

Leveraging Best Practices in Ethics & Compliance to Implement an Effective ESG Strategy

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Polling Question #1

- ▶ Please choose the answer that best describes the stage your organization is currently in:
 - ▶ We have a formal and robust risk-based ESG strategy with a clear owner and a plan for moving forward
 - ▶ We have a loosely organized group of leaders charged with developing a strategy as a committee with no clear owner
 - ▶ We have no organized committee or effort yet, but one function has been charged with “figuring this out” and making a recommendation
 - ▶ I don’t think we have an ESG strategy yet, which is why I am attending
 - ▶ None of the above

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Overview of Today's Session

Objectives

- ▶ Leveraging lessons learned from decades of Ethics & Compliance program design and implementation
- ▶ Avoiding the risks of incongruence between public commitments and internal operations and culture
- ▶ Expanding Ethics & Compliance risk assessment and management to include ESG risks and opportunities

Agenda

- ▶ Setting the Stage: Getting it Wrong, Getting it Right
- ▶ Bringing our E&C Best Practices to ESG
- ▶ Group Case Study Exercise
- ▶ Conclusions



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Setting the Stage



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Getting It Wrong,
Getting It Right

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wework



Example #2
of Getting it
Wrong



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Example #4
of Getting it
Wrong

<https://www.engadget.com/activision-blizzard-lawsuit-discrimination-abuse-video-163056567.html>



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The Kroger Co. Zero Hunger | Zero Waste Foundation supports initiatives that **create communities free of hunger and waste.**
 Enabling collective action | Catalyzing innovation | Creating a more equitable food system

Business Booms at Kroger-Owned Grocery Stores, but Workers Are Left Behind

A number of the stores' nearly 500,000 employees have reported being homeless, receiving government food stamps or relying on food banks.



Shutterstock. It says that the person is a source reliable source of income that he just now work at a First Market grocery store in Indianapolis, Wash. Article Source: The New York Times

By Susan McKechnie and Michael Colantuono
 Feb. 12, 2022

Tagline – Kroger’s uniquely egalitarian American brand

Fresh for Everyone is Kroger’s brand ethos. The universal tagline is simple and designed to drive an instant understanding of the uniquely egalitarian American brand, underscored by Kroger’s commitment and belief that everyone should have access to fresh, affordable and delicious food.



Example #5 of Getting it Wrong



Sources: <https://www.nytimes.com/2022/02/12/business/kroger-grocery-stores-workers-pay.html>;
<https://economicrt.org/publication/hungry-at-the-table/>; <https://zerohungerzerowastefoundation.org>;
<https://www.thekrogerco.com/esgreport/>

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Kroger continued...

- ▶ Kroger brand sunscreen
- ▶ Marketed as “Reef Friendly”
- ▶ False Advertising suit
- ▶ Defense: World’s Greatest Cup of Coffee defense
 - ▶ Rejected!



But Wait, There Are More!



GOODYEAR



TOP GLOVE



COSTCO AND
ALDI



BURT'S BEES



NESTLE

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Keurig Coffee



- ▶ \$10 Million Class Action Settlement
- ▶ Marketing of its coffee pods as “recyclable”
 - ▶ Not fully recyclable in many communities
- ▶ False Advertising Suit
- ▶ Resulted in new disclaimer

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What's the Common Thread Here?



Tone deaf



Lack of Diversity
of Voices



Cult of Personality

- ▶ All failed to have an effective ethics & compliance program
- ▶ All hadn't accounted for supply chain and marketing "puffery" risks
- ▶ All had a "mismatch" between public statements and reality



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Excellent Example of Getting it RIGHT!

- ▶ <https://www.benjerry.com/flavors/tonys-flavors>



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Excellent Example of Getting it RIGHT!

- ▶ Lego
 - ▶ Reduced packaging by 14%, saved 7,000 tons of cardboard
 - ▶ Introduced pieces made from botanicals (sugar cane) instead of petroleum
 - ▶ Removing all single use plastics from its packaging by 2025
 - ▶ \$164M invested in its Sustainable Materials Center
 - ▶ Named World Wildlife Fund Climate Savers Partner



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Risks or Opportunities?



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Bringing Our Ethics & Compliance Best Practices to ESG



Some Overlapping Risk Areas among ESG, Ethics & Compliance, and Diversity/Equity/Inclusion

Antibribery/Corruption	Child/Forced Labor/Modern Slavery	Communications/Investor Relations/Marketing	Conflict Minerals
Contacts with Government Officials	DEI, Employment and Labor Relations	Environmental	Government Contracting
Immigration	Occupational Health and Safety	Product Liability and Stewardship	Trade Sanctions



Some Key E&C Best Practices

- ▶ **Risk Assessment as the Strategic Driver**
 - ▶ We can't "boil the ocean"...
 - ▶ What are our most significant risks—or opportunities?
- ▶ **Management System Approach**
 - ▶ Identify obligations and commitments
 - ▶ Processes to ensure we are meeting them
- ▶ **Cross-functional Collaboration**
 - ▶ Delivering on our obligations and commitments requires diversity of thought/voices
 - ▶ "RACI" chart clarifies roles



