



TAKING STOCK

Retailers, Restaurants Cannot Ignore Social Activism

While they continue to navigate the challenges of the ongoing COVID-19 pandemic, the retail and restaurant industry must now contend with yet another seismic shock: civil unrest and activism.

Following recent events — including the deaths of George Floyd in Minneapolis, Rayshard Brooks in Atlanta, and others around the country — momentum for the Black Lives Matter movement continues to build, with widespread protests occurring across the country and internationally. While largely peaceful, demonstrations in cities and smaller communities have at times been accompanied by violence and property destruction.

Simultaneously, activists — with broad public support — are increasingly using the internet to demand that businesses show sensitivity to and take action on a range of social issues, including racial injustice and gender diversity.

While these movements are not new, they have intensified amid a pandemic that has left retail and restaurant businesses and employees especially vulnerable. Forrester forecasts that the global retail industry will lose \$2.1 trillion in 2020 from COVID-19, while the National Restaurant Association estimates that the US industry lost more than \$185 billion in sales through August.

In addition to affecting their brand visibility and reputation, activism can present sizable risks for retail and restaurant companies due to their employees' frequent in-person — and, increasingly, outdoor — interactions with the public during the pandemic. Even if not directly targeting specific retailers and restaurants, activism can impact and damage people, property, reputations, and bottom lines.

As retail and restaurant companies look to the future during a particularly challenging and politically charged time, it's imperative that they think ahead about the various impacts of social activism and take steps to prevent, mitigate, and respond to them.

Protecting Reputations

The message for retail and restaurant companies is clear: In the view of many, inaction on social causes is no longer acceptable. And how organizations respond — or fail to respond — to internal and external pressures may be critical to their reputations and bottom lines.

Even if your organization has not yet been affected by ongoing social activism, it is important to have a plan. Consider creating a crisis management team or smaller targeted working group that includes representation from across the organization, including risk management, human resources, legal, and marketing and communications.

Such a group should:

- **Identify the potential impacts you could face.** These could range from an isolated protest or looting incident involving a single physical location to a viral campaign with the potential to substantially damage your reputation and cripple you financially (think #boycottXYZInc).
- **Test how you would react to these specific scenarios and develop a process for gathering the right information to proactively address them or respond appropriately.** Team members should also determine how to engage with traditional news media, with activists on or near your premises, and with consumers and others on social media.
- **Focus on communications, with an emphasis on striking the right tone.** An inadequate or insensitive response to social pressures could make things far worse than they initially were. What's more, a superficial or hasty response to what activists and others perceive as long-term, systemic problems could be considered disrespectful and draw even more unwanted attention to your organization.

Safeguarding People and Assets

Organizations should consider how to protect people and physical locations from targeted protests or indiscriminate rioting and looting. In June, for example, the flagship location of a leading retail chain was looted as violence erupted across New York. Later in June, an Atlanta location of a fast-food restaurant chain — the site of the Rayshard Brooks shooting — was set on fire by protesters. A number of stores along Chicago's Magnificent Mile were also looted during a night of violence in mid-August.

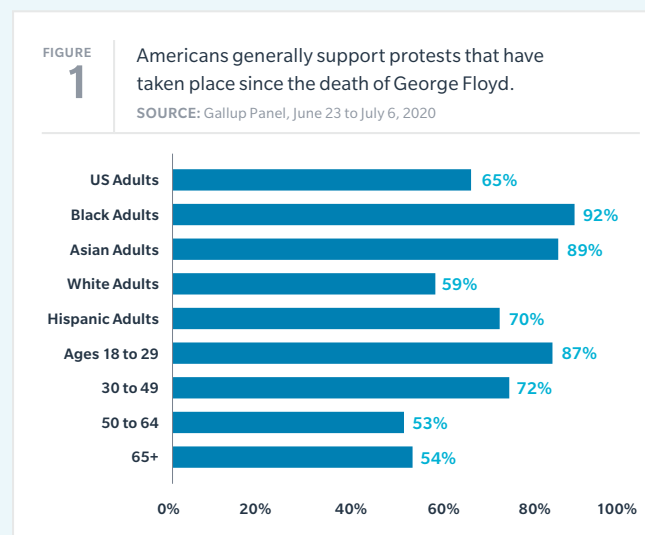
Among other items, plans developed by emergency response and employee health and safety teams should consider:

- Under what circumstances would specific locations close or change their hours of operation.
- Which employees, leaders, and others to notify in the event a company location is involved in an incident that poses a risk to people or property.
- When employees and customers at risk should shelter in place or evacuate.
- How, if at all, operations have changed because of the COVID-19 pandemic — for example, increasing outdoor footprints, having employees deliver customer orders, or fewer employees overall — may affect security concerns.

