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The Politics of Business

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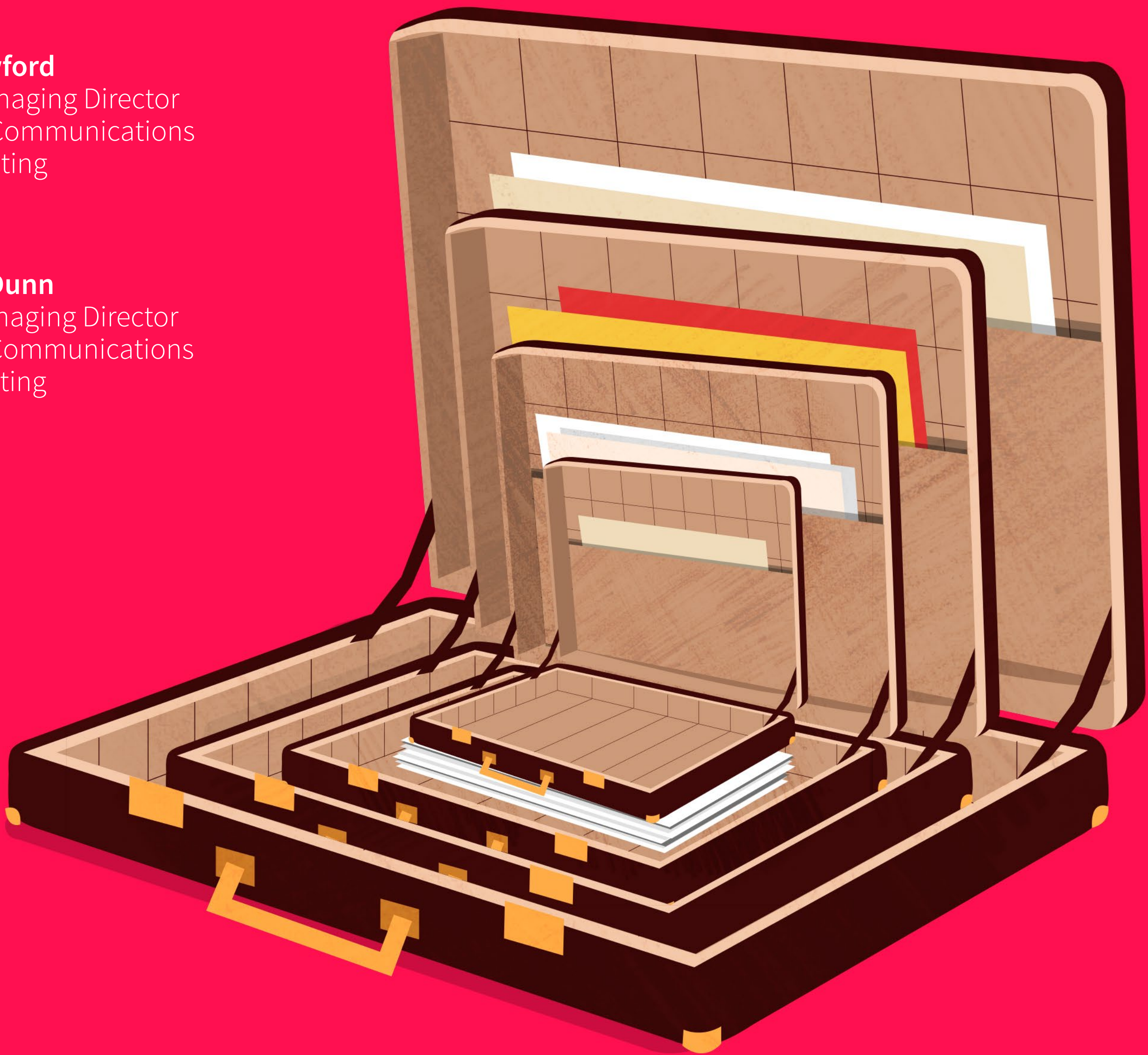

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After decades of scandals—from Enron to the 2008 financial crisis—corporations have found themselves squarely in the political limelight. Business strategies, actions and behaviors are increasingly subject to oversight and regulatory scrutiny. Although such scrutiny plays a critical role in avoiding future scandals, it also can spill into legitimate business actions. If a company's activities touch on hot-button issues, the organization can become entangled in political debates that can thwart deals and derail its strategy.

Senior executives often shy away from political controversy by trying to keep issues below the radar. However, business actions that trigger concerns over the environment, taxes and other issues quickly can become high profile. Organizations should be proactive and determine — well before they make any moves—if the company has the respect of and relationships with key political figures needed to protect its strategic interests. Waiting until there is a crisis is too late.

