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RISK & COMPLIANCE JOURNAL. | COMMENTARY

Crisis of the Week: Tesla Tries to Avoid Hit After Deadly Crash

By **BEN DIPIETRO**

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This is a weekly commentary by external experts.

Tesla Motors gets the crisis treatment this week as it responds to the death of a driver of the company's Model S sedan, which was hit by a tractor-trailer while in self-driving mode, the first such fatality in the United States. The National Highway Traffic Safety Administration is investigating the May 7 accident. Tesla said the vehicle's Autopilot system didn't automatically brake because the truck couldn't be detected given certain conditions. A second investigation is under way into a July 1 accident.

Tesla was criticized for waiting before disclosing the driver's death, and Chief Executive Elon Musk totaled with reporters who asked why the company didn't announce the death before proceeding with a $2 billion stock sale. Mr. Musk said the driver's death wasn't material to the company's earnings, and engaged in heated conversation with people on Twitter. In a June 30 blog post on its website, the company said it notified the NHTSA immediately after it found out about the death.

Using the statements of the company and its CEO, the experts evaluate how well Tesla is handling this crisis.

Andrea Bonime-Blanc, chief executive and founder of GEC Risk Advisory: "Tesla's communications on this matter–both official (press release and PR statements) and unofficial (tweets and emails from Chief Executive Elon Musk)–are ineffective both as short-term crisis management and longer-term reputation risk management.

"The press release is long on legalese and short on key stakeholder care, understanding and expectations management. Adding to this, the public twitter fight between Mr. Musk and Fortune Magazine made him look uncaring about safety and focused on narrow legal concepts of 'materiality.' Together with the sale of $2 billion in stock before public disclosure of the motorist's death, these developments are not allowing the company to effectively manage this crisis and, if unaddressed, may point to potential longer-term reputation erosion.

"The tussle about the non-materiality of the death to Tesla stock is problematic because, while such a statement may be consistent with legal public disclosure requirements, it is damaging in terms of broader reputation risk and stakeholder expectation management. In making these statements, Tesla was not considering the interests of key stakeholders–beyond short-term investors and shareholders–like current and future customers, regulators, the media and others who may be important or even critical to its long-term success.

'This incident illustrates a broader point in this age of hyper-transparency: Companies need to better understand the interests and expectations of a broader set of key stakeholders. While the death of a Tesla motorist may not have been material to Tesla's stock from a legal standpoint, it may very well be material to the interests of actual and potential stakeholders and Tesla's longer-term reputation with potential car-buyers, for example, who may flock to other self-driving car companies that appear to care more about motorist safety."

Nick Kalm, president, Reputation Partners: "Tesla has claimed leadership in the hotly competitive world of autonomous driving. But with this accident and others, they risk being knocked off their perch. Tesla has done a number of things right, including expressing sympathy for the victim and his family, citing statistics about the small number of accidents and inherent safety of their system, and showing the explicit driver warnings and controls they have in place to prevent crashes.

"Where it missed the mark was waiting nine days to inform the National Highway Traffic Safety Administration about the fatal accident, burying its disclosure in a Securities and Exchange Commission filing, blaming drivers for some of the accidents and criticizing reporters and editors for how it's being covered. The Twitter war between Tesla CEO Elon Musk and a prominent financial editor makes the automaker look defensive and cavalier.

"Since Tesla branded its system 'autopilot' and said it's 'probably better than a person right now,' they shouldn't have also said it 'does not turn a Tesla into an autonomous vehicle.' Wouldn't that be the natural inference from the brand name?

"All of this pales in comparison to the company's biggest communications problem: tacitly admitting it's using 70,000 customers as guinea pigs for something that 'is not perfect' and could result in serious injury or death. Regardless of the customer acknowledgements, this is a very risky move, even for a successful risk-taker like Mr. Musk. Prudence suggests suspending its autonomous driving system until more of the kinks are worked out, as other automakers have done."

Tadd Schwartz, president and CEO, Schwartz Media Strategies: "Tesla stresses the importance of using autopilot technology wisely, advising drivers to keep their eyes on the road and hands on the wheel. The automaker should have emphasized those directions in the immediate aftermath of the May 7 accident, rather than keeping quiet.

"A proactive announcement clarifying that the crash was likely due to the driver's carelessness could have averted this public relations crisis while offering a chance to remind customers how to use autopilot safely. Instead, Tesla withheld the news and found itself on the defense weeks later when the accident became public. The May 18 stock sale exacerbated the problem, creating the perception that information was purposefully withheld from investors. In the world of communications and investor relations, perception is reality and Tesla's actions—and inaction–eroded trust.

"Lastly, the CEO of a public company should never dodge interviews in favor of waging war with the media on Twitter or via email. Mr. Musk should be responding to the accident with empathy and transparency, if not remorse."

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