

# The Ethics of Delivering Bad News: Evaluating Impression Management Strategies in Corporate Financial Reporting

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## Abstract

Business communication textbooks offer impression management (IM) strategies to help students learn how to soften bad news. But corporations sometimes use these strategies in ethically questionable ways. This article analyzes IM strategies in a landmark case of ethically dubious corporate financial reporting. Findings suggest that the company, Ivax, manipulated three standard IM strategies by overamplifying its power to fix a financial crisis, substantially downplaying bad news, and concealing damaging information. Ivax also used a fourth, less familiar strategy: It buried contradictory information in legal disclaimers. Instructors need to help students become ethical writers who avoid questionable IM strategies like these.

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**Keywords**

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For more than 60 years, researchers have been interested in studying how people work to control others' impressions of them—a phenomenon called *impression management* (IM; Leary & Kowalski, 1990). IM has its roots in sociologist Goffman's (1978) dramaturgical metaphor of self-presentation, in which people enact public, "front stage" identity performances for various audiences and are free to drop the mask and relax only when they are "backstage," where no audience members are present. Over the years, IM has proven a useful and enduring concept in the fields of social psychology and interpersonal communication (e.g., Leary, 2019; Tedeschi, 2013), with researchers studying how and why people work to create particular impressions and what happens when those attempts succeed or fail. Other researchers have studied IM in professional organizations in order to understand how perceived hierarchies of power influence employees' IM-related work (e.g., Bolino et al., 2016).

IM studies in social psychology, as well as in interpersonal and organizational communication, typically examine how individuals work to manage impressions in face-to-face interactions. But other researchers have studied IM as a corporate and discursive activity, using it as a lens for analyzing how corporations work to project a positive corporate image via stakeholder-facing oral and textual genres. Crisis communication scholars, for instance, have studied press releases and CEO statements in order to analyze the IM techniques that corporations facing crisis use in order to avoid blame and maintain a positive corporate image (e.g., Allen & Caillouet, 1994; Patelli & Pedrini, 2014). And as I will show here, critical accounting scholars, in analyzing financial genres such as the earnings release and the annual report, have used IM in an effort to understand the discursive strategies executives use to guide shareholders' impressions about corporate financial performance—particularly if that performance is poor (e.g., Merkl-Davies & Brennan, 2007, 2011; Merkl-Davies et al., 2011).

In addition to suggesting that IM can be a corporate and discursive endeavor, this body of research points to an important phenomenon: IM

is especially crucial when companies have to deliver bad news. When they need to deny customer requests, recall products, lay off employees, or report poor financial performance, companies face the double rhetorical burden of having to communicate bad news and yet maintain stakeholder goodwill and a positive corporate image. Acknowledging how difficult this double burden is, business communication curricula typically offer IM advice in units devoted to writing negative messages. Business communication textbooks, for instance, offer negative message strategies students can use to soften bad news and thereby avoid alienating stakeholders. Common strategies include using passive voice to avoid casting blame (e.g., Guffey & Loewy, 2010; Locker & Kienzler, 2013), subordinating bad news while emphasizing positive interpretations (e.g., Oliu et al., 2013; Shwom & Snyder, 2016; Thill & Bovée, 2015), and omitting bad news that is truly unimportant (Locker & Kaczmarek, 2011). The fact that many popular, multiedition business communication textbooks have devoted space to helping students deliver negative news and still maintain stakeholder goodwill is a testimony to the value of such guidance.

Naturally, textbooks intend for students to use IM strategies ethically. In offering IM strategies such as using passive voice or subordinating negative news, textbooks attempt to help writers cushion bad news—not hide it or make it difficult for readers to understand. In fact, textbooks typically emphasize that writers should prioritize reader comprehension when delivering bad news. For instance, Locker and Kaczmarek (2011) explicitly stated that the primary purpose of a negative message is “to have the reader read, understand, and accept the message,” and the secondary purpose is “building a good image of the writer’s organization” (p. 75). In other words, textbooks suggest that creating a good impression is less important than delivering bad news clearly.

But IM in real-world corporate discourse is far more varied, complex, and ethically questionable. Recent years have seen a growing number of legal battles related to the IM strategies that companies use when reporting financial data to investors. In a brief analysis of securities class-action lawsuits in 2019,<sup>1</sup> I found that, on the surface, these companies used standard textbook IM strategies when discussing disappointing news with their shareholders; however, companies often took these strategies to an extreme, leveraging them in dense and complex ways that seem ethically problematic. In my brief analysis, I found two trends in such questionable IM strategies (see Table 1).

The questionable IM strategies shown in Table 1 likely seem unethical to business communication instructors, and the fact that these companies are

**Table I.** Ethically Problematic IM Strategies That Companies Used in 2019 to Mitigate Bad News.

IM Strategy	Example
<p>Companies use extreme levels of subordination that make negative information hard to find or difficult to interpret, given the repeated and forceful emphasis on positive interpretations.</p>	<ul style="list-style-type: none"> <li>Pharmaceutical company Zynerva issued a press release in 2019 suggesting that clinical trials of their new drug had gone well and that FDA approval would be forthcoming. But buried near the end of the release was a short sentence acknowledging that virtually all patients in the trial experienced adverse events, some quite serious (<i>Zynerba pharmaceuticals, 2019</i>). Because this news was buried and touched on only briefly, shareholders sued, claiming Zynerva misled them.</li> </ul>
<p>Companies frequently omit important news that shareholders feel they need in order to make informed investment decisions.</p>	<ul style="list-style-type: none"> <li>In their 2019 financial reports, Netflix used multiple subordination techniques to repeatedly downplay recent losses and to reassure investors that more profitable days were ahead. When the company's losses only deepened, investors sued, alleging that Netflix's repeated positive assurances were deceptive.</li> <li>According to its investors' 2019 lawsuit, Grubhub publicly touted its new partnership with Yum! Brands and its growth in "high-quality" returning diners, but it did not tell shareholders that the partnership with Yum! was floundering or that overall customer orders were actually declining.</li> <li>Customer service platform Zendesk was sued in 2019 for failing to disclose sluggish overseas sales growth and a major data breach, both of which negatively affected share prices.</li> </ul>

being sued suggests that the average investor would agree. But this raises a question: When do helpful, ethical IM strategies like those typically offered in business communication textbooks cross a line into unethical territory? If we imagine rhetorical ethics as a spectrum in which being fully transparent and omitting nothing is total honesty and outright lying is total deception, when and how does the use of IM strategies shift into unethical territory? For instance, when is burying or omitting bad news ethical, and when does it cross the line into falsehood? How much can a company subordinate bad news before it is no longer telling the whole truth or communicating clearly? And perhaps most important for instructors, how can students learn to navigate these ethical fault lines?

These are exigent questions that existing research cannot answer because it does not situate ethics in rhetorical practice. Moreover, existing teaching materials that do connect ethics with rhetorical practice tend to offer ethical guidance that is too general to be useful for navigating specific IM-related quandaries. But I argue that we can and should answer these questions. Here, I offer a critical discourse analysis of IM strategies in a landmark case of legal-but-unethical corporate financial reporting in order to illustrate how real-world business discourse uses ethically dubious IM strategies and the extent to which existing IM guidance falls short. Then I suggest three ways to update our IM-related guidance for students in order to ensure that we are teaching students how to deliver bad news both effectively and ethically.

## **Rhetorical Ethics in Professional Communication**

Because IM is so common in business discourse—executives frequently engage in IM when narrating financial performance to investors—critical accounting scholarship offers detailed analyses of IM strategies (for a robust synthesis of this research, see Merkl-Davies & Brennan, 2007). Although findings have been mixed, some of this research suggests that companies experiencing poor financial performance try to manage shareholder impressions by

- making text difficult to read (e.g., Courtis, 2004; Subramanian et al., 1993)
- distancing themselves from the bad news via passive constructions (e.g., Thomas, 1997)
- using euphemisms to make bad news seem more palatable (e.g., Thomas, 1997)

- using an abundance of positive language to mask negative news (e.g., Rutherford, 2005)
- repeatedly emphasizing positive and favorable news, both semantically and visually (e.g., Bowen et al., 2005)

This critical accounting scholarship is useful in large part because it offers such a granular look at common IM strategies. But it rarely explores the ethical implications of these strategies. It takes a descriptive approach, exploring why companies engage in IM, how IM correlates with market performance, and how effective IM is at changing investors' perceptions, but it does not evaluate IM strategies' ethical ramifications. As a result, this scholarship offers virtually no guidance about when and how the use of these IM strategies might verge into unethical territory.

