticity may not be Kevlar, but they go a long way in defining who activists are going to target.

Whatever you do, Dobbs will not be the end of challenging public issues for corporations. Plan for a series of challenging decisions over the coming years, build your strategy comprehensively and be forward-looking. What you do next is going to have more impact than all of your advertising, marketing and political contributions combined.

There is a non-scaling fence around the Supreme Court of the United States. It is a shocking admission of where we are as a country. A country, that just a century-and-a-half ago had erected a monument on its shores as a beacon to “Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door!” Unless you’re pregnant.

Enjoy the listen.

Richard Levick

Listen to Overturning Roe v. Wade
It Can Happen Here

Tenth in a Series on Reputation Management and Risk Communications

By Richard Levick

A country that tolerates evil means—evil manners, standards of ethics—for a generation, will be so poisoned that it never will have any good end.”
— Sinclair Lewis, It Can’t Happen Here

I am a child of “The Great Society,” President Lyndon Johnson’s call to use the country’s post-World War II prosperity to “enrich and elevate our national life.” With an overwhelming majority in Congress, he was able to sign into law 84 pieces of legislation, including the Civil Rights Act of 1964, the antipoverty Economic Opportunity Act of 1964, the Food Stamp Act, the establishment of Head Start and the Higher Education Act of 1965, which, among other things, provided low-interest loans to students. It was quite the time.

I am also a student of the Milton Friedman approach that “The social responsibility of business is to increase its profits.”

So here we are, on the horns of a dilemma. What, we wonder, do we want our corporations to be? Purveyors of products and services, providing shareholder value or weighing in on political positions and exercising a broad level of environmental, social, labor and other responsibilities that ultimately define us? We are what we stand for.

There are two great truths we have learned about the politicization of all things over the past few years. First, that divisive politics, which have shaken this country to its roots, have now spread to the boardroom; and second, that no company is immune. Neither silence nor leadership guarantees that you will successfully manage the arduous path of the newly bellowing “Roaring 2020s.”

Companies that seemed immune to activists and political criticism are finding themselves in challenging territory — AT&T, Delta, Disney, McDonald’s and Nike, to name but a few. About the only thing we know for certain is that inconsistency and being too slow to respond to the moment are recipes for desperately unwanted attention and worse.
In this space, we have written extensively about rules and recommendations for companies, both public and private, and how they can best navigate the new normal. While there are many other recommendations, at the top of the list are three critical points:

• Use your peacetime wisely. There is no better time than now to address what is coming next. If you wait until you are in the crosshairs, it is too late. Hope is not a strategy.

• Understand why you are in business. Shareholder value and satisfied customers are a foundation but no longer a purpose.

• Involve multidisciplinary teams that have business, historical, investor relations, social media, legal, branding and other skills. Corporate teams that are siloed, as most are, will assume that each challenge is a nail in search of a hammer. This is a moment for wise, collective counsel. Activists deliberately pick targets that reside between silos, where companies are most vulnerable.

Looking for more clarity, this past week on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal, I interviewed my old friend Dr. Tony Jacques, author of Crisis Counsel: Navigating Legal and Communication Conflict, on his latest article, “When Should Corporations Take A Stand On High-Profile Social Issues?” What should companies do about these issues when shareholders, customers, employees, stakeholders and politicians are often pulling in different directions? Looking at Disney, Levi Strauss, Nike, Ben & Jerry’s, BMW and more, this show is designed to help companies navigate these challenging issues.

Tony suggests there are several key rules, including the business relevance of the issue, corporate consistency, carefully selecting your social issues and the value and risk of saying nothing.

Also this past week, to try and gain some historical perspective, on the weekly show Real Washington on In House Warrior — which I cohost with former CNN Legal Analyst Michael Zeldin of That Said With Michael Zeldin — we interviewed bestselling author David de Jong about his new book Nazi Billionaires: The Dark History of Germany’s Wealthiest Dynasties. As great as companies like Allianz, BMW, Daimler-Benz, Porsche and Volkswagen are, their paths to extraordinary success and those of their dynastic families go right through the Third Reich. In this show and in his book, David explores the families, their arrangements with Nazis — including Adolf Hitler — and how they profited from historic tragedy. Filled with lessons for today’s corporations facing so many challenging issues, David suggests, “Be mindful of history.”

