ETHICS AND THE LAW

INTRODUCTION

Before we begin to practice public relations, implement strategies, or even discuss ideas for how to create effective messages, as PR professionals we must first identify a solid ethical and legal framework for how to conduct ourselves professionally.

To be successful, we must each have a sound foundation for handling difficult situations should they arise. For example, fake news, cyberbullying situations, new ethical dilemmas, privacy concerns, and more impact different areas of our industry on a global scale. In addition, while new technologies have brought forth improvements, they’ve also brought plenty of new challenges—in the areas of influencer relations (including those who amplify their presence based on fake followers and likes), fake news (presenting to the public information that is false, but looks like it is real news), misleading information for personal or agency gain, transparency and privacy considerations, and much more. As PR professionals, we must be aware of and ready to manage such problems.

To prepare ourselves to make the most ethical choices, we must ask ourselves these questions:

- Am I really being transparent to my audiences through my messages and actions?
- Am I representing and being inclusive to all audiences and their perspectives?
- Am I doing all that is necessary to protect the privacy of my audiences through my information and actions?
- Am I successful and powerful enough that I can assume I’ll “survive” an ethical crisis?
- Am I being fair to all parties involved?
What challenges could arise through this campaign or other activity?

Will what I am doing violate the trust or fail to meet the expectations of my audiences?

Am I being truthful about my actions and intentions?

Many professionals have faced these questions in a variety of different situations in their professional and personal circles. Further, these are questions you may be asked by others at any time, so you want to make sure you are prepared and know how you will answer.

In the classic movie *Liar Liar*, Jim Carrey plays a lawyer who always tells the truth. In one classic moment, the lawyer tells a character who has done wrong: “You got to stop breaking the law!” (He adds in a few colorful words that I won’t include here, so your homework assignment is to see this movie!) Another way of saying this is: You’ve got to be your best self. In public relations, our ethical and moral behaviors should reflect the best of who we are—and model for others what we expect from our clients and business partners. Too many times we have seen PR professionals get into hot water or damage control over even the simplest of ethical mishaps. Such behavior is not only detrimental to our individual careers and our clients; it’s detrimental to our profession as a whole.

When PR professionals state that “we are transparent, we are following ethical guidelines, and we have a strong code of ethics that we follow as a profession” and then do not adhere to this on the job, they violate a basic trust. Such violations of confidence and expectations hurt everyone.

Ethics, for the most part, is a topic that is frequently missing from PR curricula (more on this on p. 000). Unless we address this omission, it will likely become a problem for our field and for future professionals. So, as practitioners, educators, and students, we need to emphasize that at the core of who we are as a profession is a strong ethical foundation.

With such a foundation, we can address ethical crises such as those of recent years. Some examples include the crisis of Facebook’s use of customer data and its dishonesty about privacy practices; the crisis of Wells Fargo opening banking accounts without customer permission; and the crisis at Michigan State University regarding Larry Nassar. We can do better, going forward, by adhering to ethical behaviors and practices.

To fully practice what it is to be an ethical and responsible PR professional, it’s crucial to identify, implement, and sustain ethical principles on a regular basis. Ethical behavior is not adequate if it is just a slogan or “mission” or “vision statement” that professionals add to their keynote presentations or Twitter bios. It is an ongoing and sustainable practice that needs to be embraced in the professional circles of public relations, as well as when the cameras and spotlight are not there.

**What Are Ethics and Ethical Conduct?**

Based on current research in public relations, ethics is one of the growing areas within our profession. Yet, there is a disagreement among scholars on what ethics really is (Bowen, 2016).
**Ethics** can be defined simply as a code for how one should behave, a code that is based on values, and an understanding of what is right or wrong. As professionals, we must each have a foundational, personal code of conduct that will guide our actions and interactions with colleagues and clients. We must be aware of the standards that our organizations expect us to uphold, and also the standards that others, including clients and employers, must be held to. As Professor Shannon Bowen (2007) of the University of South Carolina states, ethics for public relations focuses on “values such as honesty, openness, loyalty, fair-mindedness, respect, integrity, and forthright communication. This definition of public relations ethics goes far beyond the olden days of ‘flacking for space’ or spinning some persuasive message, but this view is not shared by everyone.”

One of the biggest responsibilities that we have as PR professionals is that we are viewed as the “consciousness” of our brands and organizations, meaning we have to have strong ethical practices ourselves. In this same light, we are often tasked with providing ethical counsel for our clients and senior management (Neill, 2016), making ethical conduct essential.

**Behaving Ethically, Avoiding Misconduct**

Is being ethical simply knowing what is right or wrong? Should our conduct be based on what our employers or clients say is right or wrong? These are areas in which we may struggle daily in our personal lives and as PR professionals. What qualifies as misconduct? Some types of ethical misconduct include accepting gifts from clients and adapting research to present only one angle of a story rather than reporting information factually. Ethical behavior is about more than adhering to a set of guidelines posted in business and office quarters—it is a mindset and framework that informs every action, decision, and process that we face.