The field of professional communication also does not offer guidance on this point because its teaching materials and pedagogical research do not situate ethics in rhetorical practice. Instead, scholars interested in integrating ethics-based teaching into professional communication curricula generally focus on methods for developing students' moral reasoning through ethical problem solving. Therefore, they tend to favor case-based approaches to ethical instruction (Conn, 2008; Dombrowski, 2000; Hawthorne, 2001; Kienzler, 2001; Kienzler & David, 2003; Markel, 1991, 2001; McQueeney, 2006; Speck, 1989; Wicclair & Farkas, 1984). These case-based approaches are meant to help students learn to navigate ethical dilemmas, such as overinflating sales figures (McQueeney, 2006), writing promotional materials for an unsafe product (Markel, 1991; Speck, 1989), writing materials explaining a controversial new educational program (Kienzler, 2001), or lying about data miscalculations in a progress report (Wicclair & Farkas, 1984). But while such cases are ostensibly about writing, they do not explore the ethics of particular rhetorical practices. Instead, they treat written text as just one piece of a complex ethical puzzle, and much of the problem solving that students are asked to do is social: It revolves around managing colleagues' and clients' conflicting expectations and dealing with tacit institutional pressure to produce less-than-honest texts. In short, prevailing approaches to ethics in professional communication offer useful ways to raise students' general awareness of ethical behavior, but they do not typically ground ethics in rhetorical practice and therefore cannot address if or when the use of IM strategies such as subordination or passivation is unethical.

Unlike this professional communication research, business communication textbooks do connect ethics to rhetorical practice. For instance, many

textbooks connect ethics with general advice for writing concise and readable prose, avoiding ambiguous language and confusing jargon, and avoiding deceptive practices such as distorting, suppressing, or falsifying information. These textbooks ultimately argue that accessible and accurate prose is also ethical prose because it makes information clear for readers. But even though this ethical guidance is undoubtedly helpful, it is often too general to help with specific IM quandaries, such as how to know what information can reasonably be omitted without being deceptive or when subordination goes too far and becomes a form of distortion. Moreover, as this case study will show, companies use additional IM strategies beyond those typically addressed in textbooks, and students need clear guidance from instructors on how to avoid using these strategies in potentially unethical ways. Otherwise, we risk letting corporate practice define what counts as acceptable IM. As Dragga (2011) has shown, corporations often conflate legality and morality, making it difficult for professional writers to contend with nuanced ethical challenges. Therefore, more explicit guidance about the ethics of IM strategies would be useful.

### **Exploring the Ethics of Common IM Strategies**

Ethical guidance could, for instance, help professional writers tasked with using IM strategies avoid unethical communicative practices—possibly even lawsuits. In addition, having clear IM-related ethical guidelines for writing is something students seem to need because studies have shown that students do not always reason their way into making ethical writing choices. Walzer (1989) illustrated this point: His anecdotal account of using case-based ethical reasoning in the classroom showed that when deciding whether or not to include potentially misleading data in a proposal, a number of students said the misleading data should be included to make the proposal more compelling. These students argued that “the readers of proposals have an obligation to be informed and suspicious” and “the requesting firm should ask to see evidence of the claims made in the proposal” (p. 158). In other words, students argued that it is not the writer’s job to communicate honestly; rather, it is the reader’s job to assume the writer might be lying and to seek further verification of the writer’s assertions. Proposals certainly deserve close scrutiny, but this treatment of the reader is troubling and highlights the need for more explicit ethical guidance in the classroom.

Dragga (1996) came to a similar conclusion: He found that when presented with ethical dilemmas related to document design, “students were

tentative in judging the seven [dilemmas], preferring ‘mostly ethical’ or ‘mostly unethical’ as their answers, whereas the majority of professional communicators chose either ‘completely ethical’ or ‘completely unethical’” (p. 258). For Dragga, students’ uncertainty was clear evidence that they need explicit preparation for the kinds of ethical challenges they will face on the job.

Of course, even if they receive explicit ethical guidance in the classroom, students might go on to engage in unethical communication practices. Workplace norms for prioritizing corporate interests over stakeholder needs might be too powerful for a novice professional to combat. But while any guidelines we pose might be ignored, failing to pose them at all will ensure that our field’s rhetorical ethical values will not enter the marketplace and that students will leave the university unprepared to contend with the ethical nuances of their rhetorical choices. Creating explicit rhetorical ethical guidelines is one way our field can assert its ethical values in the training of students who might one day influence corporate communication practices. Given that IM strategies for softening bad news are common but ethically fraught (as Table 1 indicates), they seem like a good place to begin developing such guidelines.

To map the ethical fault lines of IM in real-world business discourse and suggest ways that we can update our IM-related guidance for students, this article analyzes IM strategies in a landmark case of corporate financial reporting that is legal but ethically dubious. In my analysis, I examined the IM strategies used in a case that is widely considered ethically problematic, the extent to which these IM strategies aligned with those typically taught in business communication textbooks, and, based on these findings, the guidelines that we might glean to help us decide when and how using IM strategies to deliver bad news becomes ethically questionable.

## **About the Case**

The case in question involves Ivax, a pharmaceutical company. In 1996, Ivax was sued by its shareholders for offering misleading information about an unfolding financial crisis. Given my focus on the ethics of common IM strategies, this case is ideal for analysis. First, the case’s age is an asset. Ivax ultimately won the court case, but in the years since, legal experts have had time to study the case’s impact, and many have cited it as a landmark example of stakeholder communication that, while technically legal, exploited investors in ethically questionable ways. Several have argued that Ivax essentially got away with lying to their

shareholders by omitting important information and telling half-truths (Brinker, 2011; Murdock, 2006, 2009a, 2009b) whereas others have cited the Ivax case in broader arguments about the ways in which companies abuse existing legal standards to mislead investors (Lasker, 2010; Padfield, 2007; Rose, 2017; Steinberg & Appel, 2009). As a result, the Ivax case is an excellent example of borderline corporate behavior, or behavior that is technically legal but also ethically dubious. Borderline cases like Ivax's are particularly useful for analysis because they are so challenging. They force students and scholars alike to confront the tension between legality and morality, a tension that some in our field suggest deserves more consideration (Bailey, 2007; Dragga, 2011; Michaelson, 1990; Porter, 1997, 1998; Sachs, 1980; Shimberg, 1980; Wicclair & Farkas, 1984). In short, the Ivax case is a landmark example of corporate communication that seeks to manage shareholders' impressions in ways that are legal but ethically questionable, so it is an ideal place to begin scrutinizing the ethics of corporate IM strategies.

In this study, I analyze three press releases that Ivax issued in 1996 in an attempt to manage shareholder reactions to unexpected losses.<sup>2</sup> Normally a very profitable generic drug manufacturer, Ivax faced serious second-quarter losses in 1996 due in large part to competition in the generic drug market. In August 1996, Ivax issued an earnings release acknowledging greater than anticipated losses but also expressed optimism about the company's future. A month later, in September, Ivax issued a press release announcing an anticipated \$43 million loss in the third quarter. Again, this release was optimistic, focusing largely on the steps Ivax was taking to restructure the company in order to become profitable once more. Finally, in November, the company issued an earnings release that announced a \$178 million loss in the third quarter—a loss \$135 million greater than the one it had predicted just two months prior. Figure 1 summarizes the content of each release, with each shaded square representing a paragraph or set of paragraphs that do similar communicative work. I discuss many of these content elements, including the safe harbor disclaimer, in my analysis.

After the November release was issued, stock prices plunged, and investors brought a class action lawsuit against the company, arguing that Ivax's August and September releases were fraudulent and painted a false picture of the company's recovery (*Harris v. Ivax Corporation*, 1999). Ivax ultimately won the suit and a subsequent appeal because both courts found that the company's safe harbor disclaimers contained the legally required cautionary language; however, legal scholars have criticized this ruling on moral and ethical grounds.