There are at least three lessons from his interview:

• Whatever you do, it will eventually become public.

• Your actions today will be viewed through the lens of history.

• If you stick with the Milton Freidman approach, while you will not be immune to criticism or history, it is at least a safe place to start your internal conversations.

Also this week, Jeff Berkowitz of business intelligence firm Delve authored a very thoughtful piece for companies about the Roe v. Wade dilemma, which is making the issue of corporate positions on social issues all the more prescient.

There are so many variables for each company that the best strategy involves recalling the lesson of the Zen master and the little boy, as articulated in Charlie Wilson’s War: “We’ll see.” Every company, every situation, every jurisdiction, every moment in time is different and requires baking a fresh cake. With so much at stake, give your company plenty of time — and multiple perspectives — to game out these decisions.

This is not the first nor the last time we will be writing on these challenging and evolving issues. As for specific advice, “We’ll see.”

“There are those timid souls who say this battle cannot be won; that we are condemned to a soulless wealth. I do not agree. We have the power to shape the civilization that we want. But we need your will, your labor, your hearts, if we are to build that kind of society.”

— President Lyndon Baines Johnson, May 22, 1964, in his graduation address at the University of Michigan

Enjoy the shows.

Richard Levick

Listen to When Should Corporations Take a Stand on High-Profile Social Issues

Listen to Nazi Billionaires: The Dark History of Germany’s Wealthiest Dynasties
Is Nothing Sacred? The Weaponization of Spokescandies

Eleventh in a Series on Reputation Management and Risk Communications
By Richard Levick

“I been Ayn Randed, nearly branded
Communist, ‘cause I’m left-handed
That’s the hand I use, well never mind!”
— Paul Simon

Virtue signaling on the left and an unquenchable outrage machine on the right threaten daily to immolate innocent corporate brands as collateral damage. The irony is that both the left and right on the political spectrum share a collective race to victimhood, each one inspiring the other to louder shouting. Brands, no matter how innocent or animated, are the newest targets simply because they provide a platform for opinionated television anchors and howling mobs. The Queen of Hearts from Alice in Wonderland has become the 21st century version of a mold for Mount Rushmore. “Off with their heads” has replaced epistemology.

We apparently do not stand on the shoulders of the nine generations that built America nor see ourselves as the beneficiaries of the most successful experiment in a democratic form of government in two millennia. Our nationwide road system, schools, potable water, access to capital, military strength, power grid and educational systems to name a few, are, rather than the envy of the world, somehow blemishes to be ignored or exploited (“Government is not the solution to our problem, government is the problem.”).
Rather than be grateful, social media has empowered the most ahistorical, most unhappy and most unfulfilled to amplify their anger and make all of us either participants or bystanders to the next outrage.

The mid 1990’s controversies over Joe Camel allegedly encouraging young children to identify and subsequently consume cigarettes or Snap, Crackle and Pop possibly encouraging childhood obesity were at least sensible arguments critics could make about the influence of animated characters on young minds. Today? Logic is the culture war’s first casualty.

Why bother to grow in wisdom, focus on the soul or do good work when we can be instantly categorized by our alleged beliefs simply by the logos we wear, the car we drive or the products in our shopping carts? Sigmund Freud, Carl Jung, the Dalai Lama, your clergy, constitutional beliefs or emotional growth? As Johnny Depp said in Donnie Brasco, “Fuggetaboutit.” For critics, politicians and the judgmental class, our consumer decisions have become a new religion to define, anger or dismiss.

Rather than governing, attacking brands has become a surrogate for the GOP on the one hand and for thoughtful change on the other from what used to be known as the political left. On the left you are a perpetrator if someone uses the wrong pronoun and on the right if the person you are speaking with doesn’t watch Fox News.

