Opinion: 'Peegate' and Random Risks to Reputation

Thought Leadership • May 14, 2023

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Randomness or the quality of being random lies in the lack of predictability or a pattern. Flipism or the classic coin flip is the metaphorical example of randomness.

Random events can trigger life-altering effects. Noted essayist Nassim Nicholas Taleb, who is more of an epistemologist of randomness, exalts the 'underestimation of the role of randomness in life' in his book *'Fooled by Randomness'*. Taleb makes a statement around the bigger role of uncertainty, probability, and randomness – some may call it 'chance' in our lives and businesses – and how humans try to clothe random events with reason, making them appear non-random.

Looking from the lens of randomness brings in focus a random act recently on a random Air India flight involving two random passengers. When many flights take off and land every day all over the globe and millions of people fly in and out, it is only per chance that the unfortunate incident called "PeeGate" occurred. This was followed by another random incident around food served in another Air India flight. As of date, the unfortunate incident was repeated on another random unrelated American Airlines flight between two other random passengers.

Incidents as random as these have the latent potential to put the reputation of giants like Tata-owned Air India at stake. Tata, which recently acquired Air India after it was run as a government entity for 69 years, was suddenly faced with a reputation and management crisis. Air India was the subject of social media pot shots and memes.

This random incident threw up a dilemma under the IP law – the acquisition of goodwill, which means the brand name, the loyalty, the customer base – basically the intangible asset one cannot put a price tag on.

When a business acquires another business, it may do so with or without the goodwill.

However, when the Tatas got back Air India, they brought in no change in employees and the management. Air India, despite a tough run in the last few decades, also held on to residual goodwill. Between the then government-run and now Tata-owned Air India stood a random event which impacted the reputation of all involved. While the incident involved an established airline and two random passengers, there could have been a similar distasteful occurrence on any new airline, or a disgruntled employee could trigger one.

All of it was as random as it could be and there was nothing that any airline could do except damage control.

So, the question is, what can businesses do to safeguard their reputation from such random events? Putting covenants in place to isolate a company's reputation of the past from the reputation to be built is a good place to start. For example, when Hindustan Unilever acquired Lakme from Tata, the acquisition was without goodwill. Contracts could be structured to build in safety nets during acquisitions to mitigate such situations.

In the 'PeeGate' incident, Tata could not disassociate from the incident even though the Air India staff was unable to do effective damage control. The acquisition of the airline was done with goodwill and as an ethical and fair organisation, Tata did assume responsibility.

Often, personnel are not enthusiastic about acquisitions or management changes. It is imperative that the new management sets guidelines or standards, at least for in-house handling of situations.

Reputation management must always precede crisis management.

A business acquiring another can specify that it will not be responsible for any incident that impacts the goodwill or reputation of the original firm. The to-be-acquired business might also be called to indemnify the acquirer in case of any litigation arising out of an incident. The new owners can also put out a disclaimer that they are not answerable for or will not be exposed to any incident involving the soon-to-be acquired business. Businesses could put in place agreements on how to define and measure reputational risks.

The take-home point is – acts can be random, legal protection need not be.

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