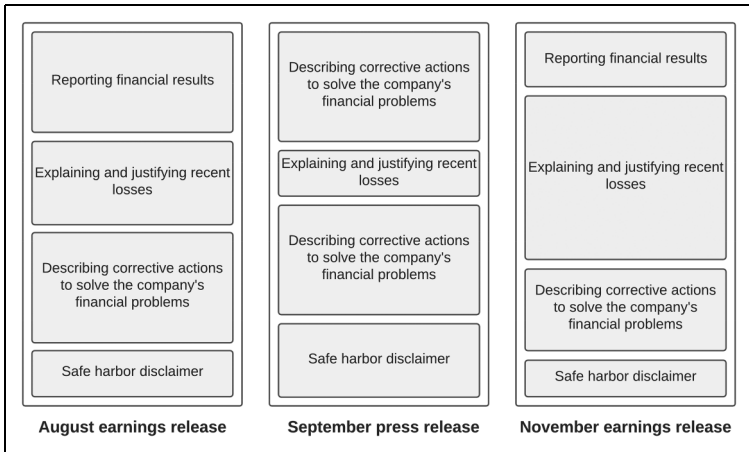


Figure 1. An overview of Ivax's three 1996 releases.

### Analytical Approach

My analysis draws on methods often associated with critical discourse analysis (CDA). Theoretically, CDA understands language as a social practice that circulates and reproduces ideology; methodologically, therefore, CDA seeks to expose the myriad ways in which discourse and ideology are bound together (Fairclough & Wodak, 1997; Hodge & Kress, 1993; Wodak & Meyer, 2009). But as some have pointed out (e.g., Wodak & Meyer, 2009, pp. 1–33), CDA is interested in not only exposing but also challenging language norms that tacitly prop up and reify inequitable power relations. By extension, then, CDA is inherently interested in questions of morality and ethics (Graham, 2018; Roderick, 2018). Therefore, because it is a useful approach for interrogating and critiquing the way that corporations use language to further their own ends, some scholars have used CDA to study corporate IM, as I do in this study (e.g., Beelitz & Merkl-Davies, 2012; Merkl-Davies & Koller, 2012; Schryer, 2000).

My first analytical goal was to understand what IM strategies Ivax used in its press releases. I began by mapping typical IM strategies covered in business communication textbooks. I surveyed six popular, multiedition textbooks, focusing specifically on their advice for writing negative messages. Table 2 summarizes three standard strategies referenced in these textbooks: passivation, subordination, and omission.

**Table 2.** Standard IM Strategies in Business Communication Textbooks.

Textbook IM Strategies	Description
Passivation	Active voice is best, but use passive voice to avoid casting blame (Guffey & Loewy, 2010; Locker & Kienzler, 2013; Locker & Kaczmarek, 2011; Shwom & Snyder, 2016; Thill & Bovée, 2015).
Subordination	Subordinate bad news and emphasize positive interpretations by <ul style="list-style-type: none"> <li>• burying bad news in the middle of paragraphs and messages via indirect organizational structures.</li> <li>• putting bad news in a subordinate clause (Guffey &amp; Loewy, 2010; Locker &amp; Kienzler, 2013; Locker &amp; Kaczmarek, 2011; Oliu et al., 2013; Shwom &amp; Snyder, 2016; Thill &amp; Bovée, 2015).</li> </ul>
Omission	Omit bad news that is truly unimportant if it will not interfere with the reader's comprehension (Locker & Kaczmarek, 2011).

Part of my analysis involved determining whether Ivax used any of the three IM strategies shown in Table 2. But I also wanted to know if Ivax used these standard strategies in complex ways not typically covered in textbooks and if it used additional strategies beyond those three. Therefore, I created an additional analytical framework, shown in Table 3. I drew on two discursive strategies—transitivity and textual silence—that, while not referenced in IM literature, are popular concepts in CDA and have clear IM implications (e.g., Huckin, 2002; Li, 2011; Machin & Mayr, 2013; Schröter & Taylor, 2017). To these, I added a third strategy—textual complexity—which is often referenced in critical accounting IM research (e.g., Curtis, 2004; Rutherford, 2003; Subramanian et al., 1993). I developed this framework through an iterative process of reading the Ivax press releases and existing IM and CDA literature.

I used the strategies in Tables 2 and 3 as the basis for my analysis. In each release, I noted every instance in which Ivax was delivering or explaining news related to its financial crisis. Then, I noted if the instance was drawing on one or more of these strategies. If a particular stretch of discourse seemed to be doing IM work but was not using any of these strategies, I noted this discourse as a potential new finding.

After tracing the type and nature of Ivax's IM strategies, I wanted to determine the ethical implications of those strategies. To do so, I leveraged

**Table 3.** Additional IM Strategies Discussed in Existing Research.

Additional IM Strategies	Description
Transitivity	Halliday's (1967) concept of transitivity and Hodge and Kress's (1993) model of syntagmatic analysis both suggest that, in addition to downplaying agency via passive constructions, writers can downplay agency by using relational being verbs to frame readers as relatively powerless (Schryer, 2000) or to suggest that negative outcomes are inevitable and not the fault of corporate actors (Thomas, 1997).
Textual silence	While writers omit information for a variety of reasons, some omissions are manipulative and ideologically driven. According to Huckin (2002), these "manipulative silences ... intentionally conceal information from the reader or listener, to the advantage of the speaker or writer" (p. 351).
Textual complexity	While findings have been mixed, some IM research suggests that low-performing companies, when faced with delivering bad news to shareholders, are more likely to create texts that are difficult to read (Curtis, 2004; Subramanian et al., 1993).

Walzer's (1989) practical, reader-oriented framework for judging the ethics of particular rhetorical practices. Walzer, one of the few scholars who has situated ethics in rhetorical practice, argued that rhetorical practices are unethical when they prey on readers' lack of knowledge and access to important information and invite readers to draw false inferences that create consequential expectations. This framework aligns well with the Kantian ethics of treating others as ends, not means, and acting toward others as you would want everyone to act toward everyone else—foundational ethical principles that Markel (1993, 1997) has argued should form the basis for teaching ethics in technical and professional communication.

Walzer's (1989) definition points to two criteria for making ethical judgments: comprehension and inference. These criteria are connected; readers make inferences based on their understanding of given information. Ethical texts, then, give readers the information they need, in forms they can easily understand, so that they can make reasonably accurate inferences and act accordingly. In corporate financial documents, inferences are particularly important because they become the basis for investment decisions. To

apply Walzer's framework to Ivax's case and evaluate the ethical implications of particular IM strategies, I considered information that shareholders would have needed to fully comprehend the nature of Ivax's financial crisis and the inferences they likely would have drawn from this information if it were presented to them. I used the *Harris v. Ivax Corporation* (1999) legal scholarship and case summary to help me identify both the information necessary for comprehension and the inferences shareholders made and would have made if Ivax had been more transparent about its financial crisis.

### **Ivax's Use of IM Strategies to Mitigate Bad News**

In this section, I outline four IM strategies that Ivax used to mitigate bad news. My analysis shows that Ivax used three textbook IM strategies—passivation, subordination, and omission—in complex (and sometimes ethically questionable) ways. It also shows that Ivax used a fourth IM strategy not covered in either typical business communication teaching materials or existing IM literature: It buried contradictory information in legal disclaimers.

#### ***Strategy 1: Ivax Manipulated Agency to Avoid Blame for Past Actions and to Suggest That It Had the Power to Ensure Positive Future Outcomes***

Using passive voice to downplay agency and avoid blame is a common IM strategy often referenced in business communication teaching materials. But my analysis suggests that Ivax manipulated agency in complex ways that go beyond the use of passive voice. First, Ivax reduced its agency by using relational verbs in order to downplay its culpability in perpetrating its financial crisis. In addition, it heightened its agency by using active verbs and the cognitive–emotional verb “believe” in order to suggest that the company had the power to solve this problem and ensure positive future outcomes.

One consequence of Ivax's financial crisis was a problem with its creditors. Ivax's higher than anticipated second-quarter losses caused the company to break the terms of a loan and thus face debt restructuring: The nearly \$30 million that would normally be classified as long-term debt had been reclassified as short-term debt, which it would have to pay off within one year. The default and debt restructuring posed a serious problem for Ivax, and the company addressed it in all three press releases. In the August release, Ivax (1996a) announced this “technical default,” assuring shareholders that it was working with the bank syndicate in

order to obtain a waiver to prevent the debt restructuring. Excerpts 1 and 2 are two halves of what, in the August release, was a single paragraph (I have added the emphases).