Activism and Corporate Responsibility Backed by Consumers, Employees, and Shareholders

The reasons why recent protests about racial injustice have expanded are myriad and complex. But it is clear that something has prompted increased support from the public, consumers, and employees and emboldened activists to make greater demands today.

[In a Gallup poll conducted in late July](#), two-thirds of American adults — including majorities across most subgroups — expressed support for nationwide protests (figure 1).



Driven in part by this shift in public opinion, activists for social justice have grown more ambitious. In addition to their focus on police forces and government entities, activists are now demanding that leading brands and other businesses embrace diversity and inclusion and take additional actions to combat systemic racism. Activists are also increasingly demanding action on related topics, including gender diversity, climate change and sustainability, and more.

[Shareholder activists, meanwhile, have used litigation to press for similar change](#), including demanding greater diversity among corporate boards. And their influence and progress was apparent even before the recent wave of unrest: In August 2019, [Business Roundtable published a statement](#) in which 181 CEOs — including executives at several major retail brands — committed to leading their companies “for the benefit of all stakeholders” rather than focusing on shareholder profits. In light of recent protests, Business Roundtable announced in June that it would form a [special committee “to advance racial equity and justice solutions.”](#)

In the event of unrest, it's vital to monitor local law enforcement and local government authorities' communications and ensure access to real-time information about which employees are working in specific locations. Before an incident, gather employee contact information — including personal email addresses and mobile numbers — so you can reach workers through multiple channels.

At the same time, it's important for retailer and restaurant leadership and local managers to understand how they can protect employees, customers, and properties without being unnecessarily confrontational or causing additional brand damage. Manager and employee training should focus on communication and personal safety, including how to deescalate conflicts before they get out of hand. A renewed focus on training is especially important given likely recent staff changes, turnover, or prolonged absences as a result of COVID-19.

Insurance Considerations

Retail and restaurant risk professionals should review their insurance programs ahead of any potential unrest or targeting by activists. Several forms of coverage could potentially apply in the event of specific losses:

- **Workers' compensation** coverage will respond, in most cases, to employee injuries resulting from unrest and activism in the workplace.
- **General liability (GL)** policies will generally respond if a customer or other third party is injured. In addition to the general coverage for bodily injury sustained by third parties, GL policies typically also provide limited coverage for the cost of providing emergency first aid to customers and other third parties injured on the insured premises. A GL policy will also cover the cost of damage to a third party's property and may fund the defense of lawsuits alleging negligence. Depending on the size of a loss, **umbrella and excess coverage** might also respond.

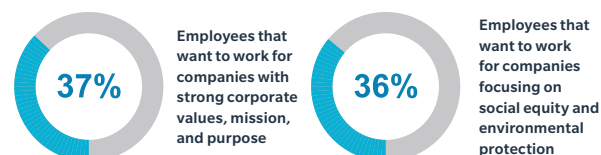


Activists' goals also match the desires and motivations of global workforces. While people often consider several factors — including compensation and advancement opportunities — when choosing where to work, more than a third of employees globally say they want their employers to demonstrate strong corporate values and commitments to ensuring social equity, according to [Mercer's 2020 Global Talent Trends Study \(figure 2\)](#).

FIGURE
2

Corporate responsibility is a leading motivator for many employees.

SOURCE: Mercer 2020 Global Talent Trends Study

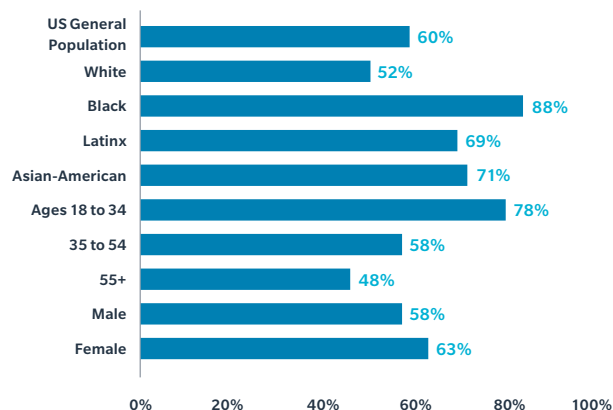


Perhaps most important for brands — including retailers and restaurants — is that consumers are looking to them for action. [Two-thirds of Americans surveyed by Edelman](#) in early June believe it's important for brands to ensure racial diversity within their organizations — and three-fifths expect them to take a stand on racial injustice (figure 3).

