

Public Policy, Regulatory Risk, and the Need to Engage

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Business leaders often view Washington's public policy and regulatory scene through the prism of media terms like "Washington Gridlock." With all of the bad news from Washington there is a natural tendency to hunker down and disengage from the policy process. Unfortunately this reaction can occur at the very time that business leaders need to engage policymakers the most.

Chief Executive Officers, and the boards that govern their corporations, understand the need to protect their companies against marketplace, technological, financial and legal risks. On public policy and regulatory risk issues they may settle for passive "monitoring" of Congress and the regulatory agencies to "prevent bad things from happening." That should not be enough to address this critical area of public policy and regulatory risk. Companies that prefer not to engage with the very regulators who create the rules of the road for their industry are playing a risky game.

Companies with the most effective public policy programs seek an ongoing engagement with policymakers. The secret to their approach is simple. They know that in politics "You are either at the table or on the menu." Having your company's interest on the "menu" can result in more taxes and regulation than your business can profitably digest. Shaping nascent policy ideas long before they become law helps you minimize uncertainty in your business. This can help protect your revenue streams, business practices, and ability to best serve your customers and pursue opportunities to expand into new markets.

Policymakers make decisions that affect the financial health of businesses every day. Making sure these are quality decisions, that include your point of view, is up to you. An effective Washington Office staffed with solid experts in the public policy field augmented by subject matter experts is a good start toward full engagement. (Every company's political programs should be subject to a rigorous internal ethics review. Carelessness in this area carries major risk.)

Some industries have tried to keep Washington regulators at arms length. High Tech companies, in fact, were able to do so in their early years of growth. But no major company can ignore Washington for long. Now Google, Microsoft, and other tech companies are among the most actively engaged players in Washington.

Here is how I recommend that boards govern this critical area:

Overall Public Policy Engagement

Create a simple "scorecard" to measure engagement. It could be a list of questions and benchmarks. Factors such as whether the company is engaged constructively with the congressional committees that set policy for the industry are important considerations. Is the agency that regulates the industry favorably disposed to the company? Does the company have senior people who have connections to the major political parties? How does the company compare to its peers in effectiveness?

Insiders or Outsiders

Are your company's leaders sought out by policymakers for their opinion on proposed regulations, industry trends, and the economy? If not, why not? Do company leaders participate in the policy forums and think tank seminars that are part of the informal policymaking process?

Industry Relations, Unions, and Consumer Groups

Is the company able to advance its agenda through the effective use of the industry trade association or coalitions that include competitors, suppliers, consumer groups and other third parties? Are the company's unions a friend or foe in the policy process?

These are some of the factors boards should consider in assessing political/regulatory risk. If the board feels the company is weak in this area the services of a consultant can be helpful in doing an audit of this function. Armed with the consultant's findings the board can encourage company leaders to address this critical area of risk. With proper guidance improvements can be made in their public policy and regulatory engagement. As the company becomes more effective the board can feel comfortable the interests of shareholders, employees, and customers are protected.

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