1. *IVAX is a party* to a revolving credit facility with a syndicate of banks. As a result of IVAX' second-quarter results, *IVAX is presently out of compliance* with the facility's fixed charge ratio covenant, *which constitutes a technical default* under the facility. (Ivax, 1996a)
2. *IVAX is seeking a waiver* of this default and is hopeful that a waiver will be granted shortly. *IVAX believes it has a strong balance sheet*, with a debt to total capital ratio of less than 32% and, if the waiver is granted and the amounts outstanding under the facility are reclassified as long-term debt, a current ratio of 3.7. (Ivax, 1996a)

As Excerpt 1 shows, Ivax downplayed its role in creating this problem, but the company did not minimize its agency by using passive voice; rather, it did so by using the relational verbs "is" and "constitutes." As Halliday's (1967) work on transitivity suggests, the use of relational being verbs such as "is" suggests that an assertion is objectively true and cannot be questioned. In her analysis of corporate reports, Thomas (1997) argued that using relational being verbs in combination with nonhuman subjects (e.g., "Ivax" in Excerpt 1) "gives a strong but subtle impression of a factual situation caused by circumstances not attributable to any person or persons who might otherwise be thought responsible" (p. 56). In other words, when Ivax stated that it "is a party" to this credit facility and "is presently out of compliance" with the loan's terms, it was presenting these as inevitable realities, as factual scenarios that have happened to the company. But this minimized Ivax's active role in creating this debt-restructuring problem. The company was a party to this credit facility because it actively sought the loan, and it was out of compliance thanks in part to the company's own actions. The phrase "which constitutes a technical default" works similarly: Saying "we defaulted" would have highlighted Ivax's culpability, but the relational verb "constitutes" downplays the company's culpability by depicting the default as an inevitable reality.

Although Ivax minimized its agency in Excerpt 1, the company heightened it in Excerpt 2 in order to suggest that it had the power to solve this debt restructuring problem. In the sentence "Ivax *is seeking* a waiver of this default," for example, Ivax portrayed itself as actively engaged in the process of undoing this debt restructuring. The September release's

version of Excerpt 2 asserted that the company “*is working* [emphasis added] with the participating banks to obtain a waiver” (Ivax, 1996b), which heightened its agency further and suggested that the company played an active role in obtaining the much-needed waiver. “*Ivax believes*” in Excerpt 2 of the August release (Ivax, 1996a) is also worth considering: This phrase does not portray action, but because the cognitive–emotional verb “believe” simultaneously expresses strong emotional commitment and epistemic doubt (Cappelli, 2008; Pouillon, 2016), the phrasing allowed Ivax to assert its financial strength while tacitly acknowledging that its balance sheet might not appear to be strong.

Although minimizing corporate agency to avoid blame is a common IM strategy for delivering bad news, heightening corporate agency to suggest enhanced levels of power and control is far less familiar, and it can be misleading. The problem with Ivax’s agency heightening in Excerpt 2 is that it suggested that Ivax had more power to secure a waiver than it actually did. When Ivax indicated it was “seeking a waiver,” the company implied that a waiver was readily available. Similarly, when Ivax suggested it was “working with the bank syndicate to obtain a waiver,” the company made it sound as if this effort was likely to produce a waiver, which was not true: Each release’s legal disclaimer included a caveat that “the credit facility waiver is subject to the discretion of the bank syndicate.” In other words, the bank decided whether Ivax would receive this waiver, so any suggestion that Ivax had the power to secure one seems misleading. Therefore, heightening agency the way Ivax did in Excerpt 2 seems ethically questionable because it might have invited shareholders to make the inaccurate inference that Ivax could quickly solve its debt-restructuring problem through its own efforts.

### ***Strategy 2: Ivax Used Layered, Multilevel Subordination Techniques to Downplay Bad News and Highlight Potential Positive Outcomes***

In addition to minimizing agency, business communication textbooks frequently suggest that subordination is another useful IM strategy for mitigating bad news. Textbooks typically outline two subordination techniques:

- *document-level subordination*, which situates bad news in the middle of a document and ends the document on a positive note—often called an “indirect organizational structure” in textbooks (e.g., Shwom & Snyder, 2016, p. 189)

<p><i>“Although the spam filter eliminated the majority of junk emails, <b>it had many false positives.</b>”</i></p>	<p><i>“Although the spam filter had many false positives, <b>it eliminated the majority of junk emails.</b>”</i></p>
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**Figure 2.** An example of the way in which a sentence’s topic and stress arrangement influences readers’ inferences, adapted from Wolfe et al. (2011, p. 131).

- *sentence-level subordination*, which embeds bad news in subordinate clauses

But my analysis suggests that Ivax used a third kind of subordination—paragraph-level subordination—and that it used all three of these subordination techniques in dense, layered ways, creating a kind of multilevel subordination that substantially downplayed bad news and amplified positive interpretations.

To understand paragraph-level subordination, we must first understand the mechanics of sentence-level subordination. Sentence-level subordination acknowledges that clause arrangement affects interpretation. Because readers tend to focus on the end of a sentence (the “stress position”) and not the beginning (the “topic position”), the arrangement of clauses can direct readers to interpret the same information in fundamentally different ways (Gopen & Swan, 1990). Wolfe et al. (2011) offered useful examples that illustrate how the subordination of one idea in favor of another can alter the semantic meaning of a sentence. One such example is shown in Figure 2, in which I have italicized the information in the topic position and bolded the information in the stress position.

Although the information in Figure 2 is the same in each version of the sentence, the arrangement of that information guides the reader toward entirely different inferences: The version on the left suggests that the spam filter is ineffective (“many false positives”) whereas the version on the right suggests it is effective (“eliminated the majority of junk mail”). As this example shows, sentence-level subordination is a useful strategy for guiding readers’ inferences.

My analysis suggests that in addition to using this kind of sentence-level subordination, Ivax also engaged in paragraph-level subordination. In Excerpt 3, I combined Excerpts 1 and 2 into their original paragraph structure to illustrate what this paragraph-level subordination looks like. The

semantic arrangement of Excerpt 3—an arrangement I am calling bad news—good news—subordinates bad news, which I have italicized, and emphasizes good news, which I have bolded.

3. *IVAX is a party to a revolving credit facility with a syndicate of banks. As a result of IVAX' second-quarter results, IVAX is presently out of compliance with the facility's fixed charge ratio covenant, which constitutes a technical default under the facility. **IVAX is seeking a waiver of this default and is hopeful that a waiver will be granted shortly. IVAX believes it has a strong balance sheet, with a debt to total capital ratio of less than 32% and, if the waiver is granted and the amounts outstanding under the facility are reclassified as long-term debt, a current ratio of 3.7.*** (Ivax, 1996a)

As Figure 2 shows, a sentence's topic and stress arrangement can guide a reader's interpretation. I suggest that the semantic structure of an entire paragraph can do the same, as is evident in Excerpt 3, in which bad news related to the technical default and potential debt restructuring is followed by good news related to the possible waiver. Although bad news in Excerpt 3 is not lexically subordinated, it is structurally subordinated: Because the entire paragraph tells the story of the debt restructuring, with the good news occupying the "new" or "stress" position in the paragraph, shareholders were invited to interpret the good news as the focus of the paragraph and subordinate the bad news.

In Ivax's press releases, the kind of paragraph-level subordination shown in Excerpt 3 often spanned multiple paragraphs and worked in tandem with sentence-level subordination to create a kind of layered, multilevel subordination that significantly downplayed negative news and repeatedly highlighted potential positive outcomes. Excerpt 4 illustrates this interplay of sentence- and paragraph-level subordination. Again, bad news, which I have italicized, is consistently subordinated to good news, which I have bolded.

