



## Virtual Roundtable Summary: Advancing Your ESG Leadership and the Legal/Compliance Team's Contribution

- ESG goals are constantly moving targets. If the organization's ESG strategy is clear, it is easier to accept the movement and appreciate that goals will change based on external factors, geographies, regulatory and popular emphases.
- An important in-house legal or compliance leader role is to prepare the company's leadership for ongoing lack of clarity around ESG, as well as help them define their government affairs strategy, where certainty of outcome is highly unlikely. It helps to set realistic expectations, and this can be supported by gathering perspectives from peers to understand how they are dealing with the lack of clarity.
- Companies face the challenge of having many ESG activities spread throughout the organization. They must figure out how to present these activities externally in reporting frameworks and to ratings agencies. At the same time, they need to **find a "middle path" of ESG priorities** across the organization to demonstrate progress on all fronts. The ability to do this effectively depends largely on the company's leadership and how long they have been focusing on ESG (maturity level).
- The complexities of a growing, global business will be mirrored in its ESG program. To manage this, **ESG should be engrained within the business model and organizational culture**—it should not reside within a single function, but all throughout the organization. A notable aspect of companies whose sustainability efforts are mature (e.g., active for more than eight to ten years) is that ESG is a shared leadership role.
- Sustainability goals should be embedded in the company's strategic business plan. **As legal leaders, we can encourage a culture that values ESG** and that recognizes our individual responsibility in making sure that day-to-day decisions take into account the agreed ESG objectives.
- Legal leaders who advise the board have a responsibility to ensure the **board is supporting the ESG program**, for example by pushing them to encourage senior management to step up to ESG issues and consider the ESG impact of major decisions.
- When discussing ESG with people outside your organization, you may want to first discuss and **agree on your organization's definition of ESG**. The definition can be very different for different people and result in a muddled message.
- Europe's focus on ESG is taking root in the United States for many reasons. Younger generations, which make up the majority of the workforce, have increasingly strong opinions about corporate ethics; new legislation is being introduced; investors and asset managers such as BlackRock are increasingly stating their lofty ESG expectations. We are moving into a **fulcrum of internal and external factors raising the bar on ESG**.
- Those in the early stages of developing their ESG program may benefit by **starting from Governance**. Clarify who is governing ESG—legal, finance, board? Many organizations find Governance a good initial structure from which to approach their ESG strategy and execution. You can easily move to Social and Environmental more effectively once governance is clear.



- ESG is **not a marketing or reporting exercise**, but the authentic experience of sharing with stakeholders what the company does. Be careful about overly aspirational goals and flashy targets without real roadmaps for achieving them—it is a route to potential accusations of greenwashing or misrepresentation, which will test your stakeholders' trust.
- Some organizations are **partnering with companies in their sector** (including competitors) to set standards to drive ESG strategy and reporting. They believe this can be an effective way to collectively present the sector's responsible ESG position and help influence regulation. It also means each company does not promote their own activities only and risk perception of greenwashing.
- ESG strategic planning is crucial for **adapting to and mitigating future risks** and opportunities. Start with examining what your company is already doing and go from there. The biggest challenge is getting your company's ESG initiative off the ground by getting support and resources from the board/management to develop and implement a robust platform.
- Do not let frameworks or standards define your company's areas of Environmental, Social and Governance focus—decide for yourself and take charge of that narrative. **Move away from the reactive phase of ESG** (of improving your ratings, ensuring compliance, etc.) towards deciding which issues really matter for your company—otherwise ESG may become more of a marketing exercise, which on its own is dangerous both externally and internally.
- The global regulatory framework is moving from **soft to hard law**.
- It is a wasted opportunity for the general counsel to not get involved in ESG, given their **overlay across all organizational functions**, diverse skillset and extensive training in ethics.

Bennett Jones expresses its appreciation to Global Counsel Leaders for the opportunity to partner on this event, and to our co-discussion leaders: Michael Going, Chief Compliance Officer and Corporate Secretary, CNH Industrial, Chicago and Andrea Wood, Chief Legal Officer, TELUS Communications, Toronto; and guest speaker Radha Curpen, Co-head, Environmental & Aboriginal Law & Vancouver Managing Partner, Bennett Jones, Vancouver.

It is an exciting time for legal counsel to get involved in ESG, both to be better business partners and leaders and to expand their practice.