

## **DELIVERING PUBLIC APOLOGY**

### ***Sorry Seems to be the Hardest Word in the Public World***

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"Apologizing in daily life is important, but apologizing in business is crucial"<sup>1</sup>

This paper explores the extent and result to which public figures, such as politicians, celebrities, and business people, offer apologies for wrongdoings and errors that may time and again put them in the center of controversy. Although an apology is often the first step in regaining public image and trust by publicly accepting responsibility for the harm done, very few leaders are able to offer a genuine and profound apology that meets the needs of the injured community, the victims, consumers, or general public. More often such public apologies are motivated by external strategic reasons, rather than by true feelings of guilt and remorse, required to initiate the process of forgiveness. These apologies also carry an additional degree of difficulty for at least two reasons: consequences of these acts and omissions are likely to affect thousands, sometimes millions, and the actions of public figures are highly visible and under the scrutiny of many eyes - followers, employees, consumers, media, but also friends and family members. These apologies reflect both personal principles, but also corporate values and societal norms. Still, there are positive examples of public apologies, as we will try to present in this paper.

We will discuss the following issues relating to the delivery of public apologies:

- 1. Benefits and possible pitfalls of a public apology**
- 2. What constitutes an effective apology?**
- 3. How to give a proper public apology ? (Case studies)**

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<sup>1</sup> Alicia Joy, "*Sumimasen: Behind Japan's Apology Culture*" (2017),  
<https://theculturetrip.com/asia/japan/articles/sumimasen-behind-japans-apology-culture/>

## **1. Benefits and possible pitfalls of a public apology.**

In our daily interactions in personal and business contexts, sooner or later there will be occasions when we do or say something that may offend the person(s) on the other side, or we may be on the receiving end of an apology. In both cases, a genuine apology can be a powerful tool to heal and restore a relationship with family members, friends, colleagues, clients, or consumers. There are numerous examples, in private and professional contexts, including court litigation, when victims expressed that all they have been looking for was a genuine and sincere apology, and a demonstration of true remorse and repentance, in order to forgive the offender and start the healing process.

In addition to internal, moral and relational reasons for the apology, there are also external factors, like establishing social harmony, avoiding punishment, social exclusion or other consequence of the act. Researches indicate that proper apologies may positively influence settlements, claiming that 73% of cases settle following a full apology.<sup>2</sup> Jennifer Robbennolt of the University of Missouri indicates that disputants were able to reach much better financial settlements if they apologized. Corporations may offer apologies to keep the clients and preserve market confidence in their products. Public figures may feel compelled to apologize to preserve reputation or social status. Offering an apology is especially important in professions that rely heavily on referrals and building relationships<sup>3</sup>, like lawyers and doctors.

Still, delivering an apology is not an easy thing to do. Our profession is a part of our personal identity, and when we make an error or mistake, it may affect our self confidence and how we see ourselves, most often as a successful person or a professional. Genuine apology

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<sup>2</sup> Jennifer K. Robbennolt, Attorneys, Apologies and Settlement Negotiations, 13 Harv. Negot. L. Rev. (2008)

<sup>3</sup> Brian Sullivan, The last word: When the last think you want to do is the first thing you ought to do (2012)

represents an act of self-humiliation and requires a considerable effort by the offender to admit responsibility and repent. Apology leads to healing, because through apologetic discourse, there is a restoration of moral balance.<sup>4</sup> However, if offered conditionally, insincerely, or partially, it may cause more bad than good. Prof. Lee Taft gives an example of a "botched"<sup>5</sup> apology that fails to effectively communicate the offender's remorse and creates further harm that can strain a relationship and fuel vengeance.<sup>6</sup> One of the well known examples of a "conditional" apology was delivered by Richard Nixon, who failed to acknowledge the offense and claimed that his actions (*if wrong*) were for the greater good:

*"I regret deeply any injuries that may have been done in the course of the events that have led to this decision. I would say only that if some of my judgments were wrong, and some were wrong, they were made in what I believed at the time to be in the best interests of the nation."*

Although some describe recent years as the *apology mania*<sup>7</sup> time, there is still a considerable reluctance to offer sincere, direct, and well crafted and effective apologies, especially by public figures such as government representatives, celebrities, and business leaders. One of the main reasons for this is the fear that an apology may lead to legal liability, and will therefore trigger a compensation claim that could otherwise be more successfully defended. For this reason a number of US jurisdictions have in recent years enacted "safe harbor" statutes for apologies. As of 2013, a total of thirty-seven US states have apology statutes, protecting expressions of apologies, benevolence and sympathy from admissibility in court<sup>8</sup>, but not the

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<sup>4</sup> Lee Taft, Apology Subverted: The Commodification of Apology, Yale Law Journal, (2000).