One of the biggest problems we may face in public relations is the possibility that we or others may somehow fail to meet ethical expectations. If we do not conduct ourselves ethically, we create conflict and violate trust. Ethical misconduct characterizes some of the biggest crises in PR history and offers us case studies from which to learn. For example, Wells Fargo has been around for years, yet the company tested its ethical code when it opened new banking accounts without telling its customers. Not being honest and trustworthy about this resulted in a huge scandal from which the company, despite its rebranding campaign, is still trying to recover. Such ethical misconduct can be prevented when professionals understand how their actions will be perceived and interpreted by their key audiences. In the Wells Fargo case, the brand’s unethical actions speak louder than its positive messaging and rebranding attempt. Companies are also not immune to these situations—PR agencies can be guilty of this as well. In February 2020, 5W Public Relations, a PR agency in New York, published a survey in a press release that stated 33 percent of beer-drinking Americans would not buy Corona beer due to the fears of coronavirus, otherwise known as COVID-19 (5W Public Relations, 2020). This survey went viral, and as a result, Corona’s sales and reputation were impacted. However, the issue with this survey, and interpretation of the findings, is manufactured according to *The Atlantic*, and this was a move to mislead the public in a shameless way to gain exposure for the agency in the popular press (Mounk, 2020).
One incident can change someone’s opinion of who we are as people. While ethics is a focus within our profession and integral to how public relations and related disciplines are taught, it can still be a challenge to teach someone how to be ethical—how to be a proactive and positive member of society and the world of business. However, adopting some basic rules can help us maintain some checks and balances. According to the Arthur W. Page Center (n.d.b), there are certain pillars of truth that we need to adhere to, such as veracity (to tell the truth), non-maleficence (to do no harm), beneficence (to do good), confidentiality (to respect privacy), and fairness (to be fair and socially responsible).

Challenges to Ethical Practices

As mentioned in the introduction to this chapter, Ethics is one of the most important courses for students of public relations to take, but it is usually the one class missing from most PR curricula (Commission on Public Relations Education, 2018). In addition, research on undergraduate students shows that most are not aware of the growing emphasis on ethical training, management focus, and strategic planning that is involved in PR practices (Bowen, 2003) shocked by the level of strategic decision making required of practitioners, and surprised by the amount of research knowledge and activity necessary in the field. Data were collected at two universities over a two-year period. Two separate phases of qualitative questionnaires of students in four principles courses were conducted, and three focus groups with these students gave additional explanation. In conclusion, the public relations profession is doing a lax job of communicating its core responsibilities and activities to new and potential university majors. Neill and Weaver (2017), in their study of more than 200 young professionals, found that there were differences between their readiness to offer ethics counsel and the availability of ethics training at work. They were willing to give advice on ethics, but lacked the educational background needed to do so responsibly.

There are some ways to address these challenges, such as taking advantage of ethics-focused webinars and training sessions offered by professional organizations such as the Public Relations Society of America, or attending workshops and presentations given by local PRSA chapters to further our educations. Another solution, especially for young professionals, is to find and work with professionals who practice ethically and ask them to be a mentor. The point is to educate ourselves and explore tools for grounding ourselves, ethically speaking. For example, the Commission on Public Relations Education (CPRE) has studied and reported on the current state of PR education and identified some much-needed changes to university curricula. Following are some of the organization’s findings:

- **Even when ethics courses are taught in college, PR departments and firms consider graduates to be unprepared.** In the 2018 CPRE report, researchers found that while educators felt that they were teaching students to be ready to use ethical practices and handle situations, the industry disagreed (p. 66).

- **A lack of legal knowledge places both the PR practitioner and the organization or client at risk of increased legal liability.** This has been raised as a “must need” in the latest report from the CPRE (2018). In fact, the 2018 report discussed how other courses, including Law, need to be added to the PR curriculum as required.
courses (p. 8), especially because of the rise of fake news, disinformation, and false rumors and information circulating in the media. Having a course that covers the type of legal decisions that have ethical implications is not only the recommendation made by the CPRE, but also how ethics needs to be incorporated into every course and area covered within the curriculum.

- **There are high expectations for PR professionals to be sensible, resourceful, accountable, and principled.** As noted in the findings in the report, PR professionals entering the workplace are expected to have certain “desirable skills,” most of which are related to integrity and ethical behaviors (CPRE, 2018). Yet we professionals and students have these expectations already laid out and incorporated into our curricula, so why are ethical crises still emerging in the field?

- **The field is under scrutiny by the general public, by nonprofit organizations, and by the government.** We don’t necessarily enjoy the best reputation among colleagues and associates. Many people think PR professionals are “spin doctors,” or even “flacks,” due to a negative experience they may have had. If we are aware of these perceptions, we can embrace them as challenges to address and reverse. We can only control our own actions, so the best step forward is to lead with ethical and sound practices, thereby showing others that negative stereotypes do not apply to all of us. We cannot let the unethical professionals among us control the narrative and influence the perception of our field—they are not the ones who should be shaping the reputation of our field.

- **People want to do business with companies and professionals who are socially responsible and practice ethical behavior.** This has become a standard practice and approach for many professionals in the industry. Case in point: If you had to choose between doing business with USAA® Bank and Wells Fargo, which would you choose? Wells Fargo was responsible for creating fake accounts for its customers without their knowledge, while USAA has not done this. Instead, USAA has done more to make sure it is transparent with its actions as a bank, to invest in customer services for its clients, and to go the extra effort in making sure it is honest about its role and what it does for its customers in its banking services. The choice is pretty easy in this case.

### What Codes of Ethics Do We Follow?

As they say in *Pirates of the Caribbean*, stick to the code!

Well, this does not mean that PR professionals should band together, jump on a ship, and set sail with Captain Jack Sparrow around the Caribbean on the *Black Pearl*. But the code of conduct that pirates follow is somewhat aligned with what we in public relations set forth: a list of behaviors and expectations for everyone to follow, behaviors that are based on shared values.

