

The Social Activists

July 2014

Social media can destroy reputations, lead to product boycotts and send a company's stock price into freefall. Now, corporations worldwide are waking up to the fact that they could also find themselves under fire online from activist investors who have ousted embattled CEOs, overthrown boards and forced changes in well-entrenched business models.

With corporate activism on the rise, companies are realising they may have a yawning gap in their defences; it has become essential that they understand the growing impact of social media – such as Facebook, Twitter, LinkedIn and YouTube, as well as the rapidly multiplying number of investment community websites – in order to devise strategies for responding effectively once they find themselves in the firing line. One panellist at the IR Society summer conference this month told how his firm had used LinkedIn groups to source users of a company's product in order to gauge customer satisfaction.

"MOST INVESTORS STILL OPT FOR THE TRIED-AND-TESTED ROUTE OF A SPOT ON CNBC OR BLOOMBERG WHEN THE OXYGEN OF PUBLICITY IS REQUIRED"

Social media has already become a key component of securities markets, according to Charlie Palmer, Senior Managing Director in Strategic Communications in the London office of FTI, who notes that Bloomberg includes Twitter in its feed of potentially market-moving news. "Activist shareholders increasingly use social media to break market-moving news. Carl Icahn's Tweet about a meeting with Tim Cook of Apple added around \$17bn to Apple's market cap," he says. Activism is comparable to hostile M&A and is delivering the kinds of superior returns that make investors sit up and take note, but issuers are behind the curve. "Companies are often not prepared to deal with activists and their initial response, which is critical, is poorly thought through often leading to an escalation of the situation," he adds.

There is now every indication that companies can increasingly expect such fights to protect their reputations. A recent survey by Activist Insight and FTI Consulting confirms that online activism is on the march, with 67% of all respondents

expecting use of social media to increase in the coming year. And there have already been enough wake-up calls to alert businesses to the dangers of being ill-prepared.

In August last year, long-time activist and billionaire investor Carl Icahn used Twitter and Facebook to repeatedly call for Apple to expand its stock buy-back programme. He backed off when the company went some way to meeting his demands; but more recently he has increased the intensity of his online activism at eBay, blogging furiously and inventing the hashtags, #notworldclass and #spinpaypalnow to promote a partial IPO of payments arm, PayPal.

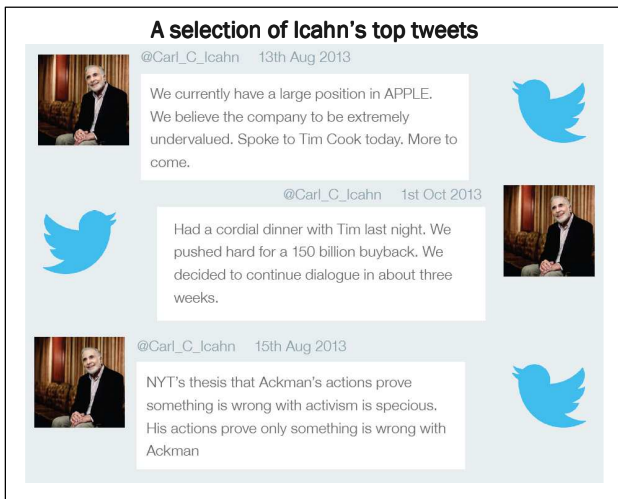
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Michelle Icahn, the Community Manager at Icahn Capital, told Activist Insight recently that her father "chose to adopt Twitter and other forms of social media such as his website, the Shareholders' Square Table, because he firmly believes they will greatly help in his overall mission to highlight and hopefully remedy the dysfunction of Corporate America." She added that Carl, who has been vocal in his belief that institutional investors are too quick to walk away from stocks rather than lobbying for change, believed "that through the various social media platforms such as Twitter, Facebook, Tumblr, etc available today to American investors and pensioners, [investors] can easily be made aware when management is doing a very poor job and nothing is being done about it."

Even so, there are pitfalls for activists to be wary of. The press reckoned that a stray tweet cost Icahn around \$2,000 when he failed to notify the SEC he was commenting on Dell and was forced to instruct lawyers to make a hasty securities filing or face the regulator's wrath (although Icahn has said these reports were "not accurate").