<sup>5</sup> Lee Taft, When more than sorry matters, Pepperdine Dispute Resolution Law Journal (2013).

<sup>6</sup> Aaron Lazare, On Apology, Oxford University Press (2004).

<sup>7</sup> Barbara Amiel, Saying sorry is fine, but only to a point (1985)

<sup>8</sup> Supra, note 5

statements of negligence and fault for an accident or act<sup>9</sup>, while some states provide universal protection for apologies expressed in medical malpractice cases. Still, court practice shows that a sincere apology can be a mitigating factor, while a stubborn and persistent refusal to acknowledge harm and apologize may aggravate the court's decision.<sup>10</sup>

Another reason why good apologies are rare in the public context, is that public figures sometimes use apology for tactical reasons: to overcome a crisis, limit damage to reputation or a product, or restore customer confidence. By many leaders, apologizing is still regarded as a sign of weakness, when in fact many examples show that the public often views sincere expressions of apology as a strength. *"We tend to view apologies as a sign of weak character. But in fact, they require great strength."*<sup>11</sup> Prof. Lazare further provides a good description of this phenomenon: *"Rather than accepting responsibility and telling the truth, the offenders chose to preserve their view of themselves and to avoid punishment."*<sup>12</sup>

When delivered effectively, an apology fundamentally changes how the wronged party perceives the person who caused the harm.<sup>13</sup> Researches have shown that the victims who receive an apology are less likely to retaliate<sup>14</sup>, while disputants are more likely to accept settlements following an apology<sup>15</sup>. Then, why are we not seeing more good and effective apologies, especially in the corporate and business affairs? One of the reasons is surely a fear of legal liability, while the other may simply be a lack of skill to craft an effective apology.

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<sup>9</sup> Cal.Evid.Code Sect. 1160 (a) (West 2000); Fla.Stat. Sect. 90.4026 (2), (2001).

<sup>10</sup> Peter H. Rehm, Denise R. Beatty, Legal Consequences of Apologizing, Westlaw, (1996) J. disp. Resol. 115

<sup>11</sup> Aaron Lazare, Go Ahead, Say You're Sorry, Psychology Today, (2016)

<sup>12</sup> *Supra*, note 6.

<sup>13</sup> Maurice E. Schweitzer, "Wise Negotiators Know Ehen to Say "I'm sorry", (2006)

<sup>14</sup> *Id.*

<sup>15</sup> Jennifer K. Robbennolt, Apologies and Settlements, The Journal of American Judges Association, (2009)

## 2. What constitutes a good and effective apology?

In the recent decades, researches on apology received a significant attention.<sup>16</sup> According to Tavuchis, an authentic apology includes 1) acknowledgement of the violated rule or a norm, 2) admission of the fault for the violation, and 3) expression of genuine remorse and regret for the harm caused by the violation.<sup>17</sup> Aaron Lazare<sup>18</sup> lists the following main elements of a true apology: Acknowledgment (naming) of the offense, including clear identification of the specific offense, without vagueness, conditions, minimizations, or the use of passive voice; Expression of remorse, where the offender humiliates themselves, and at the same time restores the dignity of the victim; Explanation (not justification) and condemnation of the offensive behavior; Offer of repatriation, in the form of reimbursement, moral or other intangible compensation.

Prof. Lee Taft states that an apology should include five main elements: expression of remorse, explanation of what happened, a statement of a clear apology, some form of accommodation of the victim's needs, and assurance that the offence will not be repeated in the future (lessons learned). A group of practitioners gathered around an online platform "perfectapology.com" contend that a "perfect apology" should include as many as eight elements: Detailed account of the situation, acknowledgement of the damage done, accepting full responsibility, recognizing the offenders role in the situation, a statement of regret, asking for forgiveness, a form of restitution, and a promise that the offense will not happen again.<sup>19</sup>

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<sup>16</sup> "Admissions of blameworthiness and regret for an undesirable event", Bruce Darby and Barry Schlenker, University of Florida

<sup>17</sup> Nicholas Tavuchis, *Mea Culpa: A sociology of Apology and Reconciliation* (1991).

