

AGENDA

Fake Press Releases, Disinformation – Are Companies Ready?

False corporate information has been around for decades, but the risks have changed considerably in recent years

By Jennifer Williams-Alvarez | September 20, 2021

It was more than 20 years ago that **Michael Terpin**'s morning was interrupted by frantic calls because a press release had gone out on the news wire service he ran. The release, published on a Friday morning in 2000 and disseminated via a news service then called Internet Wire, indicated that fiber-optic equipment manufacturer **Emulex** was restating two years' worth of earnings and that its chief executive was resigning – news that wiped out roughly \$2.5 billion in Emulex's stock value in just 15 minutes, said Terpin.

The flurry of calls to Terpin, the urgent messages from reporters, the **Federal Bureau of Investigation**, the **Securities and Exchange Commission** and the **Department of Justice** and the erasure of around 60% of Emulex's stock value was not, as it turned out, spurred by accurate news about a restatement.

Instead, and terrifyingly, the turmoil that began that Friday morning was caused by a fake press release.

In the two decades since the Emulex hoax, fake press releases have persisted, last week ensnaring retail giant **Walmart**. At the same time, the threats to executives and directors associated with efforts to spread corporate disinformation have only increased, sources say.

"This is a very big issue for companies because, when a story takes hold, it can have an impact on a brand, whether or not the story is really true," said **Tim Calkins**, a clinical professor of marketing at **Northwestern University**'s Kellogg School of Management. "The big problem today is that things move so quickly, and when a fake story takes hold, it can spread very rapidly and start to feed on itself. The more it does that, the more the story builds momentum.

"And then it can do lasting damage to a company," Calkins added.

'Catching Fire'

Walmart's brush with a fake press release began last Monday morning. A 9:30am ET news release on GlobeNewswire, purportedly from Walmart, indicated that the retailer would soon accept a form of cryptocurrency called Litecoin as payment. Litecoin's verified **Twitter** account reposted the press release, which sent the price of Litecoin up by more than 30%, to its more than 750,000 followers.

The tweet was later deleted and Litecoin creator **Charlie Lee** explained that an employee “screwed up” in retweeting the fake release and described the social media gaffe and press release as an “unfortunate situation.” GlobeNewswire said it acted swiftly to remove the “illegitimate press release.”

Walmart, meanwhile, quickly added the company’s stance on the circumstances to the conversation, describing it as “fake.” “Walmart had no knowledge of the press release issued by GlobeNewswire, and it is incorrect,” a Sept. 13 statement reads. “Walmart has no relationship with Litecoin.”

Terpin’s experience illustrates that the advent of fake press releases reaches back at least decades.

As details emerged in that instance and as Emulex’s CEO denied knowledge of the restatement-related press release, it became apparent that the press release was a hoax, Terpin posted in a 2012 blog post. For more than a week, Terpin wrote, he made the rounds on media outlets to offer an explanation about how the press release had been issued by Internet Wire, which at the time was fresh off an infusion of \$17.5 million in venture capital funding from **Sequoia Capital** and **Hummer Winblad Venture Partners**.

It was eventually discovered that an ex-Internet Wire employee was behind the fraud. That former employee, named **Mark Jakob**, made around \$250,000 from shorting Emulex’s stock. Jakob, then 23-years-old, was arrested and charged with wire fraud, securities fraud and acting with intent to defraud. He pleaded guilty to three charges and was ultimately sentenced to nearly four years in prison.

The impact on Emulex’s stock price was temporary, but the hoax created a lasting impact on the security procedures used to vet news releases, Terpin told Agenda.

Yet nefarious press releases have continued to be a threat for companies, he said. Walmart is the latest example, but **Google**, for instance, was similarly the subject of a false announcement in 2012 touting a \$400 million acquisition of a Wi-Fi hotspot provider.

“In general, security has gotten pretty good, but nothing is foolproof,” Terpin said.

The issue of false corporate information has been a risk for “quite a long time,” echoed Calkins. What has changed the situation, however, is the speed at which information can spread and gain credibility, as well as the mediums available to share that information, he said.

Social media posts, for instance, can take on a life of their own and negatively impact a company’s reputation. **Olive Garden** experienced such a fate in 2019, when a Twitter account was hacked to spread the false story that the restaurant chain was contributing to President **Donald Trump**’s reelection campaign. Though campaign finance data eventually showed that neither Olive Garden nor parent company **Darden Restaurants** maintained a political action committee, the hashtag #BoycottOliveGarden went viral.

“All of this becomes important because it has an impact on what people believe and how they behave ... from customers to investors, employees and government officials,” said Calkins.

Jennifer DeTrani, general counsel at cybersecurity firm **Nisos**, agrees the risk landscape has changed. Brands can be tarnished due to misinformation, consumer trust might diminish, stock prices can take a hit and company insiders may face litigation.

In fact, **Tesla** board members have been sued on the theory that directors allowed harm to the company through misinformation on social media. In a lawsuit filed in March, investors pointed to a number of CEO **Elon Musk's** tweets, including a 2018 tweet about taking Tesla private, which prompted an SEC investigation and settlement that mandated oversight of Musk's communications, and 2019 tweets that inaccurately mischaracterized production numbers.

"The Board either knew or should have known of the false and misleading statements that were issued on the Company's behalf and took no steps in a good faith effort to prevent or remedy that situation, proximately causing millions of dollars of losses for Tesla shareholders," investors have alleged in the lawsuit.

In the face of the risks, companies are keeping a close eye on what is being said in the public sphere about the business and executives in order to quickly react if needed, according to DeTrani. More than that, though, there is also the calculus of whether to go beyond issuing a statement to rebut a false narrative, she said.

Companies in some instances seek to uncover who is behind the disinformation, she explained. From there, DeTrani said she has seen companies successfully partner with law enforcement to go after the person or, in some instances, go "straight to Joe Smith's door" to stop problematic messaging that attempts to manipulate a company's stock price.

Having a person to "point the finger at" can be beneficial for several reasons, she said, including that it works as a counter in the face of investor criticism by way of litigation.

Whether the source of false information is internal or external or the product of an intentional act or a mistake, it is a threat to companies that misinformation, particularly disinformation that is distributed on social media, will have a negative impact, said **Sheppard Mullin** partner **Wynter Deagle**.

"And that is the risk for the board," said Deagle, who spoke generally.

Deagle likens the risk to cyber security. Twenty years ago, she explained, boards were not necessarily rising to meet their fiduciary duties on data security and related issues. Driven by the hazards posed by inadequate cyber security policies and oversight, that had to change, however. Social media and disinformation threats should necessitate the same shifts, she said. "I think, with the rise of social media and the rise of disinformation and fake news, the risk landscape has changed for boards."

In a reality in which fake information can spread quickly and be considered credible, DeTrani agrees that the risks associated with a false information attack have altered, even in just the last couple of years.

"It becomes dangerous in the sense that the false narrative has more of a chance of catching fire and sweeping across a field," she said. "Where it used to take more time ... there is the sense that things can now shift within a day."

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