

Running a values-led company

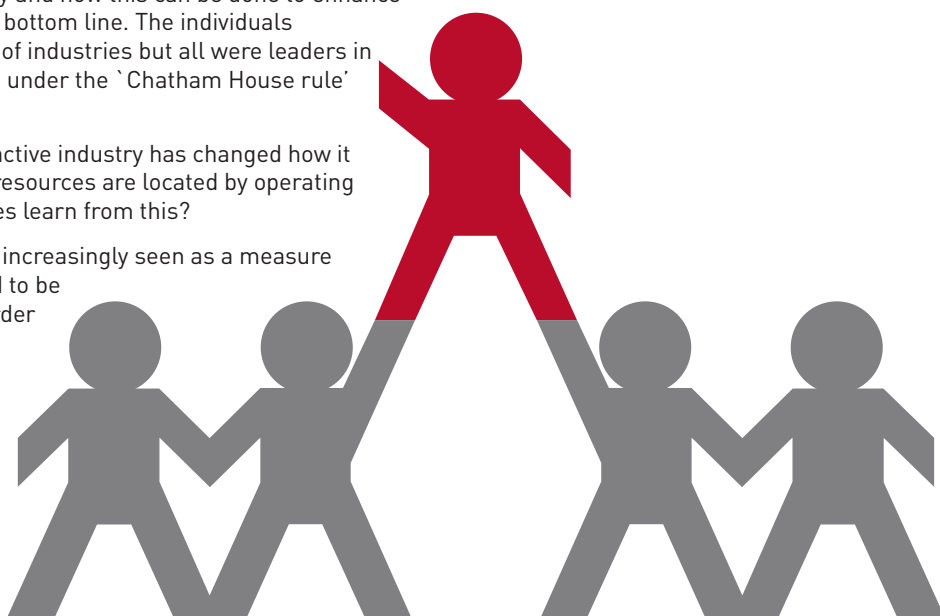
Why does trust matter?

Businesses live in an age of unprecedented scrutiny. Clients, customers and other stakeholder groups are increasingly demanding greater transparency and ethical behaviour from the businesses with which they interact. Reputation, the sum of past interactions with stakeholders, used to be seen as integral to the ongoing success of a business with its stakeholders. But reputations are frequently failing as a bulwark against sustained scrutiny. Many businesses are now realising that reputation alone is not enough and that something more is needed. That something is trust.

Over the past decade transparency and compliance have become increasingly important for companies and corporations. There are many reasons for this. Firstly, the increasing use of social media and rolling news has meant stories spread more quickly and a misstep or breach, even in a market thousands of miles from a company's primary jurisdiction can soon become big news. Second is the impact of the financial crisis of 2008. That event redefined who was interested in how a business was run. It was no longer just shareholders and clients who wanted to know how a company operated, it was wider society at large. These developments mean that running a business in a values-led way is now seen as increasingly fundamental to the opportunities a company can take and its longer-term commercial viability.

In October 2014, Baker & McKenzie hosted the Trust Matters forum, bringing together senior executives from across the world to explore how organisations can build trust in order to meet the expectations of the law, their stakeholders and the communities in which they operate. At the forum, senior executives attended a roundtable to discuss how companies can be run in a values-led way and how this can be done to enhance reputation and build trust without hurting the bottom line. The individuals discussing this topic came from a wide range of industries but all were leaders in their respective fields. The session took place under the 'Chatham House rule' and discussed the following:

- Becoming a better 'local citizen' - the extractive industry has changed how it operates in those countries where natural resources are located by operating as a 'local citizen', what can other industries learn from this?
- Paying tax in countries where it operates is increasingly seen as a measure of a company's commitment, yet costs need to be managed. How can a company engage in order to build trust and protect value?
- Tailoring businesses and real estate strategies to build a sustainable future is gathering momentum, especially as companies look to adopt a Corporate Social Responsibility platform. What real benefits can be realised in the here and now from adopting these strategies?



Being a better ‘local citizen’

One of the first participants to speak represented a global energy producer. The participant said that after two crises in short succession the company put in place an enhanced Code of Conduct programme as well as strengthened anti-bribery and corruption policies. The aim was to “maintain the trust of our investors, of our employees and regulators when it comes to issues such as bribery and corruption and ensuring that we are monitoring, managing and communicating with all our existing employees and contractors.” What began as a reaction to a crisis, a defensive process, soon turned into a business opportunity.

“With hindsight it has provided us with a springboard of opportunities in terms of if we do this right we can remove barriers before they become crises,” the participant said. “We can address due diligence concerns up front, we can look at issues and see how we can make a difference so that they don’t become barriers to business. In fact, they can enhance our business opportunities because we’ve already taken care of them.” This enhanced value-led approach also worked because of “persistent communication, following through on our promises, being transparent, explaining how things are going down, fully engaging.”

The session heard how the energy producer acted in territories in ways that went beyond what was required in the relevant jurisdiction. The participant was asked how the company balanced that commitment with the need to be competitive, particularly as rivals may not adopt the same approach?

“It begins from values-based decisions, whether we’re acting with honesty, integrity and respect for people,” the participant said. “We don’t want to self-regulate or penalise ourselves, but at the same time we look at what sort of organisation we want to be and there’s a reputational aspect to it.” Employees often told the company they had chosen it over rivals because of its values.

For any business operating in multiple jurisdictions, especially developing markets, the ethical behaviour of contractors and suppliers is important for reputation. In recent years a number of high profile brands have been hurt by revelations that third-party contractors had been using child labour to produce goods or had flouted industry standards in order to cut costs. For the energy industry, such concerns are also important. The participant explained how their company imposed the same values on contractors as it did on its own employees.

