

CEOs emerge unscathed by environment lawsuits

Written by The Conversation USA

Images of environmental damage caused by large corporations certainly stir public outrage; but new research shows that the chief executives of companies sued for environmental wrongdoing commonly suffer little reputational damage.

Every corporation has a legal personality in the eyes of the law, which means it can be sued just like any individual person. However, unlike a person, a corporation cannot think or act of its own accord. Its actions are controlled by the chief executive officer and directors responsible for making its decisions.

So when a corporation is accused of breaching the law, it raises an intriguing question: does the CEO – the brain behind the corporate machine – suffer personal penalties for the company's alleged wrongdoing?

We investigated this issue in the context of the US market, examining the change in CEO reputation following over 9,900 US Federal Court lawsuits filed between 2000 and 2007.

The findings, now published in the *Journal of Contemporary Accounting and Economics*, show that CEOs face more grim re-employment prospects in the wake of contractual lawsuits; whereas following intellectual property disputes, CEOs of sued companies – far from being penalised – tend to receive more invitations to join outside boardrooms.

Market-based penalties for executives of sued companies is an important issue. Serious violations of the law can attract civil lawsuits or criminal prosecutions against the individual officers. However, financial penalties in civil lawsuits could be covered by the CEO's directors and officers (D&O) liability insurance, resulting in limited out-of-pocket expense to the CEO.

Criminal prosecutions are rare as they require a higher standard of proof. Given these limitations in the legal penalties for corporate executives, researchers have turned their attention to market-based penalties – those imposed by the collective actions of corporations in the executive labour market.

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Until now, the reputational flow-on effects in relation to environmental lawsuits has been unknown.

CEO reputation unimpeded by environmental lawsuits

Motivated by the case of BP's CEO Tony Hayward, who lost his job after an unprecedented public backlash over the Gulf of Mexico oil spill in 2010, our six-year research project has examined the repercussions of environmental lawsuits on the CEOs of the sued companies.

Since losing his job as the CEO of BP following the Deepwater Horizon oil spill, Hayward continues to experience negative publicity. His new job appointment as the Chairman at Glencore Xstrata in 2014 – four years after his departure from BP – was fraught with opposition from shareholders.

But this appears the exception. We found no evidence that CEOs are punished by market-based reputational damage following environmental allegations, regardless of whether they retain their CEO positions or leave the sued companies.

The research evidence shows that CEOs, in general, survive environmental lawsuits with their reputations unharmed and their career prospects unimpeded.

These sobering findings raise concerns over corporate environmental responsibility. Despite the increasingly scrupulous corporate rhetoric in recent years, there is no evidence to suggest that individual CEOs are punished by impaired reputation, when their companies have been embroiled in environmental allegations.

BHP and Samarco – a case closer to home

The collapse of a dam at the Samarco mine in Brazil last year, killing 17 people, amply illustrates the significant and potentially catastrophic impacts that large corporations can have on communities. The mine was a joint venture between BHP Billiton and Brazilian resources giant, Vale.

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Our research cannot shed light on the fate awaiting BHP's CEO, Andrew Mackenzie; our work is based on US evidence, whereas the joint venture owners are currently facing lawsuits in the Brazilian jurisdiction. However, if Anglo-Australian corporations react in the same way as their US counterparts, then it would not be surprising, based on these research findings, to see no significant reputational consequences for the CEO following the environmental allegations.

Looking into the Future

Whether Australian corporations do exhibit the same reactions as US companies would be an interesting question.

Given the shift in public opinion around climate change-related issues and the importance of environmental protection, corporate responses to allegations of environmental violations may have evolved accordingly since 2007, which marked the end of the sample period in this study.

Further research will provide new evidence as to whether corporations today remain as unresponsive to environmental allegations as they appeared to be some nine years ago. In the absence of market-based penalties for CEOs, there would be a serious question about whether sufficient disincentives are in place to deter environmental violations.

Chelsea Liu does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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