



Extra, extra, read all about it!

Media Training New Zealand's Pete Burdon speaks with **Craig Sisterson** about how in-house counsel can better handle reputational risks and prevent public relations nightmares

As in-house lawyers, your job is to manage the legal risks to your company, to help guide the company towards its broader business goals, and to successfully navigate the best way through any potential legal minefields that may crop up now and then. But legal risks aren't the only mines that can blow up in your company's face, and create plenty of damage to your business's well-cultivated reputation with stakeholders and customers, and the bottom line.

If your company is potentially facing a legal crisis – for example, a sexual harassment claim, product liability issues, questions about the ethics of your board or management, pending litigation with competitors, investigations by various authorities, or particularly vocal and disgruntled former staff or customers – then chances are, if the story could be 'juicy', the media will be interested. And nowadays, with the advent of social media and the

Internet, such stories, particularly if handled poorly, can quickly 'blow up' in more ways than one.

So what can in-house counsel do to help ensure that while they handle the legal risks their business is facing, its reputation doesn't end up a bloodied mess on the floor?

Forget about 'no comment'

Lawyers and public relations or media consultants (PR) can be a bit like chalk and cheese in these situations, says Pete Burdon, Managing Director for Media Training NZ. Lawyers want to minimise legal damage, while the focus for PR is limiting reputational damage. While lawyers and PR focus on different areas, "the key is for them to work together to minimise the damage in both of those areas". There might be little point winning the legal battle, only to lose the PR war, and vice versa.

The first thing for in-house counsel to

realise, says Burdon, is that while their first instinct might be to instruct management and staff not to say anything to the media about a looming issue (eg for fear that what is said might later be used against the company in legal proceedings), it is important for the company to respond in a crisis. "You have to, because basically not responding to the media in a crisis is like admitting guilt for something you didn't do. Because if you respond with 'no comment', a lot of people automatically think you have something to hide. If you don't respond, then it's like a slippery slope, because the media will find someone else to talk to about the issue, and that other person probably won't have the facts right, and they may not be as sympathetic about the situation."

Examples of companies mishandling such crises abound. Burdon points to BP's response to the oil spill in the Gulf of Mexico. "BP CEO Tony Hayward was hardly ever available for interviews, so that

meant that BP's side of the story was hardly ever seen, and the media had to focus on other sources, environmental groups and opponents, that were far less sympathetic. The fact is the media are going to do their story, so you need to make sure you're out there fronting the story, and being available."

If your company is the centre of the situation, the media will come to you first, and you need to be available, and control the story. While companies may think they can "keep things quiet", nowadays, if major rumours are flying around about a particular issue, chances are it may eventually get out into the media. "In a lot of situations, it's far better for the company to release the information themselves," says Burdon. "Then you've got far better control, and you've got far more credibility because it's you talking about it, you're not just reacting to something. Having said that, every case is different, so it's difficult to put a rule on it."

But even if you choose to wait and see if the media picks up on a story, at the very least, you need to get prepared for it hitting the media. So, if your company has to say something to the media (or might have to soon), how do you go about ensuring that you do it in the right way, so that you don't do damage to the company?

Be prepared

When fronting the media, the key is to be prepared, says Burdon. In-house counsel should work with management and PR to prepare what the company wants to say about an issue. Be concise, on point, keep things simple, and realise that dealing with the media is different to any other type of communication you might be used to. "Basically, with the media you need to come up with three clear points that are in very basic language, and you need to keep coming back to those," says Burdon. "The three main points need to be summed up in about 30 seconds, and said in a way a 10 year old could understand them." This ensures the key points are easily usable for TV, radio, and quotes in the newspaper.

While in-house counsel will need to review the points to ensure there are no legal risks or liability in what will be said, lawyers need to realise that the message is for the media, and therefore "will be quite different than it would be in any other situation". You're not communicating with legal colleagues, or staff, stakeholders, or others in your industry.

For example, in the case of a sexual harassment claim against your company, Burdon suggests that the three points you might want to focus on could be:

1. Showing some empathy to those who may have been affected;

2. Mentioning what you're going to do to help those people now; and
3. Mentioning what you're going to do later to reduce the chances of this happening again.

Such an approach, says Burdon, shows your company is dealing with the issue, that you've got some sympathy for people who've been affected, and that you're going to take action to fix the problem. At the same time, when prepared correctly, such a response won't imply any sort of guilt. "That's what I'd imagine the lawyer would be wanting to make sure, that you don't apologise because that makes it look like it's the company's fault. You can still get your message out there, without admitting liability for anything."

If a journalist asks whose fault it is, you can respond by saying that "would be mere speculation at this point" and that the main thing is that you're helping out those affected, and making sure it doesn't happen again. "You just deflect that sort of question back to what you want to talk about."

Media training

In-house counsel will be able to better understand how the media works, what the media needs (and therefore, will focus on), how a media interview is different to any other communication, and therefore how to prepare a good message and get company representatives to prepare and perform the best, if they do some media training, says Burdon. "That would help hugely. I always say doing a media interview without any training is like swimming the Cook Strait without any practice."

The main difference with media interviews is that only a small portion of what you say will get used for the story. You may talk to a journalist for half an hour, and only two minutes of what you say will be used as quotes. Many questions may be asked at a press conference, but only select answers will make it into the story. "So you have to know how to get your message out in that time," says Burdon. "You have to know how to get your points into the story, what you want into the story, rather than just answering questions and then hoping that what you want gets in."

Media training teaches in-house counsel and other professionals how to do that, by covering a range of skills and techniques, including:

- › *Crafting a message*: learning how to create a message, how to work out what to say to the media, focusing on giving the media three key points, rather than many points from which they will choose what to use;

- › *Dealing with difficult questions*: how to answer tricky questions, for example, by pausing and not rushing an answer, being willing to say you "don't know" if you don't, etcetera;
- › *Staying on message*: how to keep coming back to your major points as often as possible, learning how to 'bridge' from answering a question to one of your key points (while still answering the question – not being evasive or using 'politician speak');
- › *Getting your message across*: creating a win-win situation where the journalist gets what he or she needs for a good story and you get your points across, packaging the information in a way the media will use, by using things like analogies, metaphors, clichés, vivid language that will give the journalist good, interesting quotes that carry the message you want, that bring the points you are trying to make to life.

Be yourself

Media training, says Burdon, is really about teaching people how to relax and be themselves with the media. It's not about creating a too-polished, contrived persona that comes across as fake, but about learning some tools and techniques to help you engage the media in a way that works for you and your company. "A lot of people are in fear of the media, so they tense up and do all these things they normally wouldn't do. A lot of media training is actually trying to relax them and get them back into their own frame of mind... you need to know exactly how to make sure you get what you want into that final cut [of a story]. And there are various ways to do that."

Understand your audience

A lot of lawyers Burdon speaks with complain about being taken out of context by the media. But they need to realise that they cannot speak to the media in the same way they would colleagues. Jargon and high-level terminology must be avoided. Media training also teaches lawyers how to avoid being misquoted or taken out of context. It all comes down to simplifying the message you want to get across, and regularly coming back to it, says Burdon. "You have to talk in a language that a 10 year old can understand. Not that the journalist is like a 10 year old, but for the readers [or viewers]. And that's a major challenge for lawyers, because they're often used to using big, long words in big sentences, and you can't do that with the media." You need to understand that you're talking to the guy on the couch, and keep coming back to the key points you want to get across.