The Strategic Importance of Public and Government Affairs

Public opinion is a powerful driver of many regulations and steadily increasing government investigations. Corporations frequently are perceived as acting against public interests by causing financial collapse, avoiding taxes and polluting the environment — all in the name of profit. Legislators and regulators take a keen interest in what their constituents think and, as a result, often feed into the anti-corporate mood. After all, there are votes in that discontent.

At the same time, Congress seems to be focused more on investigating than legislating. Investigations can be costly. Bank of America, for example, has spent more than $45 billion on litigation and settlements in the wake of the financial crisis. Investigations also can cause serious and possibly irreparable damage to a company's reputation. The images of leading American brands such as Amazon, Apple, Google and Starbucks have taken hits from allegations of tax avoidance. These allegations add to the broad public misperception that firms are shunning their tax responsibilities.

Skeptical attitudes about corporations have been steadily influencing the regulatory environment. In the United States, with the heavy push for deregulation that began in the 1970s, regulations evolved predictably and incrementally. Enforcement was perceived as lax, and regulators rarely held companies or their leaders accountable for non-compliance.

The accounting scandals at Enron and WorldCom dramatically changed that environment. The 2008 financial crisis heightened the sense of urgency. Under public pressure, Congress passed a series of measures, including Sarbanes-Oxley and the Dodd-Frank Wall Street Reform and Consumer Protection Act, that, among other things, restrict banking investments and created the Consumer Financial Protection Bureau with broad power and authority.

Political limelight can put corporate strategy at risk. To mitigate that risk, public and government affairs should move to the center of strategy and operations. Simply looking out for regulatory changes that might affect the organization is wholly inadequate in today's environment. Business decisions must take note of the political and public policy environment, and companies should have plans in place to engage legislators and regulators on a regular basis.

Public and Government Affairs in Action

Corporate tax avoidance is a hot-button issue that quickly can draw public and government scrutiny and disapprobation, especially when it involves moving operations (at least structurally) out of the country, where one of the benefits is a favorable corporate tax system. However, through an empowered and strategic public and government affairs program, Perrigo, a large manufacturer of private-label over-the-counter pharmaceuticals, successfully steered clear of that calumny when, in 2013, it acquired an Irish pharmaceutical company and reincorporated overseas.

The Case of Perrigo

Perrigo has operated in the United States for more than a century. In 2013, the company announced that it would acquire Elan, a Dublin, Ireland-based pharmaceutical company. Perrigo also announced that it planned to relocate its corporate headquarters to Ireland, which has a 12.5 percent corporate tax rate compared with 39 percent in the United States. Although the acquisition and move were based on broad business needs, the current political debate over inversions threatened the deal. But the company avoided such an event.

Working with public and government affairs professionals, Perrigo went to great lengths to demonstrate that its relocation was not primarily about reducing tax liabilities. It was based on a business case that addressed a critical challenge: After 126 years of operations in the United States, Perrigo needed to expand abroad to maintain its growth. Elan could offer the company a bridgehead and platform for doing business in Europe, as well as the ability to make additional acquisitions by improving the company's cash flow.

With a clearly articulated rationale and narrative, Perrigo's chief financial officer (CFO) met with the U.S. House Committee on Ways and Means. The committee has jurisdiction over taxes and tariffs, and support from that committee was central to allaying concerns among legislators. The CFO explained to the committee how tax rates were only one of several factors in the company's decision, which set Perrigo apart from other mergers that had been driven by tax avoidance. The CFO also detailed Perrigo's long-range plans and its global growth expectations and was fully transparent.

In addition, Perrigo met with local government officials in its home state of Michigan to expound on the company's commitment to jobs and growth in the United States. Anticipating tax reform in Ireland and new multilateral tax-related initiatives, the CFO met with Ireland's finance minister to explain the substantive presence the company planned to have in the Emerald Isle. As a result of these efforts, Perrigo experienced very little negative publicity or political fallout from a move that was fraught with potential issues.

The Case for Liquefied Natural Gas

The Center for Liquefied Natural Gas (CLNG) is another good example of anticipating government scrutiny and implementing a plan of action. CLNG is a nonprofit trade association that represents a broad coalition of natural gas exploration and production companies, shippers, terminal operators and developers, and energy trade organizations. To build export terminals with the capability to produce liquefied natural gas (LNG), companies need approval from the U.S. Federal Energy Regulatory Commission, which has oversight over the design and construction of the terminal, including adherence to environmental policies. Project developers also need the U.S. Department of Energy to green light the export of LNG by determining that the quantities considered will not harm the public interest.

