

The Ethics Question

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Bad news is relentless in the post-Bubble recession -- Rite Aid, Enron, Adelphia, Andersen, Qwest, Global Crossing, Tyco, Xerox, Worldcom and on. All these companies were involved in fraud from kiting money to shredding documents, misclassifying expenses, using the company as a family bank and avoiding tax. It is a sorry parade after a period of bold promises.

These firms stooped to chicanery to keep up appearances rather than suffer Wall Street's disapproval. They were like penniless neighbors who take up drug dealing to keep a big house and new Mercedes. With such examples of greed rattling Wall Street, investors and American society, corporate communicators are justified in asking about business ethics and personal responsibility.

Questions are timely because corporate communicators aided and betted the frauds by failing to tell the truth or by passing on what they were told without checking. There were no reported resignations of communicators while these companies were engaged in misdeeds nor were communicators compelled to testify after the companies were exposed.

Does this mean that corporate communications are absolved from complicity or responsibility? Are corporate communicators like German officers who claimed during the

Nuremberg trials that they had followed orders and were, therefore, not responsible for genocide?

Communications associations don't take that view, if one reads the codes of ethics they published for members. But, of course, ethics codes are not enforceable under the First Amendment, which guarantees free speech. The Public Relations Society of America tried for years to put teeth into its code and failed. In fairness to PRSA, the accounting, legal and medical professions have had little success in policing their own members.

So what should be done to prevent misleading and dishonest communications from going to the public? Unfortunately, the answer is not much because ethics are about personal morality and choice. You can't legislate morality.

Codes

It is instructive to read ethical codes from communications associations. While they have different focuses, their views about honesty and accuracy are the same. Here is a sampling:

- **Public Relations Society of America:** "We adhere to the highest standards of accuracy and truth in advancing the interests of those we represent and in communicating to the public."
- **International Association of Businesses Communicators:**

“Members of IABC will engage in truthful, accurate and fair communication that facilitates respect and mutual understanding...”

- **National Investor Relations Institute:** “I will recognize that the integrity of the capital markets is based on transparency of credible financial and non-financial corporate information and will to the best of my ability and knowledge work to ensure that my company or client fully and fairly discloses this important information.”
- **American Marketing Association:** “Marketers shall uphold and advance the integrity, honor and dignity of the marketing profession by being honest in serving consumers, clients, employees, suppliers, distributors and the public.”
- **Society of Professional Journalists:** “Seek truth and report it. Journalists should be honest, fair and courageous in gathering, reporting and interpreting information.”

These are noble phrases, clear in intent and useless unless individual communicators take them to heart and act accordingly. The 90’s Bubble proved that many did not.

History

The issues of honesty and accuracy were at the heart of communications through the 20th Century. All branches of communications moved from an environment of self-interest and deception toward accuracy and a longer-term view of building trust and relationships with message-receivers.

Major newspapers like The New York Times and The Wall Street Journal have been leaders in their insistence on accurate and ethical reporting, but communicators do not move at the same pace or in the same way toward accuracy.

Public relations still has a large number of press agents who will do just about anything to get news coverage. Investor relations specialists stand behind misleading earnings statements such as EBITDA (earnings before interest, tax, depreciation and amortization) because it makes their companies look better. Marketers find new ways to deceive customers, and journalists fell into a habit of using unnamed sources that sometimes were made up. Efforts to control unethical use of communications have been sporadic. Journalists seem to have made the greatest strides, but they have little to cheer about. It is questionable whether public relations, investor relations and marketing practitioners have improved or declined in ethics, but in their defense, they might have had little choice.

Reality Bites

The fact is that what a CEO wants, a CEO gets. Sometimes a board of directors has the power to stop a CEO from making false statements or misleading customers, investors, regulators and others. But, whistle blowers do not fare well, and it takes a great deal of evidence for a whistle blower to prove that a corporation has engaged in unethical action or misleading communication. Further, even though one is personally ethical, executives can sanction and encourage

unethical activity. This puts a strain on one to go along or get out. Unfortunately, it is usually easier to go along, and there are rewards for doing so.

There are many ways that a CEO can corrupt a company, but one of the most insidious is the goals that the CEO sets. This is what happened to most of the companies named at the beginning of the article.

