The new order in reputation management for the global elite

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The world's wealthy have considerable influence with reputations to match. It needs to be core to them and their businesses that they know and plan for risks that are capable of causing serious, if not catastrophic, harm to their reputations and that of their businesses. The better prepared, the more resilient the individual is in a crisis.

The last seven years have seen massive corporate failures, no more so than in the banking sector. There have been fundamentals that those running such organisations forgot: good governance, proper risk management and business leaders who actually understood what was being done on their watch, to name but three. What this period has also seen is corporates beginning truly to understand that their good or, perhaps more pertinently, their poor reputation goes straight to the bottom line. It hits their share price, their credit lines and the willingness of others to work for or with them.

Many of the world's leading corporates are held in the hands of a few. At the head of many of these global businesses sits an individual or family – some of whom are based in the Principality of Monaco either as individuals or working through a Single Family Office – with not only enormous personal wealth, but considerable influence, both personally and commercially. As much as such individuals create opportunity way beyond the dreams of mere mortals, therein also lies considerable risk. The risks come about essentially from three key issues, all of which stem from globalisation.

1. Dispersed families

The propensity of family members to be educated and work away from their country of birth has increased significantly in recent years. The European private school system has benefited considerably, as have those cities which seemingly have more to offer both professionally and socially: places like Monaco, London and Geneva. The thrill of living and working in a global city, coupled with the fact that such individuals now have the financial ability to do so and wish to be global, rather than national, citizens makes such a choice fairly straightforward.

However, what comes with such choices are new challenges. Younger family members see how others live. They therefore become less inclined to maintain the ways of their parents and earlier generations. This creates conflict between the new cultures they immerse themselves in, and those in which they were brought up. What might be acceptable behaviour in Western Europe does not necessarily apply in Jeddah or Mumbai.

In choosing to live away from familial networks, the younger generations do not immediately have on hand back-up support. Risks such as kidnap, blackmail and media exposure become real concerns, the first two more so if the family are from certain parts of the world. The individual is also at risk of wrongdoing, criminal or otherwise. All of these create reputational risks, as well as physical ones.

2. Global businesses

Historically, successful families, whether operating something of a dynasty or not, typically built their wealth operating in only one or two jurisdictions. Few were multi-national. Again, recent times have seen massive change in that respect. Individuals and businesses, having already saturated their domestic market have looked further afield, whether exporting their business or operating new businesses in new countries.

Such developments have brought fabulous wealth and success for some. However, what comes with such expansion is a need to understand local business norms, rules and culture, local domestic politics and law. Think only of the Englishman setting up a wine business in France and the local opposition, much of it unspoken, to the outsider entering their market and daring to do things differently. Think of the usual business practice in large parts of the world of 'buying' access or 'buying off' opposition, whether political, regulatory or commercial and how that is now a serious criminal offence in certain countries such as the United States or United Kingdom.

One of the new roles of a Single Family Office set up, say, in Monaco away from the original family base and culture, is to identify what has now become unacceptable behaviour. Even what has been wholly acceptable (because legal) corporate tax planning has recently become publicly unacceptable, and this has created major issues for brand businesses which are having to wrestle with what is now a "moral" approach to tax planning. Families and individuals with stakes in such businesses need to be very alert to the new paradigm of public opinion and how it affects their corporate tax planning choices.

3. Local reporting, global readership

The third key factor is, of course, the internet. Twenty years ago, a story published in one country was unlikely to leak across national boundaries, never mind continents. A story could disappear as quickly as it arose. Today, essentially, all stories are permanent, accessible around the world. What is more, a story published on one website is, in a matter of minutes, picked up by media operators across the globe and re-published, without any checks whatsoever. Communications advisers used to speak of having a golden hour to respond to a media lead crisis: now it is a question of having a golden minute or two.

It is also a reality for many of the world's wealthiest that they do not crave publicity. It means that their web profile is often weak. The consequence of that is that an adverse story, especially if published on a popular site, can acquire prominence and feature highly in any Google search against them.

As much as the internet creates huge issues of managing reputations as regards mainstream media, the web also provides each and every disaffected individual with a platform to air their grievances and views, irrespective of whether there is any merit in their opinions whatsoever. Facebook campaigns, Twitter attacks, Instagram messaging, the hacking of images and bank accounts all pose genuine risks for those with a lot to lose and the web is frequently the first stop for the anti-voice.

The legal response

Although some countries have and continue to develop flexibility in their law-making to deal with the challenges created by the web, a key truism remains: laws are, essentially, even in Western Europe, domestic: they do not cross borders. The laws of defamation and privacy are often very different around the world. The US, for example, has effectively made it next to impossible to enforce a UK defamation judgment in that country. Other countries do not entertain the concept of privacy as widely understood in Western Europe, such as in Monaco, where the rights to privacy are fiercely protected. The one publication-related law that is widely recognised is copyright so that if it is possible to pursue a claim for breach of copyright in respect of, say, an embarrassing photograph or film, this will largely be capable of success in most jurisdictions.

Google, and the gaggle of other internet service providers (ISPs), create their own particular challenges. Largely based in the US, they are conditioned to follow the country's First Amendment, the right to freedom of expression. Certainly, as regards Europe, the ISPs have increasingly been prepared to entertain non-US national laws, including on its face, the European Court's decision on the "right to be forgotten", but it would be naive to think that this is done other than through gritted teeth.

The practical reality is harsh. Unless you know the routes in, Google and others are very opaque organisations to penetrate. While they block a story from, say, google.fr<http://google.fr>, the same story remains freely available via Google.com<http://Google.com>. Until the likes of Google block access from a country (or relevant countries), whatever route the searcher may have used, it is going to remain very difficult to control or even limit access to adverse, damaging and untrue information on the web.

