Virtual Roundtable Summary: Practical Ways to Drive Strong ESG Performance in Your Company

Determine and Tailor ESG Priorities

- The global ESG landscape is changing continuously. Organizations must find a balance between setting long-term goals and targets, but also stay agile for short-term changes as important new issues or new regulation arise.
- ESG priorities should be dictated not only by what your shareholders and other stakeholders want, but by the values and leadership your organization wants to exemplify. Many companies are finding that it's very effective to focus where possible on ESG objectives that align with the business' operational objectives.
- There is always an opportunity cost of focusing on certain ESG issues: communicate a choice of ideas and themes to the board in order to collectively weigh the pros and cons. The **general counsel** plays a key role in advising and educating the board and senior management on ESG, by explaining applicable legal issues, identifying areas of material importance, devising realistic goals and defining a strategy for robust disclosures.
- Identifying organizational ESG priorities starts with examining different workstreams and areas of operations to find crucial issues and impacts. ESG strategy is never one-size-fits-all, but rather tailored to a company's unique sector, regional operations and stakeholder base.
- Satisfying different stakeholders in different geographic regions is a challenging task: you must decide what activities to prioritize, communicate these effectively and ultimately accept that you will not always be able to please everyone.
- One way to approach this challenge is to identify key ESG issues in different regions and focus on these locally, while simultaneously addressing global issues that affect the whole supply chain in all regions. An example could be your company's practices on waste and recycling (although for certain companies with plants or production operations globally, even recycling practices must be adapted to regulations and practicalities by jurisdiction).
- Organizations must navigate the challenge of taking on new ESG goals over the years while remaining consistent on past priorities, all whilst ensuring that change is clearly communicated through public disclosures.

ESG Strategy and Data Collection

- Mapping and seeking input from your stakeholders is a helpful exercise to develop an ESG strategy. A common framework for thinking about the five primary stakeholders is: customers, suppliers, investors, employees and communities (including the environment).
- Organizations are increasingly expected to take positions on high-profile ESG and ethical issues. This can be challenging when stakeholders are not necessarily aligned on these issues. Balancing the points of view of all stakeholders with company values is an ongoing challenge. Regardless, the ESG strategy must be clearly communicated and align with company values.
- The **in-house legal team** should utilize their broad view of the organization to ensure coordination and cooperation on ESG across different functions: finance, marketing, HR, operations, risk management, communications, product development, etc.

- The **in-house legal team** is uniquely positioned to identify and evaluate ESG risks and how the company could operationally adapt to them over time. Being heavily involved in procurement and supply chain management, they can examine how to embed ESG principles in the tender and bid processes to ensure suppliers maintain key ethical standards.
- Data strategy and tech optimization are crucial components of a robust ESG strategy. Disclosures are increasingly expected to include specific and comprehensive data. This is important both for regulators, partly in relation to their interest to control greenwashing, and for investors who demand more specific ESG data to benchmark companies and track performance over time. The systems and methodologies for collecting this data are diverse and increasingly complex. There is a movement towards collecting and storing ESG data in isolated files rather than integrated throughout the business.
- General counsel are finding that tying employee compensation to the organization or specific line of business' ESG achievements is a powerful incentive to drive strong performance and engagement.

Producing Robust ESG Reporting

- Organizational progress in ESG is being driven by a mix of external regulatory pressure and market pressure. The alphabet soup of methodologies for disclosing mandatory and voluntary ESG information makes it nearly impossible to understand which are most important to your organization's stakeholders.
- The **legal team** should be involved in ESG strategy and reporting from at every stage. Importantly, in-house counsel must carefully review all reporting to ensure that it aligns with the company's communicated ESG strategy. Reporting must be accurate, consistent and complete. Not doing so can create liabilities and potentially harm reputation, as well as undermine the organization's credibility on ESG.
- Given the G in ESG, most companies recognize that board oversight is necessary regarding mandatory and voluntary ESG reporting, to provide reasonable verification of facts and assumptions prior to distribution.
- In addition to effective ESG data collection, organizations should consider the option to present and communicate data differently and most effectively for different stakeholders. For example, the ESG report for customers will most likely be different to the one for investors.

Bennett Jones expresses its appreciation to Global Counsel Leaders for the opportunity to partner on this event, and to our co-discussion leaders: Daragh Fagan, Group General Counsel & Co. Sec., Rentokil Initial, London; Jennifer Wagner, EVP, Corp Affairs & Sustainability, Kirkland Lake Gold, Toronto; guest speaker Radha Curpen, Co-head, Environmental & Aboriginal Law & Vancouver Managing Partner, Bennett Jones, Vancouver; and our moderator E. Leigh Dance, Founder & Executive Director, Global Counsel Leaders, New York.

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.