During the 90's Bubble, investors were quick to punish any company that did not keep a torrid pace of revenue and earnings growth. Boards of directors awarded CEOs with stock options to align their interests with shareholders and to drive growth. CEOs got an opportunity to reap immense wealth for superior performance and high growth. It was apparently assumed that CEOs would act ethically, but at the heart of it all was greed, an ethically dubious motivation and moral corruption in itself. Emphasis on ever-upward quarterly earnings became obsession. If there was even a slight hiccup, institutional investors dumped a stock, and its value declined 10, 15 or 20 percent. The CEO was gone shortly and a new one put in place with the same instructions: Make the company grow – or else. The focus was on short- rather than long-term growth. It was a Gold Rush – riches now rather than riches later.

The problem was that CEOs accepted these demands for continuous short-term growth and fought to achieve it. They never questioned the assumption: Continuous growth was and is a false assumption. Companies don't grow steadily for many reasons – the

economy, the vagaries of the marketplace, regulation, competition, the relative worth of products and services, eruption of exogenous events such as wars, droughts, earthquakes or fires and much more.

It is little wonder that CEOs, CFOs and Boards reached for any means to make quarterly numbers come out right. They had put themselves in a box that they could not leave. It resulted in moral and ethical erosion. Small steps into gray zones eventually became decisions that crossed moral/ethical and regulatory lines. CEOs moved from net earnings to EBITDA. They engaged in constant restructuring that allowed them to show what earnings might have been had they not taken a write-down. They managed earnings from selling off a division to make the pennies-per-share needed or banking earnings for future quarters. They made constant acquisitions to fatten the top and bottom lines and hoped that no one would focus too closely on escalating debt as long as the stock price held up. And, as we know now, some CEOs abandoned Generally Accepted Accounting Principles (GAAP) and used "creative" bookkeeping.

Through all this, corporate communicators were silent or cheerleaders. It is too easy to say corporate communicators lacked courage. It is more likely they lacked influence. CEOs treated them as megaphones rather than counselors. Further, communicators who could and did counsel CEOs to be cautious could not change the distorted environment in which CEOs and they worked.

How then can a corporate communicator, versed in ethics, survive in such an environment? The answer is not easily. In my personal experience, appeals to a CEO's self-interest seem to be the only way to gain attention for moral and ethical issues, but even these may not be enough.

Morals and Ethics

Morals and ethics are lived: They are not academic issues. They cannot be legislated as rules or regulations because determined individuals always find ways around rules. They are not an immutable set of laws into which one is born or trained to by kindergarten: One's morals and ethics can change over time through personal choice and under stress. One must develop and maintain a moral sense that seeks to do the right thing. For those who have such moral sense, ethics codes have meaning. For those who don't, codes are worthless scraps of paper.

Morals and ethics live in organizations only if a CEO and top managers stress their importance, reward those who are ethical and punish those who are not. Moral and ethical standards start with CEOs and emanate from them through an organization. They are set and maintained in daily decisions, in off-hand comments, through formal speeches and in relationships.

CEOs given to winning at any cost rarely stress fair play and often reward aggressive and possibly unethical or immoral behavior because it achieves a growth goal. Other leaders do not probe into how subordinates achieve results as long as they deliver. They don't want to know what is happening.

Ken Lay, former CEO of Enron, appears to be one CEO who didn't ask questions.

What should corporate communicators do? First of all, corporate communicators ARE NOT guardians of morals and ethics in corporations. They are tasked with fostering relationships among key audiences that allow organizations to survive and succeed. Within this charge, morals and ethics play a strong role. Some behaviors build relationships and some are destructive. Corporate communicators should know the differences and counsel CEOs on how to communicate without damaging the CEO's interests or the interests of the company.