Most organizations define what they are, what they do, and how they do it. The purpose of such a code is to apply ethical values within an organization, to the people whose work makes them part of the brand. A code also shows audiences that the brand is ethically sound—that ethics is a part of its mission and overall culture. So, like pirates, let’s stick to the code!
ETHICAL CHALLENGES

Ethics in many ways is simply defined as the conduct that governs one’s behavior based on values and determination of what is right or wrong. Public relations professionals face a lot of ethical challenges, both personally as well as professionally. The 2018 Commission for Public Relations Education report outlined some of the main ethical challenges facing public relations professionals today.

NOT ENOUGH COURSES

Even when ethics courses are taught in college, public relations departments and firms consider the graduates to be unprepared. Ethics courses continue to be one of the least offered courses, but recommendations in the CPRE 2018 report that this needs to change.

LACK OF KNOWLEDGE

A lack of legal knowledge places both the PR practitioner and organization or client at risk of increased legal liability. Having an ethics course was not the only recommendation made by the CPRE, but it also suggested that ethics needs to be incorporated into every course and area covered within the curriculum.

HIGH EXPECTATIONS

There are high expectations for public relations professionals to be sensible, resourceful, accountable, and principled. Along with the findings in the report, PR professionals entering the workplace are expected to have certain “desirable skills,” most of which are related to integrity and ethical behaviors.

SOCIAL RESPONSIBILITY

People want to do business with companies and professionals who are socially responsible and practice ethical behavior. This has become a standard practice and approach for many professionals in the industry.

The Code of the Public Relations Society of America (PRSA)

What exactly is a code of ethics? And why should you want to have one? Simply put, a code of ethics is a list of values and principles that you believe in and that will help you to respond and react to specific situations. These values and principles set forth expectations on what specific actions to take (or not take).

For PR professionals, PRSA has its own code of ethics that is shared with the professional PR community. PRSA is the largest governing body for PR professionals and has set forth certain guidelines for ethical conduct in practice. The PRSA Code of Ethics (found at www.prsa.org/ethics) focuses on six areas:

- **Advocacy.** We serve the public interest by acting as responsible advocates for those we represent. We provide a voice in the marketplace of ideas, facts, and viewpoints to aid informed public debate.

- **Honesty.** We adhere to the highest standards of accuracy and truth in advancing the interests of those we represent and in communicating with the public.

- **Expertise.** We acquire and responsibly use specialized knowledge and experience. We advance the profession through continued professional development, research, and education. We build mutual understanding, credibility, and relationships among a wide array of institutions and audiences.

- **Independence.** We provide objective counsel to those we represent. We are accountable for our actions.

- **Loyalty.** We are faithful to those we represent, while honoring our obligation to serve the public interest.

- **Fairness.** We deal fairly with clients, employers, competitors, peers, vendors, the media, and the general public. We respect all opinions and support the right of free expression.

These guiding principles are used to foster a strong sense of understanding of ethical practices in public relations. Each of these areas is covered in most PR courses and encouraged in practice.

The Codes of Other Organizations

There are, in fact, organizations besides PRSA that provide not only ethical resources, but also opportunities for researchers to explore and obtain funding to conduct ethical research. One such organization is the Arthur W. Page Center for Integrity in Public Communication at Pennsylvania State University.

The Arthur W. Page Center: The Page Principles

As explained on its website (bellisario.psu.edu/page-center/about/arthur-w-page/the-page-principles), the Arthur W. Page Center (n.d.a) is a research hub at the Donald P. Bellisario College of Communications at Penn State dedicated to the study and advancement of ethics and responsibility in corporate communication and other forms of public communication. The organization’s code of ethics is similar to the focus of the
PRSA code of ethics, but the Page Center identifies and focuses on these efforts as they pertain to corporate and leadership practices in the PR field.

IABC, CIPR, and Global Alliance

Of course, still other organizations have their own codes of ethics for public relations, which is important to note. Table 3.1 lists these professional organizations and links to their codes of ethics.

One thing to keep in mind when it comes to codes of ethics is this: They are only broad statements and do not explain how to handle every situation. We must each develop a strong personal and professional sense of right and wrong, and of how to handle gray areas. It takes time and experience to determine what core values are nonnegotiable. This is important not only for our careers, but for determining where we want to work—for example, a department, an agency, a boutique firm, or a major organization—and whom we want as colleagues. Understanding the ethical culture of a brand or organization, and the attitudes of team members, tells us a lot about how the brand or organization practices public relations. If you ever find yourself in a work culture that does not promote ethical behavior, run! Even if you have a strong sense of ethics and behave accordingly, working for a brand, agency, or organization that does not practice ethically can impact your reputation and future in the profession.

Ethical Dilemmas: What Can Recent Campaigns Teach Us?

As PR professionals, we need to be alert to the types of challenging ethical situations we face when working for a brand or other client. While most professions can identify and predict various scenarios that they may face, in public relations there are always some surprises in the mix. Given the constant change in the media and technology spaces, there will always be new learning experiences on how to apply ethical practices.

Potential Situations

You may be asking yourself, What are the chances that I’ll find myself facing an ethical dilemma? The answer is simple: Ethical challenges do not discriminate. They will find you. They find all of us. There will be times when you face situations that cause you to
pause, evaluate, and respond. In some situations, it will be very clear how to best respond, whereas in others, it will not be so clear. In particular, social media has brought forth new challenges for us to prepare for and address. Remember, too, that you can have the best code of ethics for your brand, but if you do not follow those principles—if you don’t “walk the walk”—your code is meaningless. For example, TikTok has promoted its platform as one that is for entertainment and creative purposes, but the networking service has been reported to censor stories and content on a variety of topics including political speech; lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) issues; and coverage of the Hong Kong protests (Hern, 2019).