<sup>18</sup> Supra, note 6.

<sup>19</sup> <http://www.perfectapology.com/business-apology.html>

In sum, the more of these elements are included in an apology, the more likely that it will be accepted as a genuine and have the desired effect. Still, there are other factors that have to be taken into account when delivering an effective apology, i.e. timing (sooner the better, before or during court proceedings), method of delivery (in person, by a public statement, You Tube), person to deliver it (the offender or attorney), etc.

### **3. How to give effective apology? (Case studies)**

In recent years we witnessed an increase in the number of public apologies, where more and more politicians, public figures, and companies use apology to convey regret and apologize for their wrongdoings. By promptly and genuinely apologizing they are mostly looking to limit or prevent damage to the brand, retain consumers or fans, and restore customer loyalty and trust. In addition, many leaders have realized that a well timed and effective apology can prevent rapid drop in profits, and sometimes even limit possible damage or reduce a compensation claim. Here are some of the most notable examples of public apologies, including a brief analysis of their effectiveness. I will start with personal apologies, and also analyze notable apologies in the corporate sector.

Tiger Woods: In 2009 after he crashed his car in the front yard, the rumors became news about his adulterous affair. In February 2010, Woods organized a press conference where he gave a 14-minute televised apology addressed to his wife (not present at the time) and the country's golf fans.

*...I know I have severely disappointed all of you.... I am embarrassed that I have put you in this position. For all I have done, I am so sorry..... I was wrong. I was foolish... I don't get to play by different rules... I brought this shame on myself. I hurt my wife, my kids, my mother, my wife's family, my friends, my foundation, and kids all around the world who admired me...*

This was a subdued apology criticized by many. Although he accepted fault and responsibility, he never fully acknowledged and explained what he had done. The way his apology was delivered, on cameras, without the family members present, except for his mother, also attracted some criticism. In the aftermath, his wife filed for a divorce, and his career never reached the old peaks.

Hugh Grant: At 35 and his career raising to full fame, at the time when he was living with British actress Elizabeth Hurley, Grant was arrested for soliciting oral sex from a prostitute in Los Angeles. After the incident, appearing on Jay Leno show as a part of the promotion of his new film *Nine Months*, he said candidly:

*I think you know in life pretty much what's a good thing to do and what's a bad thing, and I did a bad thing, and there you have it... I've done an abominable thing and /Hurley's/ been amazing about it... and we're going to try to work it out.*

While Grant and Hurley eventually split, his acting career continued to flourish<sup>20</sup>. The apology itself seemed honest, and delivered in a live TV show. Given Grant's lifestyle, the offense, and the moment, the public and profession seem to have been able to find his apology acceptable.

Reese Witherspoon: In 2013, driving back from a party, Witherspoon and her husband Jim Toth, were arrested for DUI and disorderly conduct, as she repeatedly confronted the police officer with "Do you know who I am, do you know my name?" Speaking about the incident on *Good Morning America*, Witherspoon admitted:

*It's just completely unacceptable and we are so sorry and embarrassed. We thought we were fine to drive and we absolutely were not... We know better and we shouldn't have done that. I saw /the police officer/ arresting my husband, and I literally panicked... I was so disrespectful to him... I have police officers in my family... I know better. It's just unacceptable.*

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<sup>20</sup> Samantha Schnurr, "The art of public apology: How celebrities fared after saying sorry for their scandals" (2017)

She acknowledge her action, explained what she did, accepted responsibility for the act, and publicly apologized to the person she offended, and to some extent, to the entire police community. The incident did not appear to have damaged her reputation considerably, she received another Oscar shortly afterwards, and produced a 2014 box office hit *Gone Girl*.