Consuming hamburgers, getting a vaccine, going to Disney World, wearing Nike sneakers, drinking from Starbucks Red Cups (“A war on Christmas”) or a Keurig K-cup; driving an EV (or not) and using a gas stoves are just some of the latest political targets. Who knew Thomas Paine would be replaced by Vogue? Apparently, we are what we buy.

In the nearly 45 years since the birth of cable news and internet platforms provided endless room for “news,” we always wondered what would fill all that space. And now we know. Nonsensical arguments about the sex appeal, insecurities, fashion and sexual preferences of M&M’s animated characters. Tucker Carlson went on a rampage against the candies that “melt in your mouth, not in your hands.”

While the Tucker Carlson argument is remarkably silly, the lessons from Mars’ superb response is well worth studying. Not taking yourself too seriously, humor and keeping true to your brand has remarkable power.

You are not the target, you are a tool: If the attack is coming from Fox News and GOP-inspired outrage machine, you are just a temporary talking point. There will not likely be successful boycotts; your stock shares probably won’t suffer long-term distress and your corporate reputation is not likely to suffer substantial if any harm. While the left is a little more successful in its calls for boycotts, across the political spectrum boycotts need to be generated from the grassroots.

When criticism stems from the Hoi Polli — see the political influence of the “Swifties” and the Taylor Swift Ticketmaster fiasco — then you are fair game. If it comes from elites like Tucker Carlson, they have a remarkable megaphone but not a largely activated following.

Use your peacetime wisely: Don’t wait to be the victim. Study how other brands have become targets and how they responded and outline considerations on how you would respond if your brand became an unfortunate target.

Understand and embrace your brand: Mars’ brand is not chocolate, it’s joy. Unlike many other companies, Mars fully understands and embraces its brand position. As a result, when the attacks came, Mars did not respond in kind. It chose a single and short, charming Twitter statement (and did not otherwise engage critics) that adorably put the controversy in context while making most of us laugh. To understand how challenging this is, imagine Elon Musk getting just the right soft touch in responding to social critics.

It’s often not your fight: Tragically, the Grand Old Party has become a victim of being platformless for more than six years. It has to feed the base something, and often that is a brand. Do not go toe-to-toe. The longer you are in the ring, the more likely you will actually become the focus de jure. In the culture wars, corporate brands are just replaceable cartridges on a machine gun ammunition belt of outrage.
Mars understood the perfection of timing: While Mars didn’t start this fight, it calmly looked at outside events and timing and realized it was all happening weeks before the single largest television event of the year, the Superbowl. By announcing that they were replacing the talking chocolate candies with comedian Maya Rudolph, they set it up to be, like Apple’s 1984 Superbowl advertisement decades ago, the biggest commercial event of the evening. Curiosity significantly amplified their commercial buy.

You can’t buy this publicity: As 19th century Tammany Hall machine politician Timothy “Big Tim” Sullivan said, “I don’t care what the newspapers say about me, as long as they spell my name right.” Mars knew a good thing when it saw it. Suddenly, everyone was talking about those hard shelled candies.

Fear not for the life of these adorable spokescandies. Like the televised funeral for Mr. Peanut to the Bob’s Big Boy campaign — “Will he stay or go?” , the M&M’s animated candies have already been reincarnated. As Arnold Schwarzenegger would say, “[We’ll] be back.”

Richard Levick
About LEVICK
LEVICK is a crisis communications and public affairs agency representing countries and companies in the highest profile matters worldwide. Comprised of attorneys, former journalists, intelligence officers, authors and members of governments, we provide our clients with risk intelligence to anticipate forthcoming challenges; crisis remediation; rehabilitation and reemergence.

On public affairs, we understand how ideas become movements and can inspire viral communications — or help to minimize it. From the Gulf oil spill, AIG and Guantanamo Bay to the World Cup, multi-jurisdictional class actions and nation-state kidnappings and ransom, we help our clients implement the strategies and communications on the most complex matters. For regulatory, litigation, financial, crisis and public affairs matters, LEVICK is the firm of choice for the world’s leading law firms and insurance companies.

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