The approval process touches on two hot-button issues. The first is environmental concerns over the shale gas boom and hydraulic fracturing, which is increasing the availability of natural gas and the opportunity to sell it abroad. The second is the economic impact of exporting LNG. Some argue that expanding natural gas exports will drive up natural gas costs in the United States. Rising gas prices, in turn, increase manufacturing costs and hamper manufacturers' ability to create new jobs. Higher gas costs also mean elevated energy costs for consumers.

To counter these concerns, CLNG is addressing them head on. In terms of environmental impact, for example, the association has cited a U.S. National Energy Technology Laboratory study that found that U.S. LNG exports to Europe and Asia would cut life cycle greenhouse gas emissions by nearly 60 percent in 20 years by displacing coal to produce energy. In Europe, Asia and globally, these reductions would be beneficial.

In terms of economic benefits, CLNG has pointed to statistics from the U.S. International Trade Commission that estimate some 5,500 U.S. jobs would be created for every $1 billion in LNG exports. Depending on the level of exports, the economy could gain between 70,000 and 140,000 jobs. The job growth picture doesn't end with positions at the export facility, however. A $10 billion investment to establish an export terminal also adds jobs through the production of steel, turbines and other needed terminal infrastructure. CLNG is using many independent economic studies to illustrate that domestic natural gas prices would rise from historic lows by no more than 10 percent as a result of U.S. exports catering to global demand. In addition, selling natural gas overseas would help reduce the U.S. trade deficit by bringing in foreign currencies.

Like Perrigo, CLNG makes its arguments at the federal and local levels. CLNG leaders actively participate in conferences and seminars around the country, often speaking at such events. In formal talks and informal conversations, CLNG makes the case for the positive environmental impact of LNG terminals and explains how they will benefit the economy via increased gas production, terminal construction, and the manufacture of steel and high-value equipment necessary for the terminals.

Through these efforts, LNG projects are gaining approvals despite organized opposition.

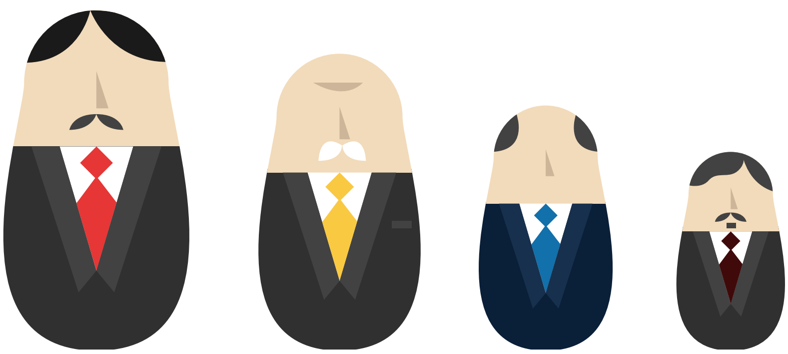
Be Proactive and Provide Resources

In the current environment, corporate executives should charge their public and government affairs staff with developing programs that effectively articulate the company's strategies and educate public officials about the company's interests and economic contributions.

To fortify the public and government affairs function, companies can follow a straightforward process. To begin, business leaders need to pressure test strategies with a multidisciplinary team that includes public and government affairs professionals. Once executives are conversant with elected officials and regulators about the potential pressures, management teams should work with their public and government affairs staff to craft compelling arguments that address those pressures. The statements should lay out the vision of the initiative, including its business rationale and the benefits for customers, suppliers, employees and the economy.

An effective public and government affairs program requires resources. Given the possible consequences of a public relations debacle in this era of the 24-hour news cycle and social media, companies are putting more resources into public and government affairs. JPMorgan Chase, which famously fended off challenges to its reputation during the financial meltdown, has a small army of people working in public and government affairs. Comcast's Public and Government Affairs department played a major role in the successful merger with NBCUniversal and will be a critical resource to help pave the way for its merger with Time Warner Cable. On the other hand, Microsoft had little government support when antitrust actions surfaced in the late 1990s. Today, it boasts a major public and government affairs operation.

The role of the public and government affairs officer used to be to sit and wait until something transpired and then smooth ruffled feathers afterward. Those days are gone. Public and government affairs must assume a proactive stance, and companies need to integrate their public and government affairs offices into the C-suite to ensure major projects aren't thwarted or reputations damaged. Effective strategic planning should include the public and government affairs perspective, and business leaders need to understand how Congress and local legislators likely will interpret a company's plans, market conduct and communications. ■



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