



Retrospective

Controversial Business Practices in 2020

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Executive Summary

Inrate manages a database with more than 16'000 controversial business practices of over 3'000 companies of major indices such as MSCI Developed Markets, MSCI Emerging Markets and the Swiss Performance Index collected over ten years. News articles are screened on a daily basis, recorded, categorized as well as evaluated in detail.

As the year comes to a close, we have taken some time to reflect upon controversial business practices of 2020 and have compiled a list of five controversies that caught our attention the most during the last twelve months. Every chosen example is unique in nature, albeit for different reasons. The list includes controversies that were relevant because of the impact of the corporate conduct on the environment and society as well as the perception of stakeholders thereof. All of the below described controversies began in 2020, but have yet to come to a close.

The year 2020 was exceptionally challenging in many regards. Society and businesses were hit by the outbreak of COVID-19, which led to devastating social consequences, crashing financial markets and rapidly increasing uncertainty. Businesses and their stakeholders across all industries were suddenly faced with challenges that had been unknown in the past. The pandemic revealed, which business were ready to adapt to increased or newly emerging ESG risks. The ability to appropriately react to new conditions in turn enabled companies to resume operations once the situation allowed it to. Particularly health and safety concerns were in the limelight of the public discussion since employees were heavily affected by the pandemic. At the same time, 2020 witnessed misconducts by corporations across a wide range of topics, bringing a number of ESG issues to light unrelated to the pandemic.

Swiss chemicals and biotechnology company Lonza was reportedly responsible for approximately 1 per cent of the annual Swiss greenhouse gas emissions. The company was criticized for increasing environmental costs by reacting hesitantly after detecting the leakage at one of its production facilities.

The food processing industry proved to be especially vulnerable to the COVID-19 outbreak. While several companies came under scrutiny for mismanagement and neglect of occupational safety measures during the pandemic, the Tyson Foods case stood out due to its extent. The company's negligent behavior had severe consequences for local communities as it was responsible for several outbreaks by ignoring basic hygiene standards resulting in a large number of infections and a considerable death toll.

One of the biggest accounting frauds occurred in 2020 when Wirecard filed for bankruptcy shortly after it was published that EUR 1.9 billion in balances were missing. These revelations were followed by the arrest of the chief executive officer and an international manhunt for the former chief operating officer, who is now on Interpol's Most Wanted list.

A devastating incident happened mid-year when Rio Tinto detonated ancient caves with around 46'000 years of human history. The incident raised questions over the social license to operate of the extractive industry in Australia and its accountability towards local communities.

Finally, another mining company was at the center of attention as the Russian authorities were forced to declare a state of emergency. A subsidiary of Norilsk Nickel was held responsible for dumping 20'000 tonnes of diesel fuel into a river, which contaminated an area of 350 square metres. The incident was considered the worst spill in the arctic to date.

All of the listed controversies are examples of corporate irresponsibility with far reaching consequences for stakeholders involved. Moreover, such accidents pose considerable reputational as well as financial risks for the respective businesses.

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Lonza

Nitrous oxide emissions over decades (Switzerland)

Topic: Environmental damages of production

In February 2020, the Swiss Federal Office for the Environment (FOEN) published a press release identifying the greenhouse gas (GHG) emissions of the Swiss industry sector to be higher than anticipated (FOEN 2020). The unforeseen increase of around 600'000 tons of CO₂-equivalents (eq) per year was traced back to a nitrous oxide leakage at Lonza AG's production facility in Visp. The additional CO₂eq corresponded to approximately 1 per cent of the annual Swiss GHG emissions. It was reported that nitrous oxide was formed in Lonza's production process of the vitamin niacin. Lonza has produced niacin at the Visp site since 1971 (Lonza, 2020a). While the global warming potential of nitrous oxide is around 300 times that of CO₂, it is unarmful, at such a level of concentration, to living beings' health. For this reason, it has not been regulated in the Swiss clean air act to date (LRV 2020).

The nitrous oxide emissions were discovered by Lonza in the spring of 2017 in a control inspection of the Visp production location. In March 2019, the source of the nitrous oxide emissions was confirmed by FOEN's external experts. Lonza and the FOEN were criticized by the media for causing delays (Tagesanzeiger 2020). According to a press release by the company from December 2020, the steps towards finding a technical solution started immediately after detecting the emissions. It involved among other things obtaining a building permit for the elaborate catalyzer (Lonza, 2020b).

Simultaneously Lonza entered negotiations to classify the installation costs of 12 million to the FOEN as a climate compensation project. The emission savings would have been admitted to the emissions trading system, allowing Lonza to sell each ton of saved CO₂ for up to 95 CHF. Lonza and the FOEN reached an agreement in November 2019. According to a press release by the company in December 2020, the catalyst will be put into operation by the end of 2021 (Lonza, 2020b). To comply with Swiss emission targets, the FOEN took on the financial responsibility to buy the emission allowances for Lonza for the years 2018, 2019 and 2020. Furthermore, emissions emitted prior to 2018 will be neglected, following the rationale that the emissions were approved only with the external assessment in 2018 (Tagesanzeiger 2020).