4. *Since its June forecast, IVAX identified significantly higher than estimated inventory levels for certain customers, largely relating to the introduction of an unusually large number of U.S. generic drugs in 1995 and 1996. Accordingly, inventory credits and reserves for returns were higher than originally estimated....*

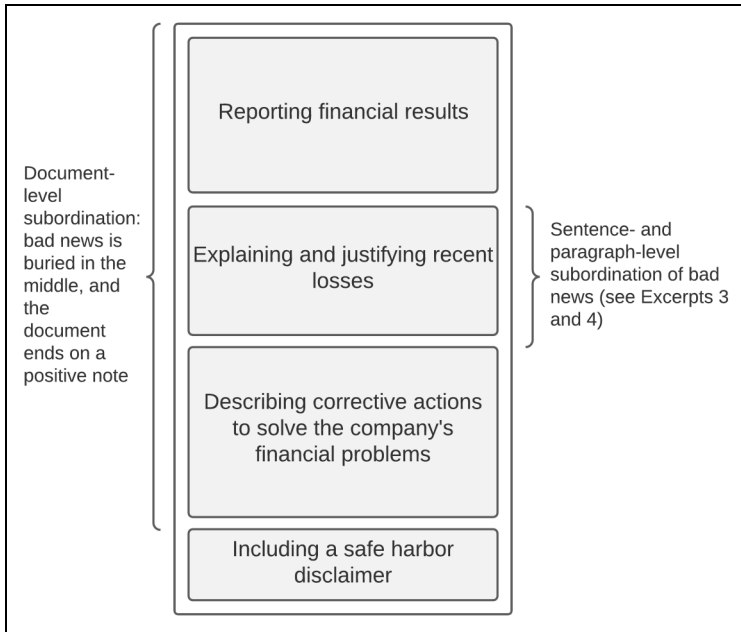
*During the 1996 second quarter, price declines in the U.S. generic drug business reduced margins, and significant customer inventories resulted in lower reorders from certain key accounts. Although IVAX operates in a highly competitive environment and price declines were significant during the second quarter, **prices for IVAX's important generic products, in general, have not materially declined since IVAX's June 27 forecast. Reorders are expected to improve as customer inventories are depleted. ...***

*Phillip Frost, M.D., IVAX's Chairman and Chief Executive Officer, said "Clearly, we have experienced a very disappointing quarter. **We believe, however, that the challenges unique to this period in our history are now behind us. The broader challenges of the generic drug industry as a whole, and its tremendous opportunities, remain. We will meet these challenges with strategies honed and improved as a result of this most difficult quarter.**" (Ivax, 1996a)*

Together, the three paragraphs in Excerpt 4 constitute an expanded version of the paragraph-level subordination of bad news to good news: After acknowledging recent losses in the first paragraph (the bad news), Ivax suggested that the worst was over in the next two paragraphs (the good news). The multiparagraph structure consistently subordinates the past losses as less important than the predicted future recovery. Within this multiparagraph bad news–good news structure, the last two paragraphs use paragraph-level subordination similar to that shown in Excerpt 3. They also use two sentence-level subordinations (“Although” and “however”) to further downplay negative information.

Moreover, in Ivax's August release, the multilevel subordination shown in Excerpt 4 was embedded in a larger document-level subordination structure, adding an additional layer of subordination that further minimized bad news and accentuated positive interpretations. Figure 3 offers a visual representation of how sentence-, paragraph-, and document-level subordination combined in the body of the August release to create a multilevel, layered subordinating effect.

As Figure 3 shows, in the August release, the mixed sentence- and paragraph-level subordination shown in Excerpt 4 was embedded within a larger structure of document-level subordination. This document-level subordination minimized bad news by positioning it in the middle of the release and amplified good news by ending with several positive paragraphs in



**Figure 3.** Multilevel, layered subordination in the body of Ivax's August 1996 earnings release.

which the CEO reassured shareholders that Ivax was well positioned to regain its losses and enjoy profitable future growth. As a text, therefore, the August release used multilevel, layered subordination techniques to consistently downplay bad news and foreground positive interpretations.

Although sentence- and document-level subordination techniques are standard in business communication instructional materials, paragraph-level and layered, multilevel subordination techniques are not—nor are they addressed in existing IM literature. As for their ethical implications, the rhetorical force of this layered, multilevel subordination at the sentence, paragraph, and document levels is quite strong and could be misleading. Because Ivax consistently countered bad news with positive projections and ended each release with positive assurances, shareholders might have found it difficult to weigh together Ivax's bad news and positive interpretations in order to make informed inferences about the company's chances for a fast recovery. As a result, this kind of subordination might invite readers to draw overly optimistic inferences that do not align with reality.

### *Strategy 3: Ivax Omitted Potentially Damaging Information and Cloaked the Omission in Inscrutable Language*

Although most business communication textbooks offer guidance about using passivation and subordination, only one that I reviewed—Locker and Kaczmarek (2011)—suggests that omitting negative news “that is truly unimportant” is a useful strategy (p. 111). In highlighting omission as an IM strategy, Locker and Kaczmarek rightly acknowledged that writing always involves omission-related choices, and they offered useful advice for helping students interrogate the balance between enough and too much information.

But my analysis suggests that Ivax omitted potentially damaging news and that in the November release, the company cloaked this omission in purposely complicated and inscrutable language. Ivax’s first omission was serious: In November, Ivax adjusted its balance sheet to reflect its assets’ diminished value, which resulted in an immediate loss of \$104 million. But Ivax never warned shareholders in the August and September releases that this kind of adjustment was a possibility. This omission was a major part of the lawsuit that shareholders brought against Ivax (*Harris v. Ivax Corporation*, 1999). The second omission related to the first: The \$104 million loss further complicated Ivax’s negotiations to restructure their debt. The November earnings release addressed this, using much of the same language shown in Excerpts 1, 2, and 3. But in this November release, the language that discusses working with the bank syndicate is oddly complicated and violates grammatical norms.

5. IVAX has been working closely with the bank syndicate and believes of procuring the requisite majority vote of syndicate participants shortly. Notwithstanding this development, IVAX believes it maintains that an amendment to the agreement will be executed shortly. Once amended, all amounts outstanding under the facility will be reclassified as long-term debt. (Ivax, 1996c)

In the first sentence, for example, the verb phrase “believes of procuring” seems obscure, and using a verb phrase such as “believes it will procure” or “hopes to procure” would be clearer. In addition, the reference to “the requisite majority vote” is unclear in this sentence because, up to this point, no vote has been mentioned. The next sentence is no better. In the introductory phrase “Notwithstanding this development,” “this” has an unclear referent: What development? The possibility of procuring a majority

vote? Because the vote was framed as something Ivax had been working toward, its use of the preposition “notwithstanding” seems surprising, given that it means “in spite of.” The rest of the sentence is almost incomprehensible because of the inscrutable verb phrasing: “Ivax believes it maintains that an amendment to the agreement will be executed shortly.” Did Ivax believe in the fact that it maintained that the agreement would be executed? If so, what does that mean?

Reading these two sentences, we can begin to piece together a story: Ivax had asked the bank syndicate to amend its credit agreement so that it could restructure the company’s debt, and it was waiting on syndicate members to vote on whether or not to approve this amendment. Why this information is buried beneath inscrutable verb phrases and ambiguous referents is not clear until we realize what has been omitted from Excerpt 5: the proposed waiver that Ivax was working to secure and referenced in its August and September releases. Ivax did not state in Excerpt 5 that the waiver had been denied; instead, it omitted the word “waiver” entirely. Presumably, the credit waiver would have been easier to secure than the amendment, which is no doubt why Ivax pursued that option in the first place. So when the waiver was denied, the company had to ask the syndicate to change the loan agreement, a process that was presumably more challenging and perhaps less likely to occur. These circumstances might account for the complex and potentially incomprehensible sentence structures in Excerpt 5 and the fact that the word “waiver” is missing entirely: Although the company could not lie to shareholders about what was happening with the bank syndicate, it could omit the fact that the waiver had been denied and that it was pursuing a more difficult path forward.

Obviously, no business communication text would endorse using the kind of inscrutable syntax that Ivax uses in Excerpt 5. Moreover, these omissions—the value adjustment and the waiver denial—violate Locker and Kaczmarek’s (2011) guidelines because both are important pieces of information that shareholders might have used to alter their investment strategies. But as my analysis suggests, while omission can be a useful IM strategy, it can also be a highly unethical “manipulative silence” in which a self-interested company declines to give readers the information they need in order to fully comprehend a given situation (Huckin, 2002). My analysis also suggests that companies might engage in textual obfuscation, or writing purposefully unclear text, when they have to deliver bad news, as prior IM research has also found (e.g. Curtis, 2004; Subramanian et al., 1993). In short, my analysis indicates that omission might be a more

complex and ethically fraught IM strategy than business communication texts indicate.

