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Newsires: How to live in a material world

Craig McGuire - 7 Feb 2005 00:00

For a publicly traded company, sending material information over newsires is rife with regulations. **Craig McGuire** spells out what should - and shouldn't - be done

As communications professionals for publicly traded companies can attest, developing a news release in today's corporate climate is serious business.

From earnings announcements to investment opinions to new hires, if it is worth issuing a release, chances are it contains material information, or information that is important enough to prompt an investment decision. Material information encompasses anything related to financial performance or earnings, M&A activity, labor negotiations, executive appointments/ departures, litigation, regulatory approval, credit ratings, product reviews (i.e. *Consumer Reports*), and contract announcements.

Mismanage the disclosure of material information and put your company in jeopardy.

As if negotiating the news release process weren't tough enough, distribution services have erected a slew of bureaucratic hurdles in recent years to stifle renegade "stock hypsters" - those engaged in nefarious pump-and-dump schemes of issuing bogus releases to artificially inflate obscure stocks.

Perhaps no one knows the conundrums you'll face crafting critical releases better than the National Investor Relations Institute (NIRI). The trade group advises IR and corporate communications pros extensively on what they should and shouldn't include in releases.

"When it comes to earnings releases, you need to anticipate what questions you'll face after you make the announcement," notes NIRI president and CEO Lou Thompson. "The more information you include in your release, the more your executives can communicate without getting into trouble with selective disclosure issues."

Essentially, if a subject is not divulged publicly, either through a news release or a conference call, your executives cannot discuss it in one-on-ones with analysts or reporters.

Also, beware of forward-looking statements or overly ambitious language rife with hyperbole, Thomson warns, as passage of Reg FD by the Securities and Exchange Commission and Congress' enactment of the Sarbanes-Oxley Act of 2002 has led to a much higher level of scrutiny.

The proliferation of stock-hyping schemes prompted many newsires to put in more stringent customer-facing policies.

As a result, major services such as Business Wire (BW) and PR Newswire (PRN) vet their

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clients before the first release is even submitted. Knowing in advance what they look for can help you expedite the process.

"First and foremost, PRN is a membership organization," explains Mark Nowlan, SVP of marketing and communications. "We require prospective members to complete a membership request form, providing proper organization, contact, and credit information. A verification process is then conducted to confirm the applicant's information. New members sign the conditions-of- service agreement."

Prospective members may not issue news releases through these organizations until the process is completed, generally at least not until the next business day. The verification process usually includes confirming contact information; calling the organization to ensure the person requesting membership indeed represents the organization; viewing the website; checking credit references; and reviewing the information for any red flags.

If you're stumbling along with this process, rest assured there are small armies of consultants and editors, so reach out to your provider and request assistance.

One area where you can really get flogged by regulators is issuing an investment opinion, which is why many newswire-service providers make the sign-up process somewhat onerous.

For instance, at BW, only firms with a valid Central Registration Depository (CRD) number issued by the National Association of Securities Dealers (NASD) or attribution by an individual that is a chartered financial analyst or registered investment advisor may issue investment opinion news via BW, says Phyllis Dantuono, SVP for the company.

"Investment-opinion news must be clearly identified as such so that editors, individual investors, and others accessing content may clearly and easily distinguish opinion pieces written about companies versus news issued directly from public companies," she adds. "Copy may contain no more than five stock symbols, all of which should be relevant to the news at hand. News releases must contain attribution to an individual; sourcing a research report or website only is not sufficient."

Smaller competitor Market Wire (MW) has also implemented restrictions of its own.

"Once an account is established, [MW] also has a whole host of guidelines, some of which are specific to investment-opinion releases," says Thom Brodeur, VP at Brodeur, which handles the newswire's PR. "For example, [MW] inserts a 'Note to Editors' in the subhead of all investment-opinion releases, clearly stipulating that the release is an investment opinion being issued by XYZ. This way, there can be no confusion."

For public companies, the SEC requires that anything material must be announced within a tight time frame of the occurrence, so there's not a lot of time to brainstorm around big strategies, says Susan Diegelman, senior account director at The SheaHedges Group.

Diegelman works with a publicly traded company that was recently acquired by JP Morgan Chase. In the year leading up to the acquisition, the company had both good and bad news to report publicly.

"Overall, I advised my client to put the dismal stuff across the wire in the late afternoon, after the market closed, and the upbeat, growth-related news around 10am," Diegelman says. "In my opinion, there is a certain amount of emotion that drives the market. If an investor sees bad news during business hours, he or she is more likely to make a quick sale based on that news."

The cooling-off period may help the client avoid the potential free fall that some dismal news can create, she adds.

So what about good news?

"We hope that news of a significant client win or positive corporate development will drive investors to buy," Diegelman says, "so we get that out after Wall Street has had a few cups of coffee."

Technique tips

Do anticipate what questions you will face from investors/ reporters/regulators and incorporate that information into your release

Do be prepared to spend some time on the authentication process for the news release distribution service you select

Do release any negative news at the end of the day, after trading closes

Don't use overly ambitious language or hyperbole

Don't discuss information not included in your release with a reporter or analyst

Don't issue an investment opinion that isn't sanctioned by the NASD or attributed to a chartered financial analyst or registered investment advisor

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