Inrate's view: The magnitude of causing 1% of Switzerland's annual emissions over the course of possibly 50 years through the leakage in Visp highlights the relevance of this controversy for Inrate. It was reported that the company had a hesitant approach to installing a catalyst which further exacerbated the issue. This would suggest that the company knowingly accepted the leaking of further GHG emissions into the atmosphere and thus causing negative externalities. Lonza installs currently a catalyzer to filter out the nitrous oxide. Federal regulation wants to avoid similar cases regarding nitrous oxide in the future. The high emission of greenhouse gases by Lonza seems to be a serious special case.

Tyson Foods

Employees' health put at risk during coronavirus outbreak (US)

Topic: Health and safety among employees

Since the beginning of the COVID-19 pandemic in early 2020, the meatpacking industry proved to be especially vulnerable to local coronavirus outbreaks, as observed in several companies including Tönnies, JBS and Tyson Foods. Since April 2020 several lawsuits, including an Occupational Health and Safety Administration (OSHA) complaint, have been filed against the food processing company Tyson Foods, for not providing proper safety equipment for the workers and thus violating OSHA standards (Who13 News 2020). Further lawsuits were also filed against Tyson Foods by the family of the workers, who contracted COVID-19 and died due to the infection (PRNewswire 2020, AP News 2020).

The company stated that they had taken all the necessary measures for the safety of their employees with flexible attendance policy and training on COVID-19. The employees and their families, however, reported about lack of tests and safety equipment as well as frequent sick leaves and employees, which were forced to work with symptoms (Who13 News 2020, Biz Journal 2020). Thus, it was claimed that the company knowingly put the workers at risk. Due to the rapidly increasing total number of cases in the area, it was also alleged that Tyson Foods put the surrounding communities at risk knowing that the virus had spread in the facility (Who13 News 2020, The Hill 2020). In May, a Tyson meat factory had to be temporarily closed after 58% of the almost 1'500 employees had been tested positive for COVID-19. In another factory of Tyson Foods in Indiana, 900 workers were infected by the virus (Today 2020).

According to the Food & Environment Reporting Network (FERN), until July 2020 about 10'000 meatpacking workers had been tested positive for COVID-19 at Tyson Foods, which represented more than a quarter of all cases in the meatpacking industry and about 10% of all employees of the company (Food and Wine 2020). After Tyson faced continuous public pressure, the company announced in July 2020

that widespread screening tests will be implemented.

Inrate's view: Tyson Foods is the second largest meat processor in the world and during the COVID-19 pandemic, the company had one of the highest numbers of COVID-19 infected employees. Inrate considers this event significant as numerous employees died due to the lack of sufficient safety measures in the company's facilities. The company refused to shut down plants, which would have avoided the further spreading of the virus, even when multiple cases were known. Furthermore, testing programs were only implemented late in the course of the pandemic and under public pressure. Thus, the company presented very weak measures to deal with the health and safety risks of its employees.

Wirecard

Alleged accounting fraud and market manipulation

Topic: Compliance with legislation

In June 2020, the German payment processor and provider of financial services Wirecard filed for insolvency after its announcement that EUR 1.9 billion in balances was missing (Financial Times, 2020a). Allegations of accounting-related misconduct were not new to the company. In February 2019, for instance, a lawsuit alleged that Wirecard "made false and misleading statements to the market". This was in relation to the allegation that a senior executive of the company was involved in forgery and money laundering between 2015 and 2018 (Business Wire, 2019). Nonetheless, the company entered the German stock index DAX 30, which made Wirecard an automatic investment for pension funds worldwide (Financial Times, 2020a). Shortly after the scandal was unveiled in June, former CEO Markus Braun was arrested in Germany over allegations of accounting fraud and market manipulation as it was suspected that he had artificially inflated amounts in the company's financial statements to give a false impression of good financial performance

(Deutsche Welle, 2020). Concomitantly, former COO Jan Marsalek was fired and fled the country. At the time of writing, he is on Interpol's Most Wanted list (Bloomberg, 2020). The Austrian fugitive is considered to have played a central role in the fraud and, according to the Financial Times (2020b), allegedly has ties to Russian intelligence agencies as well as Libyan militias. In November 2020, Markus Braun denied any wrongdoing, describing Wirecard as the victim of a wider fraud. Investigations on the case are ongoing, including ones on Wirecard's long-standing auditor EY, who failed to uncover the irregularities earlier (Financial Times, 2020c).