When it comes to ethics, we must be holistic and consistent. For example, if a professional organization is on a mission to support women’s empowerment in the industry, it is unwise for that organization to host a reception that promotes the opposite of that message. This is what happened at the 2019 Advertising Week industry event, at which there were many panels and sessions promoting equal pay, diversity, and other issues affecting women in the industry. Yet, the closing of the event featured the rapper Pitbull and his female dancers. An organization may say that it supports ethics and professional standards, but its actions are what audiences remember.

Here are some situations you may find yourself in as a PR professional, along with advice on what to do:

- **Making comments to the media.** When a journalist, reporter, or media professional says, “This is off the record,” consider that as a giant red flag. Nothing is ever “off the record.” It’s important to remember that, like PR professionals, journalists have a job to do, and that job is writing a story for their publication or other media outlet.

- **Disclosing your associations.** When doing business or working with clients for PR accounts or presenting yourself to the media, make sure to fully represent yourself in a transparent manner. This means in all situations, whether online or offline, on the phone or in person. This means you must identify yourself, your role, the sources of the information you’ve gotten from your client, and the research you’ve gathered for your campaign.

- **Disclosing your partnership, relationship, and affiliation during news programs or at events.** This is a big one, and it is somewhat tied to influencer relations. If you represent a celebrity who appears on a newscast or talk show, and who discusses a product but does not disclose he or she is getting paid by the company for promoting it, that’s a violation of trust. It is key to be clear and upfront with the media and your audiences on what you are doing and whom you represent. When you mislead your audiences, you begin to travel down the path toward a damaged reputation.

- **Giving or receiving gifts.** We all love gifts, but PR professionals should not give gifts or try in any way to materially reward journalists, bloggers, or influencers. Even offering modest “swag” or other potential incentives to persuade them to create a positive buzz, press, or acknowledgement of your client or product is off-limits.
Influencer relations, mentioned earlier in this chapter and discussed in detail in Chapter 9, has brought forth new challenges and obstacles for PR professionals. From the ethical standpoint, if you represent someone who gets paid to create content about a specific product, the big challenge is making sure to disclose that a payment has been made—and that the content (whether a blog post, social media post or update, video, story, or otherwise) is paid for. Many influencers, including DJ Khaled and Kim Kardashian, have gotten into trouble with the Federal Trade Commission (FTC) for not disclosing that they received payment for their product- or event-related posts.

Being aware of the trademark, copyright, and ownership of creative works. You must be aware of the copyright laws and regulations for any content or other material that you want to use. Some of it is okay; most is not unless you work out an agreement or licensing deal. For example, most brands have strict guidelines on what logos and colors can and can’t be used for marketing and promotional items, and being aware of the risks associated with using photos or videos without permission is crucial.

Being careful of what you say and do online. Social media allows us to communicate online in real time, but as we know, its platforms are not private. Think critically and make thoughtful decisions about what you do, say, and share online. For someone who makes an error or crosses a line of appropriateness, the internet does not forget. Keep in mind the power of the screenshot. Once someone makes a copy of what you tweeted, shared, snapped, or posted online, even if you’ve deleted your post, it is still there, forever.

There are many different situations that PR professionals may face that are not always covered in class or in a textbook. Yet, with the changes happening in the industry, we have to be able to identify them and know where they come from. There are going to be some cases where they happen across all fields, but some are more specifically related to a particular area within the PR industry. (See Table 3.2.)

<table>
<thead>
<tr>
<th>Ethical Situation</th>
<th>Areas of Focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gifts or bribery</td>
<td>Journalists, news media, influencers</td>
</tr>
<tr>
<td>Spam and cookies</td>
<td>Social and digital companies (TikTok, Facebook, etc.)</td>
</tr>
<tr>
<td>Attacking competitors with false information</td>
<td>Consumer brands</td>
</tr>
<tr>
<td>Setting up “front groups” and stealth marketing</td>
<td>Government or public affairs</td>
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<tr>
<td>Fake data from influencers</td>
<td>Online reviews (Yelp, TripAdvisor®, Google, Apple, etc.)</td>
</tr>
<tr>
<td>Not representing true self (e.g., fake reviews)</td>
<td>PR firms and agencies</td>
</tr>
<tr>
<td>Issue of overcharging clients</td>
<td></td>
</tr>
<tr>
<td>Conflict of interest</td>
<td></td>
</tr>
</tbody>
</table>

*TABLE 3.2: Types of Ethical Situations That Could Arise for PR Professionals*
Recent Case Studies

One of the things that is not lacking in the field of public relations is cases in which professionals, brands, and even PR firms do things that they should not be doing. Even with today’s emphasis on ethics, there are still individuals who feel they are “above everyone else and the law” and believe they can get away with dishonest behavior. The case studies that follow are fairly current and show how we, as a profession, still have much to do in order to practice and act in ways that are right, fair, and equitable.

Nissan: A Case Study in Greedy Leadership

Sometimes when there is an ethical crisis, it is blamed on PR professionals even though they are not the ones involved. This is what happened in the case of Nissan. One of the largest global brands in the automotive industry has been in an ethical battle for its reputation based on the actions of one of its senior executives. Auto executive Carlos Ghosn, the former chairman of Nissan and Mitsubishi Motors, improperly received an estimated $9 million in compensation and other payments from the joint brands without the other board members’ awareness or approval (Shane, 2019). In the same case, Nissan was also indicted for the same violation of the Japan Financial Instruments and Exchange Act, which focuses on making sure there are no false disclosures in annual security reports (Nissan Motor Corporation, 2018). Nissan released a statement about the misdeed:

Nissan takes this situation extremely seriously. Making false disclosures in annual securities reports greatly harms the integrity of Nissan’s public disclosures in the securities markets, and the company expresses its deepest regret.