With costs so high, you might be forgiven for asking why activists bother using social media. Admittedly, most investors still opt for the tried-and-tested route of a spot on CNBC or BloombergTV when the oxygen of publicity is required.

Group, is to create a campaign microsite. These are “a nice repository for all our letters, proxy statements and materials, because shareholders don’t always look at these until right before the vote,” he says. In contrast to a company’s rather cluttered and egalitarian SEC page, microsites draw attention only to one side’s materials, as well as favorable press coverage. Doing so could prove worthwhile, even with well-informed electorates. Drawing on another survey from last October, FTI says that 40% of analysts and portfolio managers seek information from third-party influencers via social media.



A recent innovation, pioneered by Clinton Group in its proxy fight with ValueVision Media, is video footage of dissident nominees sharing their thoughts on the company. The video, thought up by one of Clinton Group’s nominees, was “helpful,” Taxin reckons. Given that the company operates an online shopping channel, the video was a way for the activist to “show what we can do,” he adds.

Highlighting an activist situation can also be profitable. Shares in Apple, eBay and Family Dollar surged after Icahn first disclosed his position on Twitter. In another sign of things to come, more than two-thirds of self-proclaimed activists said in response to the FTI/Activist Insight survey that they would support other campaigns.

Naturally, issuers are starting to become more web-savvy. Last year, the SEC said it was fine for companies to post information that might be covered by Regulation Fair Disclosure on social media channels, as long as it had previously directed investors to these channels as a source of potentially market-moving information—a decision that should make it easier for issuers to respond.

Indeed, among the top tactics now being incorporated into

“activist defence” systems is a push for more dynamic and visual platform content, including everything from blog posts to board of director videos.

Companies targeted by activists are also amplifying narratives of their business strategies, using, for example, YouTube videos, and also employing the use of so-called issue specific micro-sites, allowing them to mount detailed defences for an audience of analysts, investors and the media. Icahn-target eBay launched such a site in response to the activist, featuring posts from directors rebutting the activist’s arguments and making the case for retaining PayPal (obligatory hashtag: #bettertogether).

“HIGHLIGHTING AN ACTIVIST SITUATION CAN BE PROFITABLE. SHARES IN APPLE SURGED AFTER ICAHN FIRST DISCLOSED HIS POSITION ON TWITTER”

Nonetheless, one clearly identified weakness in many business’ attempts to control the terms of public debate lies in their traditional, internal demarcation lines. All too often, walls are erected between the marketers, who talk to consumers, and corporate affairs, who deal with governments, non-governmental departments and the media. Understandably, CFO’s rarely take an active role in a company’s daily social media management, but in an activist situation this leaves corporate affairs to make quick decisions about financial issues which are typically outside their remit. Advisers counsel that these different functions can no longer be left to operate independently, particularly in the case of social media through which information and opinions can be so rapidly generated.

But it should also be remembered that activism via social media is not solely about confrontation. Co-operation and consultation with companies in an effort to find common ground is a totally legitimate approach. Only too well aware of what can now happen to a business that finds itself at odds with critics out there in the digital world, companies would be wise to react constructively when they can, rather than simply returning fire.

As Mitzi Emrich, Managing Director, Digital and Social Engagement at FTI, says, “It is now critical for companies to have a social media presence, to share information across a broad range of both traditional and digital channels and use emerging media to connect with stakeholders and influencers in new and meaningful ways.”

Social media use by activists – a timeline

June 2006: The Icahn Report is launched, a short-lived bully pulpit for the investor.

July 2007: Eric Jackson assembles a shareholder movement at Yahoo via YouTube videos.

December 2010: Icahn launches savelionsgate.com, one of the first campaign micro-sites.

October 2012: Kerrisdale Capital begins sharing research on Twitter.

August 2013: Apple market-cap gains \$17 billion following an Icahn Tweet.

January 2014: Barington Capital hosts open webcast on Darden plans.

April 2014: Third Point makes up for dry past offerings with a Sotheby's campaign micro-site complete with reworked masterpieces.

May 2014: Clinton Group creates a video for its proxy contest at ValueVision Media.



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