

Competitive Advantage, Commitment & Compliance



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There is a well-known saying that what goes around, comes around. And in the 15 years since our organization was founded, that is precisely what is now happening with Diversity, Equity and Inclusion (DE&I).

In the beginning, various commentators and reports from organizations such as McKinsey & Co said that investment in DE&I was important because it made business sense. A movement that was once in the social space had moved into the business space, and as an organization, we spoke about how DE&I could give you the *competitive advantage*.

The conversation about DE&I being a smart business decision soon moved to a conversation about *commitment*. With the business case now solidly engrained, organizations needed to provide tangible, visible proofs that they not only believed in DE&I, but that they were making progress in closing the equity gap.

Today, however, the topic has matured, and the benefits to businesses and organizations are supported by the facts. But with the business case and the moral case in place, there started to be the need for the legal case and another 'C' - *compliance*.

The DE&I topic had gained such importance that it came to the attention of the regulators. Viewed positively, this attention shows the success of the relevance of DE&I in business and society, but it comes with its challenges.

In Europe, the EU started by putting in place its Pay Transparency Directive and Corporate Sustainability Reporting Directive (CSRD), requiring organizations to disclose relevant information in agreed detail. In the US, however, the ruling by the Supreme Court of the US in relation to affirmative action left some to question whether employer DE&I programs in America could ever survive.

As the EEOC Commissioner Andrea Lucas said: 'Poorly structured voluntary diversity programs pose both legal and practical risks for companies. Those risks existed before the Supreme Court decision. Now they may be even higher.'

The Supreme Court speaks to companies in the US about being able to pursue their DE&I goals within 'legally permissible ways'. But what is considered 'legally permissible' is not clearly defined. And where the risk of litigation is too great some businesses may believe that the safer option is to do nothing at all. Not pursuing DE&I, however, will have significant drawbacks for businesses and society.

The EU has got it right and has taken a much wiser approach than the US in helping to drive the transformation. Its focus has been on putting the legal instruments around it to enable it to happen. It's not about punishment; it's about enablement. This is far removed from the polarizing approach being taken in the US.

When we strip it right back, however, it is all about values. Do you believe that everyone should be treated equally and fairly? If you do not, there is nothing more to be said. We can prove the financial benefits that a diverse workplace can bring; and we can force you in law. But we can't change your heart and mind.

And there is something more troubling going on.

The concerning point is this: that DE&I is in danger of becoming irreversibly politicized. And that is a threat to any independent business or organization. For it means that the decisions you may wish to make for your organization are being restricted or manipulated by people outside of your control with a social agenda. And when political agendas start moving into economic agendas, then we have a problem.

Happily, while we still have voices such as JPMorgan's Jamie Dimon speaking at the World Economic Forum who freely declared himself to be fully committed to DE&I as a 'full throated, red-blooded, patriotic, unwoke capitalist CEO,' then there is still hope.

Whether it's for competitive advantage, the desire to evidence commitment, or the stick of compliance, DE&I will always be important.

We're here to support you on this important journey.

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