Nissan will continue its efforts to strengthen its governance and compliance, including making accurate disclosures of corporate information. (Nissan Motor Corporation, 2018)

As presented within the investigation, some direct comments were made about how the ethical leadership (or lack thereof) from Nissan is what got the company into trouble in the first place. The investigation quoted committee co-chair Seiichiro Nishioka as follows: “Having read the report on the internal investigation, my initial impression was that the head of the company may have had questionable ethical standards” (Shiraki & Tajitsu, 2019). Ghosn had been credited with bringing forth new financial gains and support for Nissan; however, he clearly did so at a significant cost (Leggett & Palumbo, 2019). Ghosn, who was also doing the same leadership practices with the European brand Renault, was ruthless in closing Nissan factories, cutting jobs, and creating new initiatives to make the brand gain a profit (Leggett & Palumbo, 2019). This is a case in which leadership—for the sake of gaining a short-term profit for a brand—caused an ethics scandal at the sake of a brand’s global reputation.

Carlos Ghosn (1954–) was the chairman of Nissan in Japan. He has been charged by the Japanese government with financial crimes including the underreporting of earnings and misuse of company funds.

The Asahi Shimbun / Getty Images

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Facebook: A Case Study in Audience Deception

The largest social media company in the world has had more ethical challenges than any other of today’s social platforms. Most of these issues have to do with privacy and data collection. When it comes to the terms of service agreements, most platforms state your data and privacy is protected. Yet, this issue was brought up front and center during the 2016 presidential election in the United States. The company has not chosen the best communication tactics when it comes to the public’s rising concerns over the past few years. In a *New York Times* article, Facebook is portrayed as using the denial, delay, and deflection strategy for all of its communication efforts; the company feels it has been portrayed “unfairly” in the news (Frankel, Confessore, Kang, Rosenberg, & Nicas, 2018). Facebook has struggled with handling the revelation of its actions in regard to Cambridge Analytica; Facebook collected data from users without their permission, and conducted an “experiment” to see how people would respond when presented with positive or negative content on their timelines (Booth, 2014). These factors have led people to lose trust in the company. Facebook users are looking to the organization to take responsibility and to change its actions and behaviors. The only way that Facebook can achieve this is if the company puts ethics at the top of its list of priorities (Balkin, 2018).

Mark Zuckerberg, CEO and founder of Facebook, has made several trips to Congress and Washington, DC, to address rising concerns involving fake news, data collection, and privacy. The PR team could only do so much in this case, but there are some things the company could have encouraged and promoted in response to what happened—for example, integrating more transparency in its messaging, as well as discussing the steps it would take to make sure this does not happen again. Since this case happened, Facebook is doing more to address these concerns. Yet these are some new ethics violations that PR professionals need to be aware of and ready to address. Will Facebook change its behaviors and actions to embrace a more ethical and legal stance for its business practices? Time will tell.

Papa John’s: A Case Study in Racism and Brand Rehabilitation

“Better Ingredients. Better Pizza.” How about “Better Ethics”? Perhaps not, Papa John’s. The face of the brand, founder John Schnatter, had been a staple of the marketing and promotions efforts for the global pizza franchise for years. Papa John’s had been a staple presence in many places, most notably being the official pizza sponsor for the National Football League (NFL). However, this all changed over the past few years because of the actions of the brand’s leadership. In November 2017, Papa John’s made the call to withdraw as an NFL sponsor because of the CEO’s objection to the national anthem protests in which some NFL players, instead of standing, took a knee during the anthem to protest police brutality being carried out in the United States against African Americans and other people of color. Schnatter said that the protests that were happening during the NFL games were impacting the company’s overall sales, since it was one of the major sponsors of the NFL, which was one of the other factors in the decision to pull out (Moore, 2018).

Yet this was just the beginning of the pizza brand’s troubles, and 2018 would mark the year that Schnatter took things to another level. Papa John’s ended its NFL sponsorship in February 2018, and on July 11, 2018, *Forbes* reported that Schnatter used
the N-word on a conference call with his creative agency, Laundry Service (Moore, 2018). Ultimately, Schnatter resigned as chairman, and the PR professionals at Papa John’s made efforts to rebrand the company, creating new marketing efforts to separate the brand from its founder (Moore, 2018).

Instead of focusing on using leadership as the brand voice of a company, Papa John’s created a new campaign titled “Voices,” which showcased actual employees who are behind the brand, including franchise owners, pizza makers, and drivers (Richards, 2018). Since then, Papa John’s has engaged in more proactive and sustainable efforts both in its leadership practices and in the brand presence as a whole. The company’s latest spokesperson, Shaquille O’Neal, has been successful in reaching new audiences as well as tapping into new sports fans, including basketball fans, for the pizza brand.

The case is still ongoing with Schnatter and the Papa John’s brand. Both parties are still in legal discussions over the control of the name and access to communication materials from the period when Schnatter was still with the company.

Bell Pottinger: A Case Study in Inciting Social Unrest

One of the biggest recent scandals in the world of public relations happened in 2017 when Bell Pottinger, a London PR firm, was banned from the United Kingdom’s Public Relations and Communications Association (PRCA). This happened as a result of PRCA’s investigation into Bell Pottinger during which the organization discovered Bell Pottinger’s “secret campaign to stir up racial tension in South Africa on behalf of Oakbay Capital” (Conner, 2017).