#### ***Strategy 4: Ivax Buried Contradictory Information in Legal Disclaimers***

Up to this point, my analysis has shown that Ivax used three familiar, standard IM strategies in fairly complex ways. But I also found that Ivax used a fourth IM strategy not covered in typical business communication texts or explored in IM scholarship: The company buried contradictory information in the safe harbor disclaimer in order to foreground a confident, optimistic narrative about its financial recovery. The *safe harbor disclaimer* is a mandatory legal disclaimer that companies must include in any document that offers forward-looking projections about a company's financial future (Schneider & Dubow, 1995). Each of Ivax's 1996 press releases includes a one-paragraph safe harbor disclaimer at the end, after the release's main content.

Although legal disclaimers are a familiar element of many genres, consumers pay little attention to them (Bakos et al., 2014; Foxman et al., 1988; Jacoby & Szybillo, 1994; Radin, 2013). We all know that we should read the fine print, but we rarely do, opting instead to pay attention to main messages (Eggers & Fischhoff, 2004; Green & Armstrong, 2012; Perry & Blumenthal, 2012). This is a widespread, if tacit, convention for dealing with all kinds of disclaimers. Moreover, research suggests that investors tend to read like consumers: Investors also tend to rely on the main content of financial documents and consider disclaimers less important (Asay & Hales, 2015, 2018; Mercer et al., 2010; Palmiter & Taha, 2012).

Although far from ideal, disregarding disclaimers generally works because we assume that the fine print adds information to main messages but does not directly contradict or undermine them. In the case of advertising, that assumption is the law: The Federal Trade Commission's Clear and Conspicuous Standard for disclaimers prohibits companies from burying contradictory information in their ads' fine print. For instance, if a cereal manufacturer runs a campaign promising a free prize in every box, it cannot reveal in the fine print that the prize is available only to those who enter and win a contest because that information would directly contradict the advertisement's main message (*FTC Fact Sheet*, n.d.). Beyond advertising, we carry this convention of assuming that disclaimers will not contradict main messages into all kinds of transactions. Of course, this assumption

can prove false; however, the fact that it persists suggests that it works well enough on the whole. We generally get what we want from our products and services without carefully reading the fine print.

But Ivax violated this tacit convention in its August release by burying contradictory information in the safe harbor disclaimer in an effort to foreground a confident, optimistic vision of the company's financial recovery. As Table 4 shows, in the body of the August release (Excerpt 6), Ivax

**Table 4.** Information in the Body Versus the Safe Harbor Disclaimer of the August Release (Ivax, 1996a).

From the Body of the August Release	From the August Release's Safe Harbor Disclaimer
<p>6. Since its June forecast, IVAX identified significantly higher than estimated inventory levels for certain customers, largely relating to the introduction of an unusually large number of U.S. generic drugs in 1995 and 1996. Accordingly, inventory credits and reserves for returns were higher than originally estimated. . . .</p> <p>During the 1996 second quarter, price declines in the U.S. generic drug business reduced margins, and significant customer inventories resulted in lower reorders from certain key accounts. Although IVAX operates in a highly competitive environment and price declines were significant during the second quarter, <i>prices for IVAX's important generic products, in general, have not materially declined since IVAX's June 27 forecast. Reorders are expected to improve as customer inventories are depleted.</i></p> <p>Phillip Frost, M.D., IVAX's Chairman and Chief Executive Officer, said, "Clearly, we have experienced a very disappointing quarter. We believe, however, that <i>the challenges unique to this period in our history are now behind us.</i>"</p>	<p>7. Statements made in this press release, including those relating to expectations of increased reorders . . . and the generic drug industry, are forward looking and are made pursuant to the safe harbor provisions of the Securities Litigation Reform Act of 1995. Such statements involve risks and uncertainties which may cause results to differ materially from those set forth in these statements. Among other things, <i>additional competition from existing and new competitors will impact reorders. . . . In addition, the U.S. generic drug industry is highly price competitive, with pricing determined by many factors, including the number and timing of product introductions.</i> Although the price of a generic product generally declines over time as competitors introduce additional versions of the product, <i>the actual degree and timing of price competition is not predictable.</i></p>

emphasized that its recent losses were a “unique” problem that was already behind it and that the company would soon return to profitability. But the August release’s safe harbor disclaimer (Excerpt 7) contradicted this confidence and optimism. I have added the emphases in both excerpts.

In Excerpt 6, Ivax worked to reassure customers that its recent financial challenges were over and more profitable days were ahead. Excerpt 6 begins by addressing the causes of Ivax’s recent losses: In the first half of 1996, competitors introduced new generic drugs into the market, which reduced demand for Ivax’s drugs. As a result, Ivax’s inventory levels rose while its order rates and drug prices declined. Although it acknowledged this reality, Ivax was quick to assert that the worst was over, noting, for instance, that “reorders are expected to improve as customer inventories are depleted.” In other words, it suggested that generic drug supply and demand were stabilizing, so the company would return to the kind of profitability it enjoyed before this unexpected crisis. The company also noted that “prices ... have not materially declined” since late June, suggesting that pricing was stabilizing too.

CEO Frost underscored this notion that the market was stabilizing and the company was becoming profitable once again. First, the “challenges” Frost referred to seem to be the low drug prices, reduced reorders, and high inventory rates outlined in the first paragraph of Excerpt 6. In asserting that the challenges “are now behind us,” then, Frost was suggesting that this problematic combination of low prices, reduced reorders, and high inventories—and the financial crisis it created—had been solved. Moreover, Frost used the categorical, unqualified verb form “are” in his statement. Although statements can be qualified to leave more or less room for competing perspectives (Martin & White, 2005)—for example, “are *possibly* now behind us” leaves room for opposition whereas “are *definitely* now behind us” leaves little room for disagreement—Oddo (2011) has argued that categorical verb constructions (e.g., “are now behind us”) “assume the most authority, essentially closing off debate” (p. 297). In other words, Frost was asserting in unequivocal terms that the conditions that created this crisis were in the past.

But the August release’s safe harbor disclaimer, a portion of which is shown in Excerpt 7, seems to directly contradict these positive reassurances. For instance, this excerpt emphasizes that “additional competition from existing and new competitors will impact reorders.” The use of the predictive modal verb “will,” instead of a hedged modal like “might” or “could,” frames additional competition as a likelihood, perhaps even an inevitability. This casts serious doubt on Ivax’s assertion that “reorders are expected to

improve.” Similarly, Excerpt 7 offers several sober warnings about pricing: It asserts that the generic drug industry “is highly price competitive” and that “the actual degree and timing of price competition is not predictable.” These warnings seriously undermine Excerpt 6’s tacit suggestion that pricing is stabilizing.

Moreover, all of the information in Excerpt 7 seems to contradict Frost’s assurances that the company’s challenges “are now behind us.” Given that reduced reorder rates and low drug prices were two of those challenges, how could Frost know that these challenges were behind the company if, as the safe harbor disclaimer suggests, additional competition would impact reorders? Similarly, how could he know that the challenge of low prices was behind the company if drug pricing was highly competitive and unpredictable? Because Ivax could not control the behavior of its competitors, it could not accurately predict what would happen to its inventory levels, reorder rates, or drug pricing. Therefore, it was not at all clear, as Frost suggested, that these “challenges . . . are now behind us.”

As Excerpts 6 and 7 show, the August release violated tacit conventions for engaging with disclaimers: Instead of adding additional information about the company’s predictions for recovery, the safe harbor disclaimer seemed to directly contradict and undermine those predictions. In this way, the safe harbor disclaimer created a kind of discursive escape hatch for Ivax that seems quite unethical. It allowed the company to foreground a positive, confidence-inspiring narrative in the release’s body while burying contradictory information in a disclaimer that readers were unlikely to read. In fact, the very presence of the safe harbor disclaimer seemed to create a situation in which Ivax could be more deceptive in the body of its release than it could otherwise have been. As one legal scholar puts it, the safe harbor disclaimer seems to grant companies “a license to lie” (Das, 2010). Without the disclaimer, Ivax would have had to hedge its confident predictions in Excerpt 6 in order to avoid accusations of deception. But the safe harbor disclaimer offered a convenient way for Ivax to bury contradictory and conflicting information within a statement that shareholders were likely to disregard as relatively unimportant.