As well as communications advisers, the careful use of the law has its place, but it is required to be used as a precision instrument, not a blunderbuss.

Managing crises

There are four key stages to managing a crisis or issue.

1. Planning

Anyone advising privately wealthy individuals should carefully consider establishing a crisis management plan. The mere exercise alone will produce benefits in identifying points of weakness and improvements to governance.

What is a crisis management plan? It is the exercise of assessing the risks, in the present case, to individuals and/or their businesses, and setting out how to respond to the identified risks. Of course, it is impossible to identify every eventuality, but the key risks can be identified. The fact that the exercise has been undertaken will mean that the individual is better able to respond to a crisis even if it was not one of the ones identified. A plan will need to include:

- the identity of the likely leader of the crisis team, but with a back-up option if the individual is unavailable or is involved in some way in the crisis themselves;
- identification of the key risks and a likely response plan to deal with the physical risk, but bearing in mind the need for flexibility when it comes to dealing with the real thing and the jurisdictional challenges;
- identification of the likely team that will be needed, having considered not only the risk issue but again the likely jurisdiction issues;
- a crisis communications plan, to include media/web monitoring, draft holding lines, standard information and a plan as to how to handle journalistic enquiries and who is permitted to communicate with the media;
- contact information for the crisis team;
- contact information for approved and trusted external advisors who may need to be brought in for assistance; and
- identification of those stakeholders who must be advised at the outset of the crisis, such as family members, insurers, shareholders etc.

Of course, different risks provide different challenges. A kidnap risk requires security advisers whereas a product recall is less likely to need security input, as opposed to a health and safety specialist.

Having produced a plan, there is no value in locking it in a drawer. It needs to be reviewed regularly so as to ensure it is updated. It also has to be practised. This ensures familiarity and helps to iron out any issues in a plan.

Around these organisational issues Single Family Offices are at the forefront of plotting with the Family advisers how to practise the plan.

2. Prevention

Even before a crisis, there will be numerous practical steps that can be taken to reduce the risk of a problem arising and to make the individual and his business more resilient in a crisis. Examples, risk dependent, can include:

- improving personal security for family members;
- similarly, tightening online security and data protection;
- adopting best practice when recruiting employees, governance and business practices;
- examining and improving, if necessary, the culture of the individual's business;
- carrying out audits such as governance and reputation;
- ensuring good employment and service agreements are in place with staff members, including suitably worded terms around confidentiality, privacy and copyright;
- removing individuals and physical factors which might be thought to increase a risk materialising;
- regularly communicating well with stakeholders ensuring greater 'buy-in' when their support is most needed;

- appropriate insurance and professional adviser support; and
- on-going search engine optimisation (SEO).

3. Protection

When confronted with a crisis or issue, there is an overwhelming need to take steps to protect as much as possible the individual or business at stake. This requires proactivity: be a meerkat, not an ostrich. Failure to address an issue is likely to compound the problem. That does not always mean there has to be a physical response, but there needs to be a positive decision. Whilst a workplace accident will require a physical response, responding to an online attack may only fan the flames.

Always, without fail, respond honestly to an issue. Attempting to lie or mislead runs the serious risk of only compounding the problem. As much as some lawyers and insurers will advise never apologise, this is often a mistake. If something has gone wrong, accepting this is the case and doing so promptly will make it more likely the relevant audience will respond positively. Empathising or saying sorry doesn't necessarily have to amount to an admission of guilt.

When handling the media, it used to be the case that responding with "no comment" was a plausible reply. While local factors should always be considered, in many countries now, "no comment" response implies guilt to the reader or viewer. This clearly needs to be avoided and, generally, can be done relatively easily.

Whilst a legal response to a problem may be appropriate and the best response, this is not always the case, although the legal consequences of a response should, probably, always be considered. There is a genuine need to consider the practical issues first. Good communications can in many instances achieve a more favourable outcome than the law.

It is worth remembering that it is possible to have a good crisis. A crisis handled well can enhance an individual's or corporate's reputation, as much as a badly handled crisis can break a reputation.

4. Evaluation

Having gone through a crisis or dealt with an issue, it is also vital to evaluate how the matter was dealt with. Lessons to be learned need to be fed into the planning processes so that mistakes are not repeated. It may be unfortunate to face one crisis; it may be foolhardiness for the same or similar issue to arise again or for the same mistakes in handling the crisis to be committed a second time.

Conclusion

Today, protecting the interests and reputations of the wealthy is not to be viewed as a luxury. It is an issue that necessitates proper consideration. No one would wish their daughter be kidnapped or there be a factory fire because of inadequate planning and prevention. Equally, the inability to respond effectively to such a crisis is naturally to be avoided.

Today, there is an increasing need to consider reputation issues from a global perspective. It therefore requires a much greater degree of sophistication by way of response with the crisis team and the professional advisers working in a much more integrated way to achieve the best outcome for the client. Proactive management, beginning with good crisis management planning, has the ability to reduce the chance of the risk arising, as well as ensuring the individual is better able to weather a storm.

The individual concerned by crisis or reputational management who fears for himself and his family's reputation must ask himself how he is going to interface with lawyers, security advisers and the other professionals who form part of the crisis management team. Is he going to do this in person? Is he going to rely on his Single Family Office response? The Principality of Monaco, with its European location and time zone, culture of confidentiality, unparalleled record in terms of personal security [of persons and goods thanks to Monaco Police and camera protection], road and air network, excellent communications, and easy access to advisers all over Europe may be the perfect place for the individual to reside and/or set up his Single Family Office. The individual may wish to hatch his crisis management plan from Monaco together with people in his Single Family Office based in Monaco.

An individual's reputation is not something that should be left to chance.

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