This was not even the firm’s first crisis. In fact, Bell Pottinger was also the agency responsible for representing some controversial figures and political leaders (Segal, 2018). One of the more recent clients the firm represented was Oscar Pistorius, the Olympian from South Africa who gained worldwide fame in the 2012 London Olympics—and who was later convicted of the murder of his girlfriend (Segal, 2018). Pistorius hired Bell Pottinger after he was charged with murder to help restore his image in South Africa and around the world. But the situation that ultimately brought down Bell Pottinger occurred when the firm chose to represent the Guptas, a powerful and influential family in Africa who had a multibillion-dollar empire in South Africa (Segal, 2018). When the media began to focus on some of the company’s activities, Bell Pottinger was brought in to build a PR campaign to create “a distraction that would draw attention away from them and onto their many enemies” (Segal, 2018, para. 3).

Bell Pottinger’s work for the Guptas began with a 2016 PR campaign to help them gain influence in the country. The firm’s strategies included creating fake Twitter accounts, building an attack website, and inviting influential people to give speeches...
arguing against the wealthy white leaders in South Africa (Segal, 2018). Bell Pottinger’s actions were coordinated with proper media training, funds, and support from Oakbay Capital, which was owned by the Gupta brothers (Segal, 2018). Once these unethical practices were discovered and revealed by PRCA, Bell Pottinger’s actions caused outrage both in and outside of South Africa. This sparked an outcry in the PR industry—how this was occurring for such a long time and how these practices go against the ethical principles PR professionals adhere to. As a result, Bell Pottinger was forced to declare bankruptcy (Segal, 2018). The courts in South Africa found the firm had “exploited racial divisions on behalf of the Gupta family” (PRCA, n.d.). As a result of this case, PRCA terminated Bell Pottinger’s membership in the professional organization because the firm failed to protect its reputation and the standing of the PR profession (PRCA, n.d.).

What Legal Matters Do We Need to Know About?

PR professionals deal with many different legal matters, including libel, slander, and defamation, to name a few. Like ethics, law is an area that needs more emphasis within PR curricula. While the purpose of this textbook is to introduce you to the field of public relations, part of your introduction needs to include a few of the major aspects of the law that PR professionals deal with.

**Libel**

One of the most common elements that comes into play is the difference between libel and slander. They are essentially the same, but one involves printed falsehoods, and the other is spoken. **Libel** is printed falsehood, and in order to prove libel, you have to show that harm was caused by a published story or broadcast (such as in a news article or advertisement) in which a person or company is named, that the media was at fault or made an error, and that the “facts” presented by the media were false.

**Slander**

**Slander** is a false oral statement, one that may come up at a press conference, at a public event, or even during an interview. However, **defamation** is considered to be any false statement about a person or organization that creates public hatred, contempt, or ridicule, or that inflicts injury on a reputation. For example, celebrities are known to sue media outlets (most of the time tabloids) for defamation. Most recently, actress Rebel Wilson won a $3.66 million defamation suit against Bauer Media after the company wrote damaging stories about her, saying she was a “serial liar who had fabricated almost every aspect of her life” (Izadi, 2017). This case gained a lot of attention in the media since it was picked up by many other media outlets, and it did occur during a prime time in Wilson’s career, which was impacted by these stories.

**Deception**

Another legal matter that PR professionals need to understand is the difference between puffery and deception. These are two similar, yet different, concepts that you should
KIND Snacks citizen petition note

keep in mind when creating a message strategy. **Deception**, the more serious legal violation, occurs when someone makes a false or misleading statement in order to persuade audiences. For example, the Lucky Strike campaign of 1929 focused on tying women’s liberation with smoking during the women’s suffrage movement. While this campaign was successful for the tobacco company in getting women to view smoking differently, its messaging was deceptive in nature. Persuasive, yes. Ethical, no. Another area that
PR professionals need to be aware of involves food labeling. Most brands, especially consumer products, have to list all of the ingredients that go into their products in order to meet the requirements of the Food and Drug Administration (FDA). However, there have been cases—such as one involving Tyson Foods and another involving Vitaminwater—in which companies have not done this. In these situations, both companies had to address the deception and admit their products were not what they appeared or presented to be, which provided their PR teams a challenge in addressing these concerns among their key publics.

In these deception cases, the common theme is that brand strategists have made statements that are not true, as in the case of the Lucky Strike campaign, or they have left out significant information, as in the case of Tyson Foods and Vitaminwater. Tyson Foods got into further trouble when it did a promotion campaign focused on its products being “raised without antibiotics.” When it was discovered that this was not true, the company had to settle a $5 million suit (Truth in Advertising, 2012). Vitaminwater, a brand that promotes itself as a healthy drink, actually contains more sugar than Coke (Addady, 2016). On the other hand, a different brand that promoted itself as a healthy product won a battle with the FDA. In 2015, the FDA sent a note to KIND Snacks, telling the company that it couldn’t use the word healthy on its packaging (Kowitt, 2016). To respond to this request, KIND actually created a citizen petition campaign regarding the situation. As a result, the company was able to keep its branding of being a healthy snack product.

KIND addressed the situation head-on, concerned that the FDA’s removal of the word healthy from its packaging would damage the brand. At best, the company would have to rebrand its entire product line; at worst, the company would have to shut down completely. However, with the help of its key audiences, KIND gathered evidence to support its claim about the product, and won the case. Healthy still appears on KIND’s packaging and remains central to the company’s branding.