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Risk Assessment as Strategic Driver of the Program



- ▶ The Risk Assessment process looks at:
 - ▶ “What we’re supposed to do”—the requirements (laws, rules, etc.) and commitments (values, policies, contracts, etc.); and
 - ▶ “What we’re actually doing”—operations and behaviors; then does
 - ▶ A Gap Analysis to identify potential risks (and opportunities)
- ▶ Then prioritizes the risks/opportunities to strategically address the most significant ones first
- ▶ The Management Plan assigns objectives and accountabilities for implementing the Strategy



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Polling Question #2

- Please choose the answer that best describes your organization’s risk management approach:
- A. We have a **centralized risk management function** with overall responsibility for helping the organization manage risk
 - B. We have a **decentralized risk management approach**, each department is responsible for their own risks
 - C. Compliance has a **risk management process for compliance risks only**, but I’m not aware of what others are doing
 - D. We **don’t have a risk management approach yet**, what do I do now?
 - E. **None of the above**

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Applying a Management System Approach to ESG

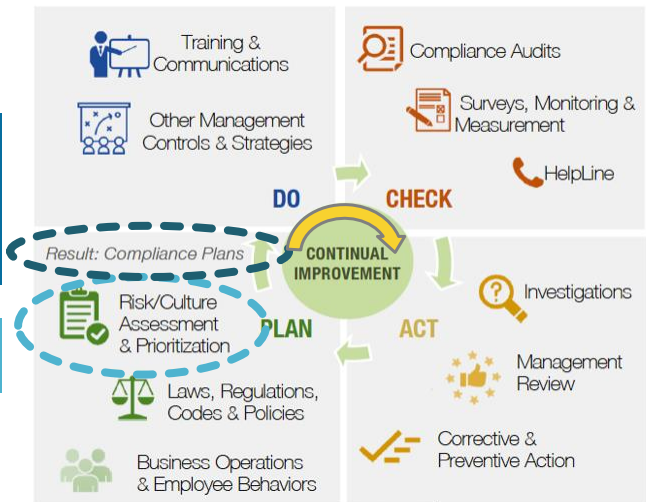


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The Ethics & Compliance Program as a Management System

Compliance management plans are implemented for each risk area by accountable owners

Risk Assessment drives the planning process

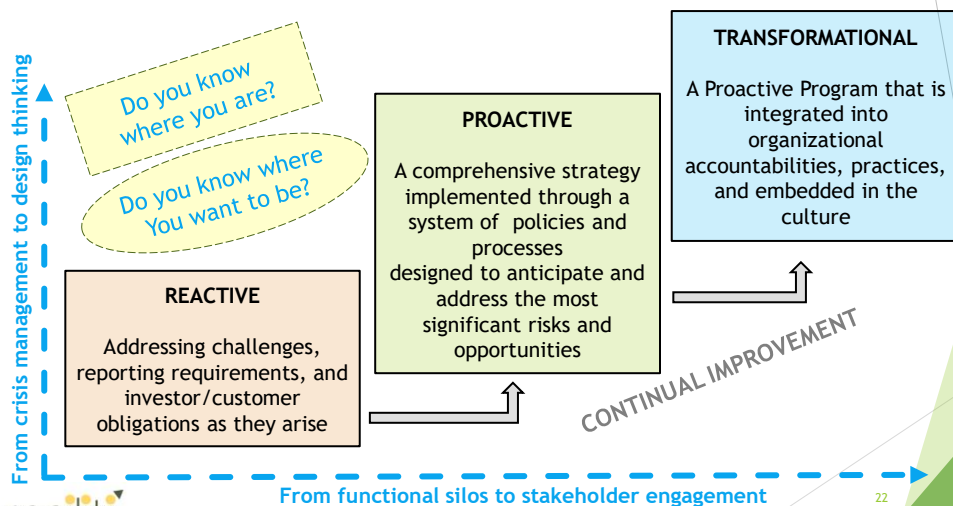


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Driving Strategy and Program Maturity

