ARTICLE IN PRESS

Public Relations Review xxx (xxxx) xxx–xxx

Contents lists available at ScienceDirect

Public Relations Review

journal homepage: www.elsevier.com/locate/pubrev

Social gains from the public relations voice of activist investors: The case of Herbalife and Pershing Square Capital Management

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ARTICLE INFO

Keywords:
Financial public relations
Hedge funds
Activist investors
Herbalife

ABSTRACT

This article investigates the purpose, practice and outcome of the financial public relations (PR) of activist investors, which is framed as the exercise of the activist voice.

The object of investigation is the organizational discourse of the activist hedge fund Pershing Square Capital Management during an investment position it took in the health products firm, Herbalife, from 2012 onwards. Pershing Square spent $50 million dollars (USD) on investigations and campaigning and this public relations output was interpreted using a combination of organizational discourse analysis and narrative analysis.

Pershing Square delivered a social gain, when the regulator intervened to levy a fine to redress the losses of Herbalife distributors and ordered the company to change its business practices. With this change in governance, Pershing Square achieved the type of social gain normally associated with social activism or corporate social responsibility.

The case suggests that the economically-derived exit-voice-loyalty continuum is a useful theoretical frame for considering social gains arising from the public relations of activist investors. Moreover, the findings suggest potential for future work considering public relations as a process that enables, enhances and enacts the vocalization of economic, social and political interests.

1. Introduction

This intention of this article is to investigate the purpose, practice and outcome of the financial public relations (PR) voice of activist investors. The inquiry is framed in the terms of Hirschman's (1970) variation on classical economics, the theoretical continuum of exit, voice and loyalty. In considering outcomes, the point of interest was whether a PR campaign undertaken primarily for private financial reward could additionally generate the social gains associated with conventional activism or corporate social responsibility (CSR). An investigation into the specifics of the public relations of activist investors is timely because of the worldwide growth of investor activism. In particular, Europe has been described recently as a potential "new hunting ground for bloodthirsty activists" from the USA (Fortado, 2016).

Beyond the niche of activist investment – and despite the growth of finance and its significance in economic, political and societal terms – public relations and investor relations (IR) work in the financial sector has not attracted significant research attention with Doan and McKie's (2017, p.306) 22-year literature review from 1994 to 2016 yielding just 56 articles in communications journals and 97 in business journals on these themes. In opening remarks to her book on PR in financial markets, Bourne (2017, p. ix) reflected upon the "astonishingly scant number of books or articles published on public relations in finance" going on to opine that "the majority of PR scholarship ignores finance altogether" with the result that PR has ceded ground to other disciplines

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https://doi.org/10.1016/j.pubrev.2018.04.003
Received 23 February 2018; Received in revised form 3 April 2018; Accepted 5 April 2018
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Please cite this article as: Thompson, G., Public Relations Review (2018), https://doi.org/10.1016/j.pubrev.2018.04.003

such as economics, linguistics, management science and journalism.

Laskin (2014a, p. 127) had earlier posited that this dispersal of knowledge across diverse disciplines had epistemological consequences in the form of a "certain disconnect between publications that makes it hard to develop a unified body of knowledge" in IR and financial PR. Kelly, Laskin and Rosenstein (2010, p. 182) uncovered a epistemological disconnect in the form of the "unfortunate" paradox of investor relations receiving "little attention in public relations scholarship, even though the discipline claims investor relations as one of its specializations, or subfunctions" while at the same time "investor relations practice has grown in importance and received increased attention in corporate America".

This article is offered to help address the research deficit on financial PR, consider PR's role in investor activism and to add to PR literature more generally with its application of the well-tested economic theoretical frame of exit, voice loyalty to analyse the activist voice of public relations campaigning. In addressing these aims, the author is mindful of Laskin's (2014a) concerns over disciplinary dispersal of knowledge along with Doan and McKie's (2017, p. 306) call for researchers to "develop "synergies from their existing differences" and so reaches widely to the fields of corporate governance, economics and finance, as well as public relations to offer the interdisciplinary consideration of the IR practice of activist investors that follows.