**Puffery**

When compared to deception, puffery is more of an exaggerated statement in which a firm may say something like “This is the best brand ever” or “This is the greatest and best event you could ever go to.” Can a PR professional prove this? No. Does it make it right to still do? No. The best course of action is to be honest and truthful on what your brand, campaign, and organization represents. Never mislead your audiences to take action based on what you think people will want; rather, provide all of the facts and information and let them make the decision for themselves. Being honest and transparent will always win in the long run.

**What Are Best Practices for Functioning Ethically and Legally?**

As a PRWeek article (Raab, 2018) discussed, there are certain things that PR practitioners need to do, from a professional standpoint:

- Be aware that, when you take on controversial clients, organizations, or brands, public perception and your reputation will be affected. Association—whether it
How did you get your start in public relations?

My high school days were mostly spent on the radio calling play-by-play for my high school football and basketball teams. When I got to college, I wrote for the campus newspaper until one day the sports information director said, “How would you like to do that but get paid for it?” I was scraping by, so I said, “Hell yeah!” And the next semester I was a student assistant in the sports information department, which is the PR department for athletics. Because I had a lot of experience covering games as a broadcaster, I immediately took over running the stat crews, computer systems, and so on, and was pretty senior despite being a student. After grad school and a two-year jaunt back into broadcasting, I walked right back into sports information as a full-time assistant, then director, and did that job for eight more years. When my son was born, I transitioned out to an agency where I was hired primarily to do PR for Louisville Slugger based on my sports background, but quickly was assigned and learned public affairs, consumer goods, and other areas. The skills are the same. It’s just having the ability to adapt to the different types of audiences and environments to connect your messages.

What is your favorite part of working in public relations?

Having an inside look at how the media is made has always been my fascination. Whether it’s being a hands-on part of it, coordinating the announcement of the Silver Slugger Award winners live on ESPNews, or just being the liaison between a beat writer and a player or coach whose story gets told because I helped amplify it the right way behind the scenes, seeing and being a part of the mechanism that gets the paper to press, the TV show to air, the talk show on live, or the website content pushed has always been fun for me. I think it’s why I became so quick to adapt to social media—I love being able to hit “Publish” or “Submit!” and see my words and pictures live for the world to see. It’s probably some weird psychological ego trip thing, but it works, so I just roll with it.

What is the most challenging part of working in public relations?

By far the most difficult part for me has been fighting the stigma left behind by the hacks and the wannabes who aren’t in it genuinely. When you have to fight reporters’ preconceived notion that PR flacks are just in it for a story and don’t care about them or their audience, plus you have to convince them the story is good enough to cover, that just makes it twice as hard. I’ve always had a genuine interest in knowing the reporters and—I guess it’s fair to use this now—influencers I’ve worked with, no matter what, when, or where. That’s my mentality for audience members of my clients and brands I work with in social media, too. But too many self-absorbed or task-focused media relations hacks over the years have used media members too flippantly, tossing them aside or ignoring them when they’ve gotten what they wanted out of them, so for guys like me, the road was harder to navigate along the way.

Who do you think are the biggest game changers for the PR industry?

Social media has completely flipped the lid on public relations. Everyone is now a publisher. We’re no longer in the business of media relations. We’re now in the business of influencer relations. And many influencers are individual Instagram users, not multimillion-dollar broadcast entities. It’s sick when you think about it. And the fact that single individuals are trumping big companies for eyeballs and attention means PR folks are having to deal with egos they never imagined were possible. It’s one thing to have to navigate
prepping a client to be interviewed for Crossfire. It’s a completely different animal to have to convince a 22-year-old selfie-addicted gum-popper she has to report back analytics if your client is going to cut her a $15,000 check. Public relations has changed. Trained journalists were a pain in the ass sometimes, but they weren’t DFNRs (divas for no reason).

**What are some things you wish you knew when you were starting out in public relations?**

Well, I certainly wish I knew that individuals would one day rule the day. I could have carved out my own mint far before others did. Ha! But the one thing I really wish I had known in the late 1980s when I got into the professional world was that the world of public relations was so vast and variable. I lived for 15 years in the niche world of sports public relations. And that is a hardworking, long-hours, no-pay grind of a world. If I had known then that I could work at an agency and make twice the money for half the hours, my 20s and 30s would have been a bit saner, and I might not be in nearly as much debt. But I did get paid to watch ballgames for a living for 15 years, so there’s a yin and a yang to it all.

is intentional or not—can be the deciding factor between a strong reputation and one that is not as strong or positive. Clients come in all shapes, sizes, and backgrounds, and as PR professionals we need to know our core values, professional practices, and nonnegotiables when it comes to working within certain industries and situations. For example, taking on a client such as O. J. Simpson or Harvey Weinstein may be quite the challenge in light of the crises he has been in over the years and how his reputation is not pristine in the eyes of the general public.

- **Know that ethical practices are different from country to country.** This is a key element to remember as the world becomes more globalized. Each country has its own ethical and legal practices, and it is important to be aware of the similarities and differences of these practices. For example, paying journalists for media coverage or accepting gifts from clients may be acceptable in some parts of the world, or even expected. It’s important to know the ethical practices of the different countries you do business with. For example, paying reporters or media professionals for stories is not acceptable here as a practice, but in other countries (e.g., Russia), it may be.