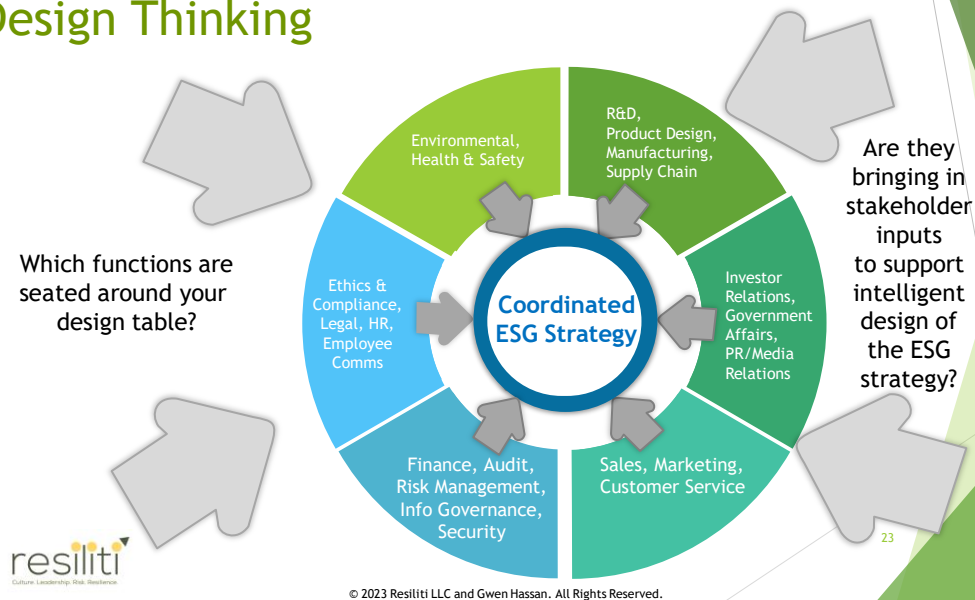


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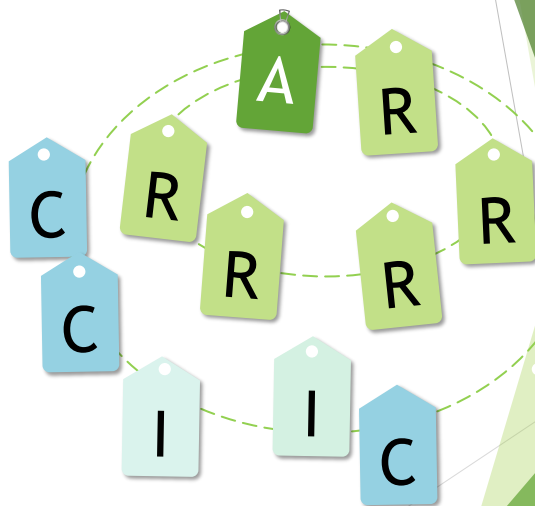
Cross-Functional Collaboration Supports Design Thinking



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“RACI” Makes Collaboration More Effective

- ▶ Multiple **Responsible** parties contribute their expertise to the work; but...
- ▶ There should be a single point of **Accountability** for the deliverables and final decisions; while...
- ▶ Other parties should be **Consulted** for input before decisions are final; and...
- ▶ Some parties should be **Informed** of the decisions.



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Polling Question #3

- ▶ Do you have a “seat at the table” in developing and implementing the ESG strategy? If so, where are you on the RACI chart?
 - A. I am **ACCOUNTABLE** for the ESG strategy and/or implementation.
 - B. I am part of the team **RESPONSIBLE** for the ESG strategy and/or implementation.
 - C. I am **CONSULTED** about the ESG strategy and/or implementation.
 - D. I am **INFORMED** about the ESG strategy and/or implementation.
 - E. I am **NOT INVOLVED** in the ESG strategy and/or implementation.
 - F. We do not have an ESG strategy (yet).

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Group Case Study Exercise

- ▶ You are the Chief Ethics & Compliance Officer for a publicly traded company and manage your company’s Speak-Up program, including the helpline.
- ▶ A report is made by an anonymous member of the sourcing team. They are concerned that our most recent Sustainability Report is making sweeping statements about our supply chain being “clean” and includes a link to marketing material touting the company’s new “slavery-free” label now being printed on every product.
- ▶ You had absolutely no idea this kind of marketing was planned, let alone being implemented; nor had you been consulted to review the Sustainability Report before it was issued publicly.



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Key Considerations and Variables

Run a root cause analysis and use your results to drive process improvements...



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Polling Question #4

- ▶ What challenges are foremost in your mind regarding your role in your organization's ESG strategy?
 - A. I am accountable for the ESG strategy, but I don't have the **resources or team** I think I need to deliver it.
 - B. I am accountable or responsible for the ESG strategy, but we don't yet have an engaged **C-level champion**.
 - C. I am part of the team responsible for the ESG strategy, but I **don't have a clear role** in the process.
 - D. I am involved in the ESG efforts, but only in a minor way, and **would like to be more directly involved**.
 - E. I am not involved, but I **would like to contribute and don't know how**.

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Conclusions

For you:

- ▶ Everything old is new again!
 - ▶ This is not new...
- ▶ You already have great tools
 - ▶ Leverage existing expertise
 - ▶ Incorporate with existing systems
- ▶ Engage a champion
 - ▶ Visibility and strategy integration
- ▶ Lead without owning?
 - ▶ “Ted Lasso” model

For the organization:

- ▶ Strategy integration
- ▶ Role clarity and collaboration
 - ▶ Who’s at the table?
 - ▶ RACI chart and communication
 - ▶ After-action review to drive improvement
- ▶ Three-Lines-of-Defense Model
 - ▶ Business ownership
- ▶ Can’t boil the ocean...
 - ▶ Take the best first step



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Questions?
Thank you!

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