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The ‘S’ in marketing

By Gerry Zack, CCEP, CFE, CIA

I can’t think of a better example of the convergence of environmental, social, and governance (ESG) factors, compliance, and ethics than in marketing and public relations. This area is filled with opportunities and risks relating to many social issues. Depending on the nature of the social issues considered within your ESG strategy, the potential for inconsistencies between organizational priorities and its marketing and public relations communications can be significant.

The easiest example to point to is diversity, equity, and inclusion (DEI). Many organizations claim to take issues of DEI seriously. And there’s nothing inherently wrong with this being reflected in their marketing communications. Aspirational messages can have a positive impact. For example, an advertisement depicting a diverse group of individuals enjoying a company’s product is likely free of any major risk. But what about using a photo of a diverse group of individuals in a business meeting in connection with a piece about the company’s management or board oversight? If the board or senior management team doesn’t reflect this diversity, the risk of stakeholders pointing out this hypocrisy is very real.

Marketing has long been rife with potential ethical troubles, particularly in advertising. Increasingly, ethical issues are being regulated, thus my reference to convergence with compliance in the introduction. The U.S. Federal Trade Commission (FTC) took steps in 2022 to shore up guidance on misleading information regarding product testimonials and endorsements; it continues to find many companies misleading their customers in a variety of ways.^[1] In the United Kingdom, the Advertising Standards Authority (ASA) has been aggressively taking action against companies found to be in violation of the UK Code of Non-Broadcast Advertising, Sales Promotion, and Direct Marketing.^[2]

Of course, if the FTC or ASA gets involved, it often means there has been a rather blatant violation, resulting in a financial penalty. But think of the damage that can result when, rather than an enforcement agency, a group of customers or other stakeholders point out a glaring inconsistency between images or statements used in marketing communications with the positions and values the company purportedly stands for.

Much has been made of greenwashing and other methods of inaccurately reporting what an organization has accomplished in relation to ESG. But, before taking a stand on any of the numerous critical social issues, it’s wise to first look at an organization’s marketing and other public communications.

¹ Guides Concerning the Use of Endorsements and Testimonials in Advertising, 87 Fed. Reg. 44,288 (July 26, 2022), <https://www.federalregister.gov/documents/2022/07/26/2022-12327/guides-concerning-the-use-of-endorsements-and-testimonials-in-advertising>.

2 Advertising Standards Authority, “Rulings,” last accessed May 17, 2023, <https://www.asa.org.uk/codes-and-rulings/rulings.html>.

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