TRANSCRIPT

Labor Strikes and Labor Rights

Featuring:

Cole Martin, *ESG Researcher, MSCI*

Andrew Young, *ESG Researcher, MSCI*

Mike Disabato:

What's up everyone, and welcome to the weekly edition of ESG now, where we cover how the environment, our society, and corporate governance affects and are affected by our economy. I'm your host, Mike Disabato and this week we have a labor story for you. It's about a strike, who should be called an employee and sort of about the great resignation. It's all there for you this week workers. It's all there. Anyway, thanks as always for joining us, stay tuned.

The great resignation, the great renegotiation, the great reshuffling, whatever you want to call it, the pandemic has brought a change in how labor views its position in the world. That change has been experienced in as many ways as there are workers, but today we wanted to focus on two happenings that we think provide a good scale of the shift. The first is a labor strike at Kroger groceries in Colorado that ended on Tuesday of this week. And the second is an EU proposal to improve the working conditions of people working through digital labor platforms. And we're going to use that proposal as a way to show what might be the leading change in labor relations at companies in 2022 and beyond. But let's get specific first, let's start with Kroger and to understand what was going on, I called up my colleague Cole Martin, who covers the food retail sector for us and asked him to break down the strike at Kroger and why it might have happened.

Cole Martin:

So in early January, about 8,000 employees at Kroger owned King Soopers retail stores voted to go on strike, about 80 different stores in and around the Denver area. And it's interesting to us because normally it seems like when you see strike action like this, it's often a function of a company who's treating its employees very poorly in some way. But Kroger actually has pretty good labor management policies in place relative to a lot of its domestic US competitors, and it was still facing strike action. Recently, about two days ago, as we record this, there was a deal signed that considerably raised the wages of a lot of Kroger employees. But as I said, the fact that there was still strike action, even with these good policies that Kroger has in place, I think it's actually more of a reflection of broader industry and macroeconomic factors, as much as anything the company was doing itself.

Mike Disabato:

The strike ended with a contract negotiation that gave Kroger employees $5 US more an hour than their current $16 an hour wage, which as Cole alluded to, was already higher than the majority of the competitors, such as Costco, for example, which shouldn't be heard with any subjectivity there. I just want to note that Kroger is facing labor pressure and they have better labor management policies than other companies in their peer set. And aside from wages, what I mean when I say leading or better labor management policies as Kroger has, for example, non statutory benefits and tuition reimbursement schemes that cover both full and part-time employees, it also conducts annual engagement surveys to gauge and monitor workforce satisfaction.

It has sector leading pension and retirement plans, and it even gets recognized as a best place to work by Forbes in the human rights campaigns and others. Kroger themselves attributes a lot of these benefits to the fact that its employees are highly unionized, around 66% of its workforce is covered under the union, and so have a lot of power in their collective bargaining agreements. So that's all to say, what's really going on here? Why are the Kroger employees aggravated at Kroger management? Well, one thing is inflation and the other is a structural risk in the food retail sector.

Cole Martin:

Even though in recent years we're seeing a lot of investment in automation, this is still a very labor intensive and still a relatively low-margin industry. And so what happens is you end up with a lot of fairly low-wage workers who are less able to manage rising inflation compared to maybe other types of employees and especially if they live in urban areas. So what all this means is, that Kroger can turn around and say, for example, that they pay a wage that is close to the US national living wage. And that is true, I mean, their current wages are basically what the US national living wage is. But the problem is that in places like Denver and in other US cities, the living wage to be in one of the cities is actually well above the US national living wage.

I think in Denver, it's something like 17 and a half dollars an hour compared to 16 and a half for the US average. And so what you end up with is studies, one was done by a nonprofit called the Economic Roundtable of 10,000 Kroger employees. And what they found was that almost a third of them either reduced or skipped meals because they couldn't afford food. Now, that's as much a function of the fact that housing costs in major US cities are rising as much as any wage policy that Kroger has vis-à-vis its employees. So what this really boils down to is that you can be a company like Kroger, which has pretty good management policies, but because of macroeconomic factors that are changing in almost unprecedented ways around you, that almost doesn't matter. And you as a company may not be able to completely eliminate employee discontent in an extraordinary environment like what we have now.

Mike Disabato:

Another factor that was reported to add to employee discontent was that Kroger CEO, Rodney McMullin makes around 900 times more than the average employee at Kroger. And that's not only a lot, it's a lot compared to the entire food retail sector. The average CEO in that sector makes around 197 times more than their employees. So McMullin's pay is in a league of its own. And not only that, he also got such a high bonus in 2021 that it caught the eye of Democrats in the US Senate. So this all has to be built into the equation along with inflation and price changes.

