

## The private sector is facing a climate conundrum

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In recent years, we have seen many climate commitments. Numerous companies and financial institutions have pledged their commitment to combat climate change. This pledge is only a first step. The implementation phase is next.

This is proving to be a major struggle for many organisations. There are fundamental strategic questions. For example, how does the ambition to grow relate to the ambition to become more sustainable? And for financial institutions: to what extent is continued engagement with the fossil fuel industry the way to go?

There also exist significant legal uncertainties. The regulatory burden is increasing and organisations will soon have to know and disclose more about climate-related risks, impact and strategy. For many, the question remains what exactly will be expected under new and upcoming legislation. In addition, there are practical complications, such as organising one's own data and obtaining qualitative climate data from third parties. As such, a serious ambition to reduce carbon emissions is bound to be accompanied by brain teasers in terms of strategy, compliance, and implementation. Organisations are currently going through an intensive learning process on multiple fronts.

### *More accountability*

At the same time, the accountability landscape in the Netherlands and abroad is hardening. Regulators are scrutinising even more closely whether organisations are putting their words into action. For instance, the Dutch Consumer and Market Authority (ACM) recently reprimanded Vattenfall and Greenchoice over misleading sustainability claims. In the US, the SEC set up a Climate and ESG Task Force last year. A proposal to significantly expand climate disclosure requirements is currently pending.

NGOs and claims foundations are also watching. For instance, Milieudefensie (Friends of the Earth Netherlands) is assessing climate plans as a potential prelude to further litigation. Fossilvrij NL ("Fossil free Netherlands") has started proceedings against Dutch airline company KLM for its 'Fly Responsibly' campaign, accusing the company of greenwashing. In brief: sustainability statements are under a magnifying glass and the pressure not to make mistakes is increasing.

Currently, organisations stand in a restaurant kitchen with no clear recipe and without the proper ingredients, while guests complain that the menu is inaccurate or the food tastes bad. This combination triggers a flight instinct. For instance, it was recently reported that some US banks are considering disregarding climate commitments for fear of liability claims: *'What if we get it wrong, make a mistake or someone lies? Then the bank can be sued, that is an unacceptable risk,'* the banks told the Financial Times.

### *Greenhushing*

Fear of liability also leads to less ambitious, but more achievable climate targets and to 'greenhushing', where organisations do not disclose targets for fear of being held accountable.

This is, of course, counterproductive in the fight against climate change. Moreover, liability risks are not necessarily averted. As climate-related transparency is becoming the standard, it will become apparent in the next few years who has taken up the baton and who has not. Frontrunners set the tone: if A is able to do it, why not B? If the accountability trend continues, not being ambitious enough also exposes organisations to liability risks.

As such, the private sector appears stuck between a rock and a hard place when it comes to climate ambition and setting climate targets. This situation inspires a "safety in numbers" approach: not wanting to lag, but also not wanting to stick one's head above the parapet. The result is a sub-optimal level playing field, which is ultimately incompatible with the important role the private sector has to play in the transition to a sustainable economy.

This accountability squeeze and its undesirable consequences receive insufficient attention. This is concerning. If we want to drive the transition, we should encourage climate ambition as much as possible. This speaks in favor of easing one side of the squeeze: the risk of - in retrospect - having been slightly too

ambitious. We should shift our focus from individual accountability to collective responsibility. After all, the fight against climate change is a shared societal mission.

What is needed to achieve this? In any event, more clarity as to what is expected from companies when it comes to climate change. This is an urgent assignment for the government and regulatory bodies. In addition, a 'safe' learning environment is important. Especially in this phase where much is still unclear, well-intentioned organisations that are in transition should be granted the opportunity to learn. The sustainability-related challenges many organisations face are diverse and cannot be underestimated. However undesirable, a learning process takes some time and not everything will go well at once.

Knowledge sharing and cooperation speeds up the learning process. Not everyone needs to reinvent the wheel. More exchange between private parties (inside and outside their own sector) and close interaction with the public sector are essential. Climate best practices should be similar to aviation safety, and the government can be more proactive in facilitating this.

Finally, a call to critical restaurant guests: be a catalyst rather than a denigrator. Focus on the successes, too. Companies benefit more from an extended hand than from an accusing finger. Ultimately, climate action is the goal, not climate liability.

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