Bill Clinton: After denying the Monica Lewinski affair for months, President Clinton ended a televised speech in January 1998 with the statement that he did not have sexual relations with Lewinsky. Further investigation led to charges of perjury and to the impeachment process. He was subsequently acquitted on all impeachment charges, but was held in civil contempt of the court for giving misleading testimony in the Paula Jones case regarding Lewinsky. His license to practice law was suspended in Arkansas for five years; shortly thereafter, he was disbarred from presenting cases in front of the United States Supreme Court.<sup>21</sup> He continued to serve as the 42nd President of the United States until 2001, and his marriage with Hilary Clinton survived the scandal. In a televised statement in August 1998, Clinton admitted his involvement with Lewinski, the White House intern. He concluded his prepared statement by telling his wife and daughter that he was ready to do whatever it would take to make the things right between them - and by a promise to put the past behind him and turn attention back to the nation's business.<sup>22</sup> As expected, his apology received considerable attention, and criticism, best reflected in a CNN political analyst article titled *More Apology, Mr. President, And Less Politics, Please*.<sup>23</sup>

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<sup>21</sup> Wikipedia, [https://en.wikipedia.org/wiki/Lewinsky\\_scandal](https://en.wikipedia.org/wiki/Lewinsky_scandal)

<sup>22</sup> Barbara Kellerman, "When should a leader apologize - and when not?", Harvard Business Review (2006).

<sup>23</sup> Kathleen Hayden, All Politics, CNN.com, "Analysis: More Apology, Mr. President, And Less Politics, Please" "... while avoiding the appearance of weakness, he failed to come across as at all chastened. Those looking for even a little contrition were deeply disappointed. Instead the speech was laced with legal doublespeak and a sharp, defiant edge. Not once did he utter either the word "sorry" or "apologize." Nor did he deliver a straightforward description of his relationship with Lewinsky. He only said it was "inappropriate." And "wrong." Oh, and it "constituted a critical lapse in judgment"..... He attempted to strike a balance Monday night between conceding to the public as little misconduct as possible while working in as much criticism of the "political" attacks against him

Toyota recall: Between 2009 and 2010, Toyota issued three recalls in the US and Europe encompassing almost nine million vehicles due to various but related mechanical problems, suspected to have caused 37 deaths. Akio Toyoda, the President, issued the following statement (our comments and additions in bold):

*... I am deeply sorry for any accidents Toyota drivers have experienced /as a result of ... /... Toyota has, for the past few years, been expanding its business rapidly. Quite frankly, I fear the pace at which we have grown may have been too quick. I regret that this has resulted in the safety issues described in the recalls we face today / that had lead to 37 deaths(... I feel deeply sorry for the people who lost their lives or who were injured by traffic accidents / as a result of our mistakes (?) /, especially in our own cars...*

This apology falls short on several points, primarily for not accepting full responsibility, waiting too long to admit the mistake, and for not offering meaningful compensation. Nowhere in this apology did Toyoda admit responsibility for the specific acts that lead to accidents and deaths. He only accepted that the company has been growing too rapidly, and that has caused safety issues.

British Petrol Oil Spill - In 2010, an explosion on the BP oil platform killed eleven workers and injured several others, while over 4.9 million barrels of crude oil polluted the Gulf of Mexico. BP CEO Tony Hayward and his team initially tried to blame the contractors responsible for the blow-out safety valve, and later issued an online statement (followed

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*as listeners would be able to stomach. For the record, Mr. President, we could have done with a lot less of the latter and a whole lot more of the former."*

subsequently by a more detailed apology during the Congressional Testimony). The online apology statement read (our comments in bold):

*Eleven people died as a result of the accident and others were injured /passive, as if unrelated to BP/. We deeply regret this loss of life and recognize tremendous loss suffered by the families, friends and co-workers of those who died / as a result of... (?)/. We regret the damage caused / **passive again** / to the environment and livelihoods of those in the communities affected. We are putting in place measures to help ensure it does not happen again.*

There was no explanation of the specific event, no acceptance of responsibility, no offer of compensation, and extensive use of passive voice formulations. Instead, BP *regrets the loss of life* and as they would probably do in any case of, for example, earthquake or other third party caused catastrophe. Even the full apology given during the Congressional testimony was vague, and mainly focused on the clean-up efforts and the self-praising the capacity of BP as a global oil manufacturing corporation.

Tylenol recall: In 1982, seven people died from cyanide inserted into Tylenol capsules. Although the individual who did it had no relationship with the manufacturer, Johnson & Johnson, the CEO James Burke assumed responsibility without any delay. Production was immediately halted, capsules in stores were recalled at the estimated cost of 100 million dollars, and he invited customers to return their bottles in an exchange for a voucher.