FIGURE
3

Americans now expect brands to publicly speak out on systemic racism.

SOURCE: Edelman online survey, June 5 to June 7, 2020



- **Property** insurance can respond to physical damage, such as broken windows and doors. Business interruption coverage may also apply if one or more insured location is forced to close following unrest.
- **Property terrorism** insurance typically provides coverage for physical damage and business interruption resulting from acts that are motivated by politics, religion, or ideology. **Political violence (PV) insurance**, meanwhile, provides coverage related to war, civil war, rebellion, insurrection, coup d'état, and other civil disturbances. Coverage for strikes, riots, and civil commotion is typically included in PV policies and may be found within all-risk property policies; it can also be added to a terrorism policy through what is commonly called an SRCC extension.
- **Directors and officers liability (D&O)** insurance may provide coverage for litigation or other activity arising out of shareholder activism, depending on policy wording. D&O coverage can also respond to shareholder suits alleging mismanagement by senior leaders, among others.

Some D&O and umbrella and excess policies contain crisis response endorsements, which can reimburse insureds for the cost of crisis management and public relations support; in rare cases, a GL policy may also include such an endorsement. Access to specialized crisis management, security, and investigations services may also be available in emerging security and integrity incident response policies, which can cover dozens of insurable events. Unlike traditional forms of insurance, coverage under these policies can be accessed not only following an insured loss but also upon suspicion, allegation, or threat of such a loss.

No organization — including retail and restaurant companies — is immune to the pressures of activism and unrest. While these events can cause a variety of potential losses, they can also present opportunities for those that respond effectively. Those that take steps to prepare for and protect against their effects can demonstrate not only resilience but social and community responsibility.



A Focus on Culture

With a spotlight on brands today, the systemic changes sought by activists, investors, employees, and consumers should be front and center in boardrooms and among company leadership. Working groups created by boards and senior leaders should strive to anticipate activists' future demands and be prepared to clearly articulate their organizations' positions and values related to diversity, sustainability, and more, as well as any commitments to improvements under consideration or being implemented.

As boards and other senior leaders refine their thinking and messaging on corporate values, they should:

- **Seek the input of employees.** It's particularly important to ensure representation by women and people of color, and to engage a variety of employee groups about how organizations can be more empathetic to the causes they hold dear.
- **Consider how to equip managers to have in-depth discussions with direct reports about driving diversity and inclusion on a daily basis.** This could include ensuring representation across teams and offering mentorship opportunities for employees, among other actions.
- **Strive to better understand and counter potential systemic challenges, including diversity and inclusion at lower levels.** An internal labor market flow analysis, for example, can allow employers to study who is joining and leaving at various levels, who is advancing, and who is staying. This information can be analyzed by gender and race, which can illustrate potential organizational deficiencies in hiring, retention, and advancement, which can then be addressed through focused action plans aimed at potential and current employees.





This briefing was prepared by Marsh's Retail/Wholesale Practice, with contributions from Marsh Advisory, Marsh's Property, Casualty, and FINPRO Practices, and Mercer's Global Advisory and Insight Group.

For more information, visit marsh.com, contact your Marsh representative, or contact:

MAC NADEL
Retail/Wholesale, Food & Beverage Practice Leader
+1 203 229 6674
mac.d.nadel@marsh.com

Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

This document and any recommendations, analysis, or advice provided by Marsh (collectively, the "Marsh Analysis") are not intended to be taken as advice regarding any individual situation and should not be relied upon as such. The information contained herein is based on sources we believe reliable, but we make no representation or warranty as to its accuracy. Marsh shall have no obligation to update the Marsh Analysis and shall have no liability to you or any other party arising out of this publication or any matter contained herein. Any statements concerning actuarial, tax, accounting, or legal matters are based solely on our experience as insurance brokers and risk consultants and are not to be relied upon as actuarial, tax, accounting, or legal advice, for which you should consult your own professional advisors. Any modeling, analytics, or projections are subject to inherent uncertainty, and the Marsh Analysis could be materially affected if any underlying assumptions, conditions, information, or factors are inaccurate or incomplete or should change. Marsh makes no representation or warranty concerning the application of policy wording or the financial condition or solvency of insurers or reinsurers. Marsh makes no assurances regarding the availability, cost, or terms of insurance coverage. Although Marsh may provide advice and recommendations, all decisions regarding the amount, type or terms of coverage are the ultimate responsibility of the insurance purchaser, who must decide on the specific coverage that is appropriate to its particular circumstances and financial position.

Copyright © 2020 Marsh LLC. All rights reserved. MA20-16023 568156239