This is why accuracy is an issue at the top of every communicator's list. Lying destroys trust and credibility. If you lie to me today, why should I trust you tomorrow? If you lied to me in the past, why should I trust you today? While this seems obvious, it is not always clear to CEOs under pressure. In fact, it can be counterintuitive to leaders who have through their careers buried issues rather than exposing them. The relationship question is a flashpoint. These CEOs will maintain that exposing information is more ruinous to a relationship than covering it up. And, in some cases, they are right. The question becomes serious when information under question might be material, and failure to disclose is an ethical/moral question. Sometimes, it is clear-cut, but other times, there can be several courses of action. Usually, general and outside counsel will advise on disclosure, but the corporate communicator also may be party to the

discussion. Regrettably, there is no simple way to work through issues. Ethical discussions come in a broad range of viewpoints and flavors. For example, some say moral values are:

- Relative to culture, groups, nations and individuals. Ours is not to judge but to be tolerant.
- Based on religious beliefs whether Catholic, Protestant, Muslim, Buddhist or another belief. A divine entity has handed down law.
- Dependent on “natural laws” of human association and what it takes for individuals and societies to relate without disintegrating.
- The province of a well-formed conscience.
- Founded on what is good for oneself.
- Linked to duties.
- Derived from respect for others.
- A part of human rights.
- Based on a need to make the world a better place.
- Justice.
- The result of personal desire and application to becoming a good person.

With difficult issues, one can arrive at opposite answers based on any one of the stances above, and it is unlikely that senior executives will listen to reasoning that springs from a moral point of view excluding self-interest.

What can help is to work through scenarios and to find ways to present the moral and ethical implications of communications decisions to management before they arise. For example:

- Allegations of a senior officer involved in sexual harassment or drug use.
- A CEO struck with a major illness who wants to conceal it from shareholders.
- A CEO’s family members retained for company consulting of various kinds.
- A division head engaged in fraudulent activity that is not quite material under SEC disclosure guidelines.
- Discovery of hazardous work conditions in a plant that will require investment to correct and may result in lawsuits.
- A proposal from the CFO to use an aggressive accounting technique in order to beat earnings estimates.

While you may come to a decision of what the moral/ethical stance should be about communicating such scenarios, delve into the communications complications that arise from whatever approach is taken. Probable public relations outcomes may be more serious than an initial decision to communicate or not. Outcomes may focus discussion more than the decision. For example:

- What might be the impact on the company’s stock if allegations about sexual harassment or drug use show up in a lawsuit filing or indictment?
- What might the company’s lenders do if they hear rumors that the CEO is mortally ill?
- Would the CEO be happy to read about family members retained for

company consulting on the front page of The Wall Street Journal?

- Would covering up the division head's fraud prevent the story from getting out and if it does, what will the company say to shareholders then?
- If hazardous work conditions in a plant are reported publicly, will lawsuits result or are they going to come anyway whether the conditions are disclosed or not? If the lawsuits are going to come, why not get your version of the story out first?
- If you do use aggressive accounting, will Wall Street let you get away with it in the present environment, or will it hurt your stock price even more?

If it is not clear whether one should publicly disclose information or not, seek advice from someone with experience. This might be a retired communicator who has "been there," a member of a religious group, an ethicist or someone similar. Particularly with troublesome issues, it is better to counsel quietly and to escalate only when one has to do so. For example, if your CEO is in the hospital with terminal cancer and no one wants to announce the fact, you might have to go to the general counsel, a board member or other senior executive to point out the implications of keeping such news quiet.

Only rarely should one resign, but one should be prepared to do so if necessary. Such instances are not common, but they can arise. For example, a confidential source in the controller's office tips you off that an earnings report about to be issued is a misstatement. You take the allegations

quietly to the CEO who tells you to keep silent. You go back to your confidential resource and find the allegations are not only serious but also documented. You have a choice of urging your source to go to the authorities or of going yourself. If either of you inform, you will be fired and vilified. There is no easy way out of a situation like this except to go along or to quit.

The Ethics Question

Like it or not, there are and will be corporate communicators with suspect morals and ethics. They have no guideposts except self-interest, and they will do what it takes to protect those who help them. Interestingly, these individuals are adept at rising to high positions because that has been their aim all along. Most corporate communicators are not like that, but they do face moral and ethical issues. While their hearts are in the right place, their options may be limited, especially with obstinate CEOs who fail to understand the role of communications in maintaining credibility and relationships with key audiences. Communicators cannot always resolve moral/ethical issues, but it is dangerous to forget about moral/ethical dimensions when sending messages.

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