

PR and the Law

Civil vs. Criminal

- Civil:
 - Private party vs. private party
 - e.g. copyright infringement, some types of defamation, such as civil libel and slander
- Criminal:
 - Government body (FCC, SEC, etc.) vs.... private party
 - e.g. bribery, mail fraud, monopoly, price fixing, etc.

Litigation Journalism/PR

- Using media to promote support in civil suits or to promote defender/prosecutor for future endeavors
 - e.g. O.J., Robert Shapiro, Johnny Cochran
 - A Civil Action (1999)
 - Beatrice Foods & WR Grace

Responsibility/Safeguards

- Guidelines for Staying out of Trouble (Morton Simon)
 - 1. Recognize personal responsibility
 - 2. Know the business
 - 3. Ignore vague lines between advertising and PR--the law often does
 - 4. Decide how far you are willing to go to risk jail, fines, and court orders
 - 5. Know your opponent

Government Regulatory Bodies

- Postal Service
 - Private citizens have discretion over who they receive and do not receive mail from
 - Sender of unauthorized mail is legally liable

Government Regulatory Bodies

- Securities and Exchange Commission (SEC)
 - Annual Reports
 - Timely and adequate disclosure of information
 - Initial Disclosures
 - Follow-Up Disclosures
 - Insider Trading

Initial Disclosure Guidelines

- Announce all important developments promptly unless there is a risk of competitive data or trade secrets being compromised.
- News release must be issued to report events impacting changes of stock (up or down).
- Make judgments in good faith--no announcement can be false or misleading.

Initial Disclosure cont'd

- No delay in reporting news (good or bad)
- Implied duty to report material information (key changes in personnel, facilities, product lines, etc.) between quarters.
- Formal disclosures must be sufficiently accurate.

Follow-Up Disclosure

- Update changing data which makes previous reports inaccurate or misleading.
- Make corrections to inaccurate outside reports approved by company.
- Report all insider and executive trades.
- Disclose acquisition and merger information when principle agreement is reached.

Insider Trading

- Insider Trading:
 - using insider information to buy, sell, or trade securities, stocks, etc.
- “Tell as few people as possible anything, and then tell everyone everything.” (Newsom, Turk, & Kruckerberger)

Government Regulatory Bodies

- Federal Trade Commission (FTC)
 - Acts in interest of consumers and investors
 - Works with Better Business Bureau
 - Enforces anti-trust legislation
 - Guidelines for infomercials
 - Holds celebrities accountable for testimonials

Government Regulatory Bodies

- Food and Drug Administration (FDA)
 - Regulates press releases and advertising concerning consumable goods and pharmaceuticals

Government Regulatory Bodies

- Federal Communications Commission (FCC)
 - Regulates broadcasters, telecommunications, satellites, etc.
 - Air Waves belong to public and therefore can be policed and monitored by publicly elected officials.
 - Fairness Doctrine eliminated

Copyright Law

- Protects written works (textual, art, graphics, photos) and recorded works (songs, lyrics, jingles).
- Creations developed on paid company time using company resources are property of company.

Copyright Law

- Fair Use:
 - Occasions when copyrighted materials can be used without permission.
 - E.g., criticism, comment, news reporting, teaching, scholarship, or research.
- Plagiarism:
 - Uncopyrighted work of another's passed off as one's own--unethical, not necessarily legal.

Defamation

- Defamation:
 - malicious statements intended to damage the reputation of a living person so as to expose him or her to public contempt or ridicule
- Slander: spoken defamation
- Libel: published defamation (dissemination of more than one copy)

Campaign Finance

- McCain-Feingold Act
 - Formerly regulated and limited amounts organizations could give to political parties or candidates.
 - Found unconstitutional.
 - Back to no limits or restrictions on political giving.

Working Across Borders

- Law varies from region to region.
- Know local laws where you are practicing or obtain local legal counsel.
- Never assume that countries that appear similar will have similar laws.