This controversy has also raised questions on the failure, on one hand, of the German financial regulator BaFin to react to the first signs of irregularities (Der Spiegel, 2020) and on the other, of customs' anti-money laundering unit, the Financial Intelligence Unit (FIU), to pass on indications of potentially criminal acts to the responsible law enforcement authorities (Tagesschau, 2020).

Inrate's view: Inrate regards what is considered Germany's worst accounting scandal in decades as a significant controversy. Wirecard's bankruptcy resulted in both short-term and long-term negative consequences for the company's stakeholders. For instance, shortly after the scandal was uncovered, customers' online accounts were frozen. Furthermore, investors, both private and institutional, suffered massive losses following Wirecard's stock crash. Last but not least, Inrate considers this case as particularly severe due to the involvement of the company's top executives in the criminal act, unveiling deeply rooted ethical issues in Wirecard's business conduct

Rio Tinto

Destruction of sacred caves (Australia)

Topic: Impact on local communities

In June 2020, an enquiry was launched against Rio Tinto for destroying the sacred caves in the Pilbara region of Western Australia to expand an iron ore project. The Australian government reportedly granted access to the shelters in 2013, which was the only site left in the country showing

human occupation throughout the last Ice Age with around 46'000 years of human history (Reuters 2020a). The company issued a statement saying that concerns of the Puutu Kuntiki Kurruma and Pinikura people (PKKP) did not arise during the consultations. This narration was rejected by the PKKP soon after (Reuters 2020b). Several aboriginal and human rights organizations rose in protest and one indigenous group had suspended Rio Tinto from its reconciliation plan (Reuters 2020c). Several organizations urged Rio Tinto to conduct a serious public review and called for social accountability (Business & Human Rights Resources Centre 2020). Moreover, they demanded removal of the company from a global index promoting its human rights record, in which Rio Tinto ranked highest among all extractive industry companies (SBS 2020).

As a consequence of increasing stakeholder pressure from indigenous peoples, politicians and investors, the chief executive, Jean-Sébastien Jacques, along with two other executives of Rio Tinto will resign in March 2021 (Financial Times 2020d). As of December 2020, a parliamentary inquiry recommended a compensation to traditional owners calling the destruction "one of the worst avoidable disasters that has ever happened in our country" (ABC News 2020).

Inrate's view: This tragic incident launched a public discussion around the role of extractive companies and its local community relations and a legal framework favoring the industry's interests. Although Rio Tinto had the legal right to destroy the caves, the company ignored the cultural significance of the site and neglected the mining industry's social license to operate. Moreover, Rio Tinto was heavily criticized by investors for its initial reaction of just imposing financial penalties to its executives instead of holding the individuals responsible. Inrate considers this event as significant not only due to the adverse impact of the incident itself, but also due to the insufficient accountability as well as the organizational failings in the course of events as the largest iron ore mining corporations.

Norilsk Nickel

Fuel spill in Arctic Tundra, Siberia (Russia)

Topic: Environmental damages of production

On May 29 this year, a state of emergency was declared by the Russian authorities after more than 20'000 tonnes of diesel fuel from a Norilsk Nickel facility leaked into a Siberian river over an area of 350 square metres (ET Energy World 2020). The cause of the leakage was the damage of an aging tank at one of the company's facilities. The scale of the incident has been compared to the 1989 Exxon Valdez oil spill in Alaska (Reuters 2020d).

According to Greenpeace, the people from Komi and of the Siberian Taimyr region were heavily affected by the disaster. These isolated communities rely on natural resources and consequently the contamination of the soil and the water will affect their ability to generate an income and to survive (Greenpeace 2020).

In July 2020, a fine of USD 2.1 billion was imposed by the Russian government on Norilsk Nickel over the fuel spill in Siberia (Capital.com 2020). Additionally, Russia's environment watchdog filed a lawsuit in September against Norilsk Nickel claiming USD 1.96 billion for the environmental damages (Reuters 2020d).

The company stated that they took all the necessary measures to clean-up the spill. Nonetheless, Norilsk Nickel has not presented a plan for cleaning up future oil spills to date (WWF 2020). Only a couple of months later, in the surrounding area another accidental rupture of a pipeline with discharge of wastewater occurred, contaminating the river and Lake Pyasino (WWF 2020).

Additionally, WWF Russia analyzed satellite images from 2017 and 2020 and concluded that Norilsk Nickel has released waste and consequently contaminates Arctic rivers regularly (WWF 2020).

Inrate's view: Inrate considers this controversy as significant as serious environmental damage occurred in the Arctic's vulnerable ecosystem. The leakage caused by Norilsk Nickel was the first on such a scale occurring in the Arctic and it will take at least ten years for the local environment to recover. Furthermore, it is apparent that Norilsk Nickel still neglects improvements in its operation facilities to avoid such accidents, as several smaller and medium scale leakages are constantly occurring and observed in the surroundings area of the facilities of the company.

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