

THE ABC OF ESG FOR AIRLINES

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Environmental, social and governance (“ESG”) issues and concerns play an increasingly direct and critical role in all aspects of the operations and business of airlines. In this article, we have highlighted ESG terms and concepts which are current and in focus.

"Airlines and their employees, management, boards, representatives and brand ambassadors must be prepared to be questioned about and challenged on the policies of the airlines and its commitment to sustainability and to ESG goals and objectives in all."

TERMS AND CONCEPTS

A Advertising	Claims and statements on sustainability and other ESG issues in airline advertising have quickly become a global and consistent focus of advertising regulators and standards organisations. Airlines should assume and expect that advertising content which deals with sustainability and ESG will be critically and thoroughly assessed. If this content cannot be substantiated, airlines should be prepared to pay fines and be forced to withdraw advertising in the glare of publicity.
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TERMS AND CONCEPTS

B Bluewashing	Bluewashing refers to misleading or deceptive statements or representations about commitments to social and ethical practices. Emerging more recently than greenwashing, bluewashing is a potentially more powerful tool for activist shareholders and regulators. Bluewashing poses particular risks and challenges for international airlines, which operate in a range of markets, carry passengers and employ crews of different nationalities, cultures and backgrounds. This can often lead to conflicting and contradictory positions. For example, many airlines support and promote Pride events as part of their commitment to an LGBTQ-friendly workplace. The position becomes more challenging where these events are expected to be implemented across an airline network, which may include markets where promoting LGBTQ events and LGBTQ relations are banned.
B Brand Defence	Airline brands are a prominent, high profile and soft target for ESG campaigners. Airlines and their employees, management, boards, representatives and brand ambassadors must be prepared to be questioned about and challenged on the policies of the airlines and its commitment to sustainability and to ESG goals and objectives in all media. In addition to more conventional interactions, such as AGMs, press conferences, sponsored events and conventional media advertising, the focus is increasingly on social media channels, which pose their own challenges and opportunities.
D Directors	Directors and the boards on which they serve are attracting increasing attention from regulators and ESG campaigners. The role of directors and boards in questioning and approving airline ESG and sustainability policies provides a separate and supplementary target for airline ESG critics. Criticism of board and director decisions and calls for their removal can indirectly force airlines to deal with criticism of and challenges to their ESG policies. Investigations and litigation which require disclosure of Board minutes and records and depositions of directors can provide valuable and useful evidence and information for investigations into and proceedings against an airline. Airlines and their directors and boards should consider the extent to which board records and documents could be disclosed to investigators, regulators and hostile counsel and the extent to which directors and boards require independent legal and expert advice on ESG issues which are considered and dealt with by boards and directors.
E Employees	Whilst employees in airline uniforms may provide a relatively easy target for direct interaction, all airline employees can be targets – as was demonstrated by last year’s attack on the Ryanair CEO in Brussels. Employees in passenger-facing roles are increasingly featured in social media posts about airlines, particularly check-in staff and cabin crew. Though this is currently focussed on customer service issues, airlines must be prepared not only for their employees to be questioned and challenged about airline ESG and sustainability policies and the personal views of employees on these policies but for these interactions to be rapidly and broadly shared across a range of social media channels.