And they did seem to disregard it. Two of the emphasized statements in Excerpt 6 were especially important in the lawsuit shareholders brought against Ivax: Shareholders contended that the statements “reorders are expected to improve” and “the challenges unique to this period in our history are now behind us” did not read like forward-looking statements but rather as assertions of current fact. Thus, shareholders assumed that the company’s financial position was already showing signs of improvement

in August. They also claimed that Ivax's safe harbor disclaimers amounted to "mere boilerplate" (*Harris v. Ivax Corporation*, 1999). Together, these complaints suggest that shareholders followed the tacit convention of generally disregarding the disclaimer, focusing instead on statements made in the release's body to guide their inferences about Ivax's recovery and future investment potential.

At this point, it would be reasonable to wonder if legal disclaimers are inherently unethical. Several researchers have criticized financial disclaimers such as the safe harbor and have proposed changes (Asay & Hales, 2015, 2018; Das, 2010; Mercer et al., 2010; Palmiter & Taha, 2012). More broadly, many studies have suggested that disclaimers often fail to protect consumers' interests, which could indicate that disclaimers are ethically problematic (e.g., Green & Armstrong, 2012; Kesselheim et al., 2015; Mercer & Taha, 2015). But it is beyond the scope of this article to interrogate the ethics of disclaimers in general or the safe harbor disclaimer in particular. Instead, I suggest that Ivax unethically violated readers' tacit conventions for engaging with disclaimers by burying important information in a place where they were unlikely to read it. The company would have acted more ethically if it had included cautionary language in the body of the August release, where shareholders would have been certain to read it, and had offered more meaningful details about the ways in which competitors' behavior might affect reorders and future stability (Murdock, 2009a, 2009b). More ethical rhetorical choices could have helped readers make more informed inferences about the company's chances for fast recovery.

## **Updating Our Guidance for Using Impression Management Strategies to Deliver Bad News**

In this analysis, I have sought to understand how Ivax leveraged standard IM strategies in its communication with shareholders about an ongoing financial crisis. Specifically, I have attempted to answer three questions:

1. What IM strategies do we see being used in a case that is considered ethically problematic?
2. To what extent do these IM strategies align with those typically taught in business communication textbooks?
3. Based on these findings, what guidelines might we glean to help us decide when and how using IM strategies to deliver bad news becomes ethically questionable?

In response to my first two research questions, my analysis suggests that Ivax used three textbook IM strategies in complex and sometimes ethically questionable ways. It also shows that Ivax used a far less familiar strategy involving legal disclaimers:

- *Ivax downplayed its agency to avoid blame for past actions by using relational verbs such as “is” and “constitutes.”* Although instructional materials typically advise that passive verb constructions can be used to avoid casting blame, Ivax used the relational verbs “is” and “constitutes” to frame recent losses as inevitable realities not caused by any person or group. This distanced company actors from the financial crisis and minimized their role in creating it. Schryer (2000) and Thomas (1997) found similar trends in their studies of insurance claim denial letters and annual reports, respectively. These findings suggest that we should broaden the range of our guidance about IM strategies that companies use to distance themselves from bad news beyond the typical advice to use passive voice.
- *Ivax heightened its agency to suggest that the company had the power to secure positive future outcomes.* Neither textbooks nor existing IM research discusses heightening agency as an IM strategy for mitigating bad news, but Ivax used active verbs such as “seeking” and “working” when discussing solutions to its debt-restructuring problem, seemingly to suggest that it had the power to obtain a much-needed waiver. In addition, its use of the cognitive–emotional verb “believe” allowed Ivax to show a strong affective commitment to its prediction that a waiver would be granted and yet leave room for deniability because “believe” expresses far less epistemic certainty than does a verb such as “know” (Cappelli, 2008). These findings suggest two ways we might update our guidance. First, we should consider how heightening agency by using active voice might serve as an IM strategy if companies use it to play up their power to produce positive outcomes. Second, my brief analysis of 2019 class action lawsuits suggests that “believe” is a commonly used verb in corporate discourse and could work in tandem with other IM strategies to portray corporations as wholly committed to positive predictions, even when they cannot express epistemic certainty.
- *Ivax used layered, multilevel subordination techniques.* Business communication textbooks typically discuss subordinating bad news at the sentence and document levels. But Ivax also

subordinated bad news at the paragraph level via a bad news–good news paragraph structure that sometimes spanned multiple paragraphs (as in Excerpt 4). This finding suggests that we should consider teaching paragraph-level subordination of bad news as an IM strategy. In addition, my analysis suggests that Ivax used sentence-, paragraph-, and document-level subordination strategies together in a single document (as in Figure 3), something that standard teaching materials do not address. We should consider updating our guidance, then, to help students understand how the rhetorical force of this multilevel, layered subordination might affect the way that readers draw inferences.

- *Ivax omitted potentially damaging information and cloaked omissions in inscrutable language.* As Locker and Kaczmarek (2011) noted, omitting negative news is an option if the news is unimportant. But my analysis shows that Ivax omitted news that shareholders found very important. Furthermore, my brief analysis of 2019 class action lawsuits suggests that this is a common strategy: Many companies facing lawsuits in 2019 were sued in part for omitting bad news that shareholders claimed they needed to know. Thus, omission appears to be a common but highly fraught IM strategy that requires more explicit guidance. In addition, Ivax buried its omission in inscrutable prose that business communication faculty would never endorse. Therefore, we should consider redoubling our efforts to remind students that writing used to deliver bad news must be clear and reader-oriented.
- *Ivax buried contradictory information in legal disclaimers that shareholders were unlikely to read carefully.* Neither our field's teaching materials nor the existing IM research addresses the role that mandatory legal language plays in IM, but my analysis suggests that such language can be an important IM resource. By burying important contradictory information in the safe harbor disclaimer, Ivax was able to express confidence and optimism in the body of its August release. Because legal discourse is quite common in some business genres (e.g., Bhatia, 2010; Schryer, 2000), we should consider updating our IM guidance to address the role that legal disclaimers might play in managing stakeholders' impressions of bad news.

In response to my third research question, my findings suggest three ethical guidelines that could help students understand when and how the use of IM

strategies for mitigating bad news could become unethical. These guidelines are not firm rules that will apply in every business writing scenario. Rather, they are flexible heuristics that could help students navigate the rhetorical ethical spectrum when delivering bad news. These ethical guidelines relate to the fluidity of outcomes, the combination and quantity of IM strategies used in a single message, and the extent to which strategies interfere with readers' comprehension and ability to draw reasonably accurate inferences.

*First, using IM strategies could be ethically questionable if outcomes are fluid.* Instructional guidance for using IM strategies to deliver bad news is usually contextualized in examples in which outcomes have been determined, such as a job candidate not being hired (e.g., Thill & Bovée, 2015, pp. 273–274) or a customer request being refused (e.g., Guffey & Loewy, 2010, pp. 275–276). In such cases, a reader's interpretation of bad news cannot materially change the outcome, so using negative message strategies to shape interpretation seems fairly harmless. But in Ivax's case, outcomes were fluid and at least somewhat dependent on shareholder behavior because stabilizing future share prices depended in part on calming investors' fears and convincing them to keep their stock. Thus, in cases like Ivax's in which financial outcomes are unfolding, using IM strategies to guide readers' interpretations could be ethically questionable because investors who are given all the information in an unvarnished way might choose to sell their shares and possibly have better financial results. Determining if outcomes are fixed or fluid might be difficult, but we could point out to students this basic difference and then ask them to consider how, in the case of fluid outcomes, IM strategies might influence readers' inferences and decision making. Would having more information help readers make different (perhaps better) choices? Are the IM strategies guiding readers to form consequential expectations that could prove false? If the answer is yes, then IM strategies should be used with great care.