“There’s a couple of ways. One of the ways is putting our expectations as contractual terms and then following up with a relationship review, feedback loops and then ultimately retaining or dismissing.”

The participant also told the session that companies acting in particular markets had ethical decisions to make in carrying out business, even when certain practices, illegal elsewhere, are completely above the law and may give competitive advantage.

“Take bribery and corruption as an example, in many jurisdictions they are legal and in other jurisdictions they are illegal. So we have to make decisions, are we going to abide by the local requirements in the jurisdiction or are we going to adopt a policy where we do more than is required. We look at the law in that jurisdiction, what is required and then assess how is that in line with our core values.”

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Tax payments: balancing costs with reputation

One of the most important reputational issues to emerge in the past few years for businesses, particularly trans-national businesses, is the payment of taxes. In the wake of bank bailouts and the cost to taxpayers of the financial crisis, the payment of corporation tax has become increasingly important. Whether a company is seen to be fully living up to its responsibilities by paying corporation tax is regarded by some as a barometer of its values and whether or not it is committed to playing a responsible role in the jurisdiction where it operates.

Since 2010 some of the world's biggest companies have found themselves at the centre of media attention, accused of not paying their full dues in corporation tax. They must then decide on whether protecting the bottom line by engaging in sophisticated taxation practices outweighs the potential damage to their corporate reputation. One of the participants told how his company addressed public concerns after it emerged the company hadn't been paying corporation tax in the UK. The company still doesn't pay corporation tax in the UK.

"There were some very good reasons why we weren't paying UK corporation tax," the participant said. "We decided we wanted to be on the front foot and come out with a taxation chapter to our corporate social responsibility report, that basically did three things. Firstly it sets out some of the policies and principles we follow, secondly it tried to address some of these challenges, like why we aren't paying UK tax. We also set out where we make contributions to governments around the world and we set out quite clearly the direct contributions we made because there's a lot of focus in the media on corporation tax and actually that's only one very small proportion of a company's contribution around the world."

The participant said that most of his company's taxes, around 90%, are paid overseas and that the company is able to claim tax deductions in the UK because of fees it pays to the government for certain activities. He was asked whether the company could claim to be values-led given the fact it doesn't pay company tax in the UK. The participant responded by saying the business could "absolutely" claim to be values-led because it paid "huge amounts of taxation" around the world and that if a company has two legal routes to go, one which incurs a significant tax cost and one which is tax free, then it is legitimate for the company to choose the latter as its shareholders are "clearly looking to you to minimise tax costs."

To counter a perception that focus was on shareholders and investors, the company explained its position in its Corporate Social Responsibility report so that customers and employees could understand its position. The business also embarked on a roadshow where the CFO talked about the issue, the participant explained, adding that in the UK "there were quite a lot of protests" and it was "very much a media focus." The company, via its CSR report, wanted to show that while the media and the public focus on corporation tax, it is "a relatively small proportion of what governments collect."

The benefits of tailoring business and real estate strategies to build a sustainable future

With an increasing emphasis on sustainability and energy efficiency, particularly in construction and real estate, many companies have been paying increasing attention to sustainability guidelines and best practice. One major reason is to attract investment. Participants asked what benefits can be realised in the present from adopting this strategy and heard from one individual who represents a leading real estate and management services company.

The participant explained how over the past 15 years there has been a sea-change in the attitude of real estate companies to environmental responsibility and compliance issues and set out the reasons for it.

"Back in 2000, the first article on environmental responsibility compliance was published in the Financial Times. Many real estate companies did not respond. Now 10 to 15 years later, 70-75% of the companies listed are major real estate investors and so I think there has been a huge, really quite rapid shift in the journey of that particular industry. One of the biggest drivers for that change has been the focus on carbon emissions. There's been a huge influx in legislation around energy efficiency and carbon management within the global environment, largely focused around construction."

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The session heard that meeting new compliance expectations was challenging and how companies are changing how they report results as well as measure key metrics. In the area of carbon responsibilities companies with large and diversified real estate portfolios had data management issues collecting the data, the participant said.

“What does a sustainable business look like? There’s a much more integrated view on how you create value in a business and I think that’s much more holistic now. When you are reporting on a much wider area of performance you are automatically embedding values. You’re by definition not just reporting on financial results, but considering every pound that we make, the impact that will have on people, the planet. It’s really challenging to do that, but it is definitely one way of systemising so that its ingrained in the business.”

Another participant said that one other way of ensuring sustainable and ethical values are embedded in the corporate structure is to include it in the employee compensation scheme so that KPI’s such as sales volumes were measured alongside compliance and integrity.

Compliance with the law was regarded by all participants as the ‘minimum’ requirement a company could adopt, with everything else being built on top of that. Technology is making compliance more transparent and is a trend that organisations cannot afford to ignore.

About us

As an advisor to many of the world’s leading businesses, Baker & McKenzie has seen the theme of Trust developing in different ways all around the world. In October 2014, Baker & McKenzie hosted its **Trust Matters** forum, bringing together senior executives from across the world to explore how organisations can build trust in order to meet the expectations of the law, their stakeholders and the communities in which they operate. Drawing on our global legal expertise as well as the experience of senior business and other industry leaders the forum provided insights into the execution of policies and procedures that, not only deliver business imperatives, but deliver them in a way that builds Trust.

A number of sessions were held at the forum, including **Running a values-led company**. The outputs from each of these sessions have been collated to produce a summary of the discussions on each topic.

For more information, please visit:
www.bakermckenzie.com/trustmatters

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