- **Set clear expectations and take specific actions when responding to an ethical challenge or crisis.** The risks associated with ethical challenges increase exponentially when PR professionals do not take direct and immediate action. We need to move quickly and be very clear in both our communications and our actions when an ethical challenge or crisis arises. We need to state what next steps to take in order to manage relationships. Whether you are fixing a relationship or ending one, there should be no gray area in your communications.

- **Act in the public interest by setting a strong ethical example.** Be aware of what is good for the majority of the people while making sure you are honest with your audiences and truthful in your information and your standing or role, and be fair to all of your audiences (both internally and externally).
CASE STUDY
The Fyre Festival: How Not to Plan an Event

If there was a cautionary tale for PR professionals, especially those who want to go into event planning, the Fyre Festival case study would be the poster child for what not to do in the event. In 2017, Fyre Media founder Billy McFarland and rapper Ja Rule decided to create a music festival on Great Exuma island in the Bahamas. The festival was going to be one for the books, but unfortunately, it will go down as one of the worst festivals that ever happened due to greed, fraud, misleading information, and unethical lack of transparency with marketing and influencer relations efforts.

Why did this campaign generate buzz?

• This campaign generated a lot of buzz for the event, especially on social media. The festival did a great job in tapping into influencers (nearly 400 of them) to help market the event.
• The event showcased beautiful pictures on Instagram and became one of the events “not to miss” in 2017 (Lee, 2017). Influencers and celebrities like Bella Hadid, Kendall Jenner, and Hailey Baldwin Bieber were just some of the people promoting the event on Instagram.
• The promoters, Ja Rule and Billy McFarland, were the ones who created and launched the Fyre Festival.

What were the ethical and legal issues?

• While social media was the festival’s best friend in marketing, it was also its worst enemy in ethics since it emphasized the festival being put on the global stage for everyone to see, follow, and discuss what was going on before, during, and after the event. The festival’s image crumbled with each social media update that showed what was promised to the attendees was quite the opposite. This disconnect between what was expected and the reality of the situation caused the viral outrage for the festival.
• When festival attendees came to the event, they came to the immediate realization that what was promoted on social media was not what was happening in real life. The tents were homemade, no gourmet food (as promoted and showcased) was served, and the big promise of glamour was instead looking more like a disaster relief situation.
• There are currently eight lawsuits going on for damages, including one for $100 million (Petit, 2017).
• McFarland is currently serving a six-year prison sentence for fraud, and Ja Rule is still out and states that the festival was not a “scam” (Bucksbaum, 2019). In addition, Ja Rule has been making waves in presenting at various social media and marketing conferences to help restore his brand image.
• There were two documentaries based on this crisis that were produced by Hulu and Netflix. However, Netflix has had to deal with its own ethical challenges since it worked with Jerry Media, a social media agency that did the marketing for the Fyre Festival (Baysinger, 2019).
• Everyone associated with the festival was not honest or transparent about the situation or what to expect. Yet, with social media, many of the attendees went to their accounts and shared their experiences, frustrations, and experiences for the world to see. As a result, the news media around the world picked up on this and ran with it. Many of these photos, like this one, went viral.

Viral cheese sandwich picture from the Fyre Festival
LetItBreeze.com; Crystal Bleecher

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What are some major takeaways from this case?

- Honesty, transparency, and fairness for all parties were seriously lacking. No ethics whatsoever were shown or considered in this campaign. This case showed how greed influenced the leadership and direction of the festival and as a result caused a lot of people frustration and anxiety, and ultimately the Fyre Festival is a case study that will be one for the books for years to come.

- Influencer marketing is very effective—as shown in this case. People were able to listen and take action based on the word-of-mouth marketing efforts by individuals associated with the festival. Yet, while this festival had a major crisis, the influencers who promoted it had to do damage control as well since they were also linked and associated with the event.

- Apologies in some cases are not enough. Significant damage in trust, natural resources, and influencer marketing was done through this case. Even though McFarland made this statement from prison, there will not be any changes in public perception of him and what he did with the Fyre Festival:

  I am incredibly sorry for my collective actions and will right the wrongs I have delivered to my family, friends, partners, associates and, you, the general public. I’ve always sought—and dreamed—to accomplish incredible things by pushing the envelope to deliver for a common good, but I made many wrong and immature decisions along the way and I caused agony. As a result, I’ve lived every day in prison with pain, and I will continue to do so until I am able to make up for some of this harm through work and actions that society finds respectable. (Keating, 2018)

SUMMARY

As the famous saying goes, it is not only who you know, but *who knows you*. In the present PR field, it’s who knows you and what you stand for that counts. Being an ethical PR professional is not about memorizing a code of ethics or sharing it on social media. It is about embracing these values wholeheartedly and truthfully. In other words, don’t tell me you are an ethical PR professional; show me. Actions, especially when dealing with ethical and legal situations, mean more than words and prepared statements. PR professionals need to take action to address ethical and legal concerns. Doing so will positively impact not only the current perception of our profession, but our future as well.

APR EXAM

- Ethics is critical to the field of public relations.
- Values, which are listed in the PRSA Code of Ethics, need to be considered and applied in various situations facing PR professionals.
- Situations will arise, and you have to be able to apply which ethical principles will help your decision-making process.

KEY TERMS

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DISCUSSION QUESTIONS

1. How would you define ethics? What are three values you would consider to be the most important ones for your future in public relations?

2. Review the PRSA Code of Ethics. What are the core principles you feel most strongly about? List a case study you have seen that addresses each of these components.

3. What are the biggest ethical and legal issues you see presently happening in society? Explain your answer.

4. What are three steps you will want to take to make sure you are practicing ethical and legal public relations?