*Second, combining and densely layering multiple IM strategies in a single message could be ethically problematic.* Instructional materials typically discuss IM strategies one at a time and therefore do not address how multiple strategies might work together in a single message. But Ivax's releases highlight the ways these strategies can be used in dense, layered combinations. The August release is a prime example: In this 1,200-word release, Ivax used layered, multilevel subordination techniques; it manipulated agency to avoid blame and suggest that the company had the power to produce positive outcomes; and it buried contradictory language in the safe harbor disclaimer. Using multiple IM strategies in dense combination,

as the August release does, could be unethical because the combined rhetorical force of those strategies might make it difficult for readers to sense the real balance of good and bad news and to factor this balance into their interpretations. Determining this balance seems to have been a challenge for Ivax’s investors. Nothing in the body of the August release suggested that the company would lose \$178 million within the next three months. No wonder, then, that investors were stunned and filed a lawsuit.

Third, IM strategies can be judged as more or less ethical based on the extent to which they interfere with readers’ comprehension and inference making. Walzer’s (1989) reader-oriented framework for judging rhetorical ethics suggests that texts are unethical when they prey on readers’ lack of knowledge and access to important information and when they invite readers to draw false inferences that create consequential expectations. My findings suggest that we can use Walzer’s framework to create a rhetorical ethical spectrum for judging IM strategies as more or less ethical depending on the extent to which they either enable or interfere with comprehension and inference making. Figure 4 summarizes the strategies discussed here and plots them along such a spectrum, suggesting why some of these strategies might be more ethical than others.

As Figure 4 suggests, manipulating agency and subordinating bad news seem like relatively ethical IM strategies because, though they might attempt to influence readers’ inferences, they do not generally interfere with comprehension or informed inference making. Downplaying agency to avoid blame for past actions is a familiar strategy and seems relatively harmless. So too does the use of single subordination strategies such as sentence- or document-level

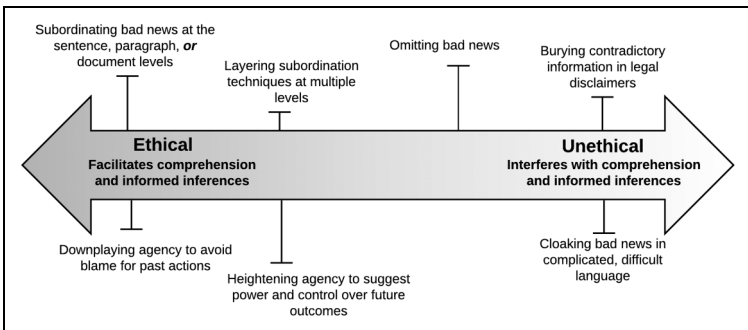


Figure 4. IM strategies for delivering bad news are plotted along a rhetorical ethical spectrum according to Walzer’s (1989) framework.

subordination: These are familiar strategies that typically allow readers to weigh together positive and negative information fairly easily, provided that the document-level subordination does not bury bad news to the point that readers fail to notice it.

But manipulating agency seems less ethical if, like Ivax, companies exaggerate the amount of power and control that they have over future outcomes. Similarly, using multilevel, layered subordination techniques (see Figure 3) seems less ethical because the rhetorical force of so much subordination might make it hard for readers to weigh together positive and negative information in order to understand how bad the situation really is and how likely it is that positive outcomes will materialize. In other words, heightening agency and using multilevel, layered subordination techniques seem less ethical because they might invite readers to draw overly optimistic inferences and form consequential expectations.

By contrast, burying contradictory information in legal disclaimers and cloaking bad news in complicated language seem entirely unethical because both are essentially attempting to conceal bad news from readers, seemingly in an effort to make comprehension and informed inference making difficult (if not impossible). These directly violate ethical guidelines in typical business communication textbooks for writing clear, accessible, unambiguous prose. But the facts that these strategies are used in real business discourse and that typical instructional materials do not address the role that mandatory legal disclaimers might play in IM suggest that students need more guidance on managing disclaimers and avoiding the temptation to hide bad news in inscrutable prose.

Omission is a more complicated strategy to evaluate. Omitting unimportant news, per Locker and Kaczmarek's (2011) standards, seems ethical, but my findings both here and from my brief analysis of 2019 class action lawsuits suggest that companies might be more prone to engage in "manipulative silence" (Huckin, 2002) in which they omit damaging information that shareholders could find alarming. Omitting important news that could fundamentally change readers' perceptions seems entirely unethical. Therefore, omission might be best understood as a fraught strategy that can be ethical and useful but that also has great potential for unethical usage.

## **Conclusion**

In this study, I have analyzed IM strategies for delivering bad news via a landmark case study of corporate financial reporting that is legal but ethically questionable. I have argued first that real-world corporate discourse

uses more IM strategies than our field typically teaches, and they use them in dense and complex ways. I have suggested ways that we can update our guidance for using IM strategies to mitigate bad news and offered a set of flexible guidelines for using these strategies ethically, in ways that prioritize reader comprehension. In the end, I have not argued that IM strategies are inherently unethical. On the contrary, IM strategies are useful for maintaining stakeholder goodwill and promoting corporate interests, moves that are ubiquitous in many kinds of corporate communication. Rather, I have argued that IM strategies can be used in more or less ethical ways and that students should be made aware of when and how the use of these strategies can stray into unethical territory.

The extent to which these findings are broadly applicable is limited. My analysis has been limited to a handful of earnings and press releases. Additional research exploring other kinds of business genres could point to additional IM strategies and rhetorical ethical challenges that students would benefit from understanding. For instance, the “you-attitude” strategy is a common IM strategy meant to help business communication students learn how to foreground positive interpretations and emphasize reader benefits. But Ewald and Vann (2003) found that standard you-attitude writing strategies were used in ethically questionable ways in direct mail letters; therefore, you-attitude might be another IM strategy that needs explicit ethical guidelines.

In addition, my findings suggest that more research is needed to understand the role that mandatory legal language might play in IM. Bhatia (2010) has shown that legal discourse is a common interdiscursive feature of professional discourse, and Schryer’s (2000) study of claim denial letters found that the mandatory policy section of each letter—a section that had to be written in complex legalese—was a complicated rhetorical resource for insurance assessors. These studies’ findings, along with my own, suggest that more research is needed to determine how mandatory legal language might be leveraged for IM purposes and how students should be taught to engage with it ethically, in ways that do not violate communicative norms.

The approach I have taken here—analyzing a corporate case in order to reason through the ethical ramifications of IM strategies—could be a useful classroom approach for teaching students about the ethics of various rhetorical practices. Although standard case-based ethical teaching does not typically explore the ethics of particular rhetorical practices, a small body of existing research does offer insights into how cases can help students learn rhetorical ethics. These studies outline case-based approaches that ask students to scrutinize the ethical implications of

- the language and metaphors that sales letters use to shape readers' perceptions of reality (Rentz & Debs, 1987).
- various strategies for reporting and visualizing technical data (Sims, 1993; Walzer, 1989).

None of these studies offers explicit guidance for helping students determine which rhetorical strategies are more or less ethical. Instead, they opt to let students reason their way to their own ethical conclusions, assuming that such reasoning exercises help students understand "the potency of language" (Sims, 1993, p. 289) and that their rhetorical choices have consequences. But case-based lessons like these could easily leverage Walzer's (1989) framework for rhetorical ethics, as I have done in this analysis, in order to provide more explicit guidance that would help students understand when and how particular rhetorical strategies might manipulate readers and therefore stray into unethical territory.

Finally, future research should consider exploring ethics not only in terms of moral problem solving but also as a rhetorical spectrum that frames rhetorical strategies in terms of their ethical implications. Those of us tasked with teaching future professionals how to write might lack substantial industry experience and thus not be well-positioned to offer ethical critiques of the values, ideologies, and motives that drive various professional activity systems (Russell, 1993). But as writing experts, we are uniquely well positioned to teach students about rhetorical ethics. A robust theoretical and practical approach to rhetorical ethics would not only help us equip students with explicit guidelines for ethical communication, but it would also help students understand themselves as ethical communicators whose rhetorical choices matter.

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## Notes

1. This brief analysis involved reading 2019 case briefs included in Stanford University's Securities Class Action Clearinghouse, which is available at <http://securities.stanford.edu/index.html>. The case documents for all cases referenced in Table 2 can be found there.
2. For a detailed overview of the role that the press releases played in the shareholders' lawsuit, see *Harris v. Ivax Corporation* (1999) as well as Murdock (2009a). The full text of each press release can be found at <https://docs.google.com/document/d/1ceunEsZykf2HexLhcLWX3qzhtlnlFXSGhiMtZma5O5Q/edit?usp=sharing>.

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