2. Literature review

2.1. Financialization and financial public relations

Financialization has been defined by Marazzi (2011, p. 26) as pervasiveness of the financial economy in society "that spreads across the entire economic cycle" funding cars, consumer goods and so on in a way that makes the financial services sector "co-substantial" with production. The economic effects of financialization are associated with extremes of expansion and contraction in capital markets such as, for example, the growth in the types of financial instruments and increased trading volumes leading up to the 2008 financial crash, which saw a 100-fold growth of credit derivatives in ten years with over $47bn USD of credit default swaps alone outstanding in 2008 (Harrington & Moses, 2008). More recently, the rapid growth of car loans under the guise of personal contract purchase plans has led to 85% of new cars being bought using dealer finance (more than double the figure in 2009), raising fears among regulators that auto lending could be driving the next financial crisis (Dunkley & Arnold, 2017).

Financialization has not been much addressed in public relations and media literatures with a search of the *Journal of Public Relations Research* and *Public Relations Review* yielding only nine articles that addressed investor relations topics relating to financial markets. The majority of this work addressed corporate IR and offered overviews of the field (see, for example Laskin, 2006; Laskin, 2011; O'Bryne and Daymon, 2014; Laskin, 2014b) rather than the subset of the financial markets IR undertaken by institutional investors or fund managers with their investors. Kelly et al. (2010, p. 182) made a theoretically important advance by linking IR to prevailing PR theory by testing adoption of the Grunigian two-way symmetrical model by IR practitioners. They went on to assert that as the first study to find "the predominant practice of the normative model" it refuted longstanding criticism of the symmetrical model as a utopian ideal. (Grunig & Hunt, 1984) concluding that it was widely used in the "bastion of capitalism − publicly owned corporations in the United States". This conclusion mirrored IABC Excellence study's (Grunig, 1992) corporate focus on building relationships with investors through relational investing in order to encourage long term holding of the stock (Lowenstein, 1996).

Coupled with the absolute growth of the financial sector, concerns over credibility and trust in financial markets (Bourne, 2017, p. 1) have driven demand for public relations services in the field, with over 20% of PR workers now employed in some area of finance and 26% of agency staff reporting finance as the client sector they are most likely to represent (CIPR, 2015). When investor relations and public relations in financial markets have been addressed the topic is often discussed alongside fields of concern to PR scholars (see Uysal, 2014, for example), including CSR, socially responsible investing (SRI), organizational legitimacy and shareholder activism. Moreover, such discussions are predominantly oriented from a corporate and financial perspective, reflecting perhaps the reality of IR practice as "most frequently treated as a financial function, both in terms of who is in charge, and what are qualifications for the job" because CEOs "do not perceive investor relations to be part of the public relations function" (Petersen & Martin, 2009, p. 204).

2.2. Activism

Shareholder activism is the process by which shareholders seek to influence corporate actions in their favour rather than the interests of the "corpocracy" of managers who promote their own interests (Monks, 2008). Specifically, activism is the exercising of influence and statutory rights in the form of "actions taken by shareholders with the explicit intention of influencing corporations' policies and practices" (Goranova & Ryan, 2014, p. 1232). One lawyer who researched investor activism through a study of media coverage of 432 campaigns over ten years (Katelouzou, 2013) opined that "the brand of shareholder activism associated with hedge funds is a highly topical, yet equally controversial issue" in which many aspects "are unresolved or have become popularized notions about which little is still known." The tactics of some early specialist activist investment funds − such as the break-up of businesses, selling of assets and cutting jobs − have long been criticised for putting short-term rewards ahead of the long-term health of companies, perhaps most famously in the acquisition of RJR Nabisco by activist investors KKR of New York in 1988 who were recorded in book and cinema format as *The Barbarians at the Gate* (Burrough & Helyar, 1989). Since then, activist investment become popular among hedge funds as a strategy for extracting value by forcing changes such as disposals with the sector experiencing a "resurgence" in 2017 (Fortado, 2017) as "activist investors flush with cash hunt for returns outside the US" (Daneshkhu, Fortado & Nicolau, 2017). The public relations campaign tactics used by activist investors involve engagement with the press, often through the

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