TERMS AND CONCEPTS

F Flygskam	<p>‘Flight shame’ started and continues to spread through social media. Environmentalists use social media to challenge and criticise the use of flights, particularly where there are alternatives which are seen to be more environmentally friendly. The objective of shaming people into not flying has not always achieved this result but post-Covid-19 ‘revenge travel’ may have only temporarily inhibited Flygskam. Airlines should be prepared to deal with Flygskam from consumers and, increasingly, from governments as political pressure forces governments to be seen to be promoting sustainable travel. This has already manifested itself in bans on certain domestic flights in France and additional taxes on air travel to subsidise railway construction and train tickets.</p>
F Fleet	<p>As the focus on ESG and on sustainable aviation develops and matures, aircraft and airline fleets will play an increasingly critical role. Airlines must be prepared to defend decisions on their fleets, including: the types of aircraft, fleet age, how these aircraft are powered or fuelled and the sustainability of aircraft utilisation. Media statements on aircraft acquisition and fleet renewal will face increasing scrutiny, particularly where these statements address fuel efficiency, sustainability and how the new aircraft will improve the sustainability of the airline’s operations and business. Lessors and financiers will increasingly be required to demonstrate compliance with their ESG policies and goals, which may directly impact airline fleet renewal decisions and options. Airlines with higher average fleet ages could find lessors more reluctant to lease to them if this would impact lessor ESG policies.</p>
F Frequent Flyer, Frequent Polluter	<p>Airline frequent flyer programmes (“FFPs”) which encourage, reward and incentivise customers to fly further, more frequently and in lower density premium cabins will become a key target for sustainability campaigners. Airlines should be prepared to explain how their FFP does not contradict or clash with sustainability goals and to incentivise more sustainable options, such as earning higher points for flying on an SAF-fuelled flight and requiring more points to redeem for a non-SAF-fuelled flight. Carbon offsetting and other voluntary schemes may not be sufficient to address criticism that FFPs encourage unnecessary flying.</p>
G Greenhushing	<p>In the face of greenwashing claims, investigations and litigation, many companies have reduced their statements and content on ESG and sustainability. Whilst ‘greenhushing’ may appear to provide relief from the prospect of greenwashing claims, investigations and litigation, this is a short-term solution. As greenwashing claims and investigations become even more widespread and accepted, conscious and deliberate actions to conceal the position and actions of a company on ESG and sustainability may only serve to weaken the position of the company and its response. This also bring into question management and board credibility.</p>

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G Greenwashing	<p>Greenwashing claims and complaints were amongst the first manifestations of the rise of ESG. Not unique to airlines, misleading or deceptive claims and statements about sustainability, environmental or climate credentials and environmentally friendly practices and business operations quickly achieved a prominent and vulnerable status as companies sought to communicate their ESG goals and objectives. Where these claims and statements cannot be substantiated, companies must be prepared to be investigated and pursued by government agencies, shareholders and consumers and in conventional and social media. Greenwashing litigation across the world has consistently shown that claims and statements about sustainable and environmentally friendly business operations, which cannot be substantiated, will result in fines, penalties, damages and negative publicity.</p>
L Lieferkettensorgfaltspflichtengesetz	<p>Whilst the German Supply Chain Law of 2023 may not apply to all airlines, its broader application and the introduction of similar laws in other jurisdictions are both likely and imminent. Airlines must be prepared to demonstrate that their supply chains have been rigorously investigated and comply with their ESG goals and objectives and to deal with bluewashing claims. The extensive use of outsourcing and third party and partner service providers in the aviation sector, particularly for international flights, magnifies the responsibility of airlines to investigate their supply chains and increases the risks of a partner or supplier being in breach of airline ESG goals and objectives. Where this also results in the airline being in breach of a law like the German Supply Chain Law, the consequences may be substantially more serious than negative publicity.</p>
S Social Media	<p>Social media channels have become one of the most critical fora in which airline ESG claims are analysed, questioned and challenged. Airlines make widespread use of social media channels to promote their brands and interact with existing and potential customers. The provides ESG campaigners with a range of opportunities to comment on, question and dispute statements about and policies on ESG. This interaction is informal and in real time, does not require factual substantiation and individuals can interact anonymously. With a broad range of channels and interactions across an equally broad range of time zones, airlines must increasingly devote resources to 24-hour monitoring of their social media channels to respond to comments. As the use of AI and 'deepfakes' increases, airline must be prepared to respond rapidly and effectively to faked and 'fake news' before unsubstantiated, incorrect or false social media content attracts the attention of conventional media. The longer it takes an airline to respond to such posts, the greater the prospect that 'fake news' will be accepted as news. The need for rapid and effective responses is magnified for social accounts which are not operated or controlled by airlines. Airline social media teams must be prepared to deal with channel or platform operators who are reluctant or unwilling to remove content at the request of an airline. This is particularly where such content is trending on the platform and has high levels of interaction with other users of the platform. This will require an airline to interact with the content and to seek to address and respond to it to neutralise and, ideally, minimise its impact.</p>

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S Sponsorship	Airline sponsorships are a high profile and public target for sustainability and ESG campaigners and this is one manifestation of Flygskam. Increasingly, airlines will be required to provide more detailed reports on meeting ESG objectives. Event organisers, with their own ESG objectives, are likely to come under increasing pressure to limit the involvement of airlines and other sponsors whose businesses are perceived to be unsustainable and unfriendly to the environment.
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