*Our responsibility is to our customers... Don't risk it. Take the voucher so that when this crisis is over we can give you a product that we both know is safe.*

Burke immediately acknowledged the problem, accepted responsibility, expressed concern, offered compensation, and promised improved packaging to prevent future incidents. Contrary to the expert prediction, within a year, Tylenol regained 90% of its market share.

Domino's Pizza Bad Taste: In an advertizing campaign, Domino's Pizza featured customer comments including ...*'Worst excuse for pizza I ever had... 'Totally devoid of flavor... Domino's pizza crust to me is like cardboard... The sauce tastes like ketchup...*, etc. This is an example of a pro-active business apology that included explicit acknowledgement of the poor quality of the company's product. Domino's CEO, Patrick Doyle, stated *"We're proving to our customers that we are listening to them by brutally accepting the criticism that's out there... We think that going out there and being this honest really breaks through to people..."* Although many questioned the risks of this approach, analyst William Benoit praised this PR strategy: *"People do not like to admit they're wrong, but they do like to hear other people admit it. When someone does fess up, people tend to respect you for having the courage to admit it."*<sup>24</sup> Interestingly, this apology did not cause any drop in the company's stock value or financial indicators.

Probably the best example of an effective corporate apology was the Jet Blue Airlines letter to its customers following the delayed and cancelled flights during the 2007 Valentine Day's week of severe flight disruptions. Given the quality of this apology, it will be presented almost in full, including the commentary of the specific formulations.

*Dear JetBlue Customers, We are sorry and embarrassed. But most of all, we are deeply sorry. Last week was the worst operational week in JetBlue's history. Following the severe ice storm in the Northeast, we subjected our customers /active voice, not ...our customers were subjected/ to unacceptable delays, flight cancellations, lost baggage, and other major inconveniences /no attempt to minimize/... rebooking opportunities were scarce and hold times at 1-800-JETBLUE were unacceptably long or not even unavailable.../clearly explaining the problem/. Words cannot express how truly sorry we are for the anxiety, frustration, and*

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<sup>24</sup> William Benoit, *Accounts, Excuses, and Apologies*, State University of New York Press; Sunny Series in Speech Communication edition (December 5, 1994)

*inconvenience that we caused /acknowledging the harm done/... We are committed to you, our valued customers, and are taking immediate corrective steps to regain your confidence in us. We have begun putting a comprehensive plan in place to provide better and more timely information to you, more tools and resources for our crew members and improved procedure for handling operational difficulties in the future /prevention/. ... Most importantly we have published a JetBlue Airways Customer Bill of Rights...including details of compensation /promise of reparation/. I have a video message to share with you /note the change from "we" to "I" and "you"/ about this industry leading action. You deserved better, a lot better, from us last week. Nothing is more important than regaining your trust and all of us here hope you will give us the opportunity to welcome you onboard again soon to provide you the positive JetBlue experience you have come to expect from us.*

This was clearly one of the best corporate apology messages ever made. It was delivered without delay, there were no excuses, no defensive explanation of the bad weather (which actually was a contributing factor), they immediately named and owned up to the problem, with a full acceptance of responsibility for the suffering of the passengers and regret for the harm caused, followed by a very credible promise to fix the problem and prevent it from happening in the future. In the final paragraphs, JetBlue CEO, David Neeleman, issued a personal plea to the customers through a video message, and also gave back the power to the customers (victims) by asking for forgiveness, in the form of an invitation to use their services again.

## **Conclusion**

The main principle in delivering public apologies would be to come clean, admit the wrongdoing, and to not blame someone else. In other words, to "take responsibility and tell the truth". Only in this way will the apology be genuine, and communicate true remorse for the offense, repentance, and intention to make amends. In this way a leader or a company may be able to protect its reputation and position, while the apology may satisfy the victims' needs in

order to start the process of healing and forgiveness. A sincere apology has the potential of restoring relationships by reestablishing the balance of power between the victim and the offender. On the contrary, an insincere and constrained apology, designed only to limit legal liability, delivered by a wrong person at the wrong time, may only cause more harm than good.

Here are the main recommendations, in the form of "apology dos and don'ts":

<b>When apologizing, do not</b>	<b>When apologizing, do</b>
be arrogant	be humble
blame others	come clean
deny responsibility	accept responsibility
minimize harm	acknowledge harm
be defensive	offer explanation (not justification)
be vague	be specific
qualify the offense	offer repatriation
use passive voice	learn a lesson
be legalistic	ask for forgiveness