And this is sort of the way the game works with "S" in ESG. The risks presented by societal issues and how they are thus represented in the daily interaction between workers and companies can be sort of this combination of both company positioning and outside factors away from the company's control. And so what we can do is we kind of assess whether or not companies are ready to deal with both these outside factors and the unavoidable internal issues that come with being a big corporation. They can have things like a good channel of communication between employees and management, but that might not be enough because the pandemic has exacerbated that problem of the "S" in ESG throughout our entire society, especially for the food sector.

Cole Martin:

I think the pandemic is going to change the employer employee relationship in significant and structural ways up and down the entire food industry, farm level, all the way down to retailers and restaurants. In general, for most of the food industry, it's a relatively labor intensive low paid hardworking industry. A lot of it's manual and parts of it are actually quite dangerous. If you're an employee and you're a frontline employee either working at a hospital or working at a meat factory, and you are being told that you are a hero and you are responsible for keeping the country running in many cases, this wasn't just in the US, this was done everywhere. I think you're going to perhaps raise the expectations of what you demand and what you expect from your employer.

Mike Disabato:

Let's turn now to how labor relations may change in more places than just the food sector. There's another proposal out there for how to deal with digital platform workers. And this is in the EU, remember the last big one was in California, it's called AB1. And it sets out a proposal to improve the working conditions of people working through digital platforms. And digital platforms, if you aren't already aware, span a number of sectors, there's the rental platforms, Airbnb, VRBO, travel, Travellingo, TripAdvisor, food delivery, UberEats, GrubHub, Postmates, transportation, Uber, and Lyft, home services, education, they're everywhere.

So what this EU proposal says is, it's going to provide a list of control criteria to determine whether the platform is an employer. If a platform meets at least two of these five criteria, it is legally presumed to be an employer and then employees or people working through them would therefore enjoy the labor and social rights that come with the status of being a worker. Now, remember this is a proposal. It will change before it comes to a vote at the EU, but it is a good structure for us to explore what's some of the labor changes that are coming, which might hit companies in the future. To explore that, I called up my colleague Andrew Young, who covers labor relations for us. And I asked him about this proposal. And he said, one of the biggest changes is the assumption of employment.

Andrew Young:

That's the core, that's article one of the proposal. But then there are a couple of other key aspects to this. Firstly its taken out of the definition of worker or non-employee and employee is taken out of that definition, anything to do with benefits or training. So this might encourage companies who are running platforms to provide training, to provide health and safety gear, to support with sick pay, that sort of thing. It's not going to affect their relationship with their independent contractors. So maybe in that way, encouraging better benefits, encouraging more training.

Mike Disabato:

Training is a big thing. And what I'm going to do here is I'm going to kind of use this proposal to relate it to the ESG Labor Relations Playbook that we use when we're assessing long-term risk. Because at the moment, if you're not an employee, you're not entitled to a lot of things that we think are important to ensure long-term health between management and labor relations. For example, you don't have the right to a minimum wage where it exists, if you're not an employee. You don't have working time and health protection. You don't have the right to paid leave, or improved access to protection against work accidents, unemployment and sickness benefits, you don't get, as well as retirement benefits.

And I have to say this, it's not like I'm trying to sit here and say a company should or should not provide those things. If a company doesn't do this stuff, I'm not saying something bad is going to happen. More so, I want to lay out our thinking about what could be considered sustainable labor management, because I think a problem with a lot of ESG commentary, is it comments more on what is not to be done rather than what is being attempted or could be useful to do. Not only that we're in this world where we're working from home more and the gig economy is on the rise and as Andrew told me, this proposal has some interesting insights into how technology and labor can intersect in the future.

Andrew Young:

It addresses the issue of technology. Technology mediating, who gets work, around transparency, fairness, and accountability for companies about pay. And then also transparency for businesses with the regulator and telling the regulator where the work is being done and who's doing the work. So there are, yes, a lot of these key components that will set the benchmark. Maybe one aspect that was not fully addressed, is pay. There's a big momentum shift towards living wages rather than minimum wages around the world. A minimum wage does not define or does not allow many people to move above the poverty line, maybe if they're supporting other family members or living in an expensive city or using their own resources to perform their gig work.

Mike Disabato:

Pay itself is part of the balance between the company, its investors and the workforce that runs the company. In the US that balance is being offset by an historical decline in labor rights, income inequality, and inflation, which has gone so high that according to the US Bureau of Labor Statistics has meant the true value of workers pay in 2021 fell by 2.4%. And so what we're trying to do now in

ESG and in the market broadly is account for this lack of balance. And the practices in place at a company to stay in balance is highly dependent on the sides of your workforce. And so here's where the story about Kroger and this EU regulation intersect. At the moment for gig and digital platform jobs, you have a lot of the invisible workers, basically. Kroger for example, has 465,000 employees, so we really have to pay attention to how they manage their workforce, just due to the sheer size of it.

Uber, on the other hand reports, it has about 23,000 official employees, meaning it is quantitatively in a way less complex in terms of labor management for the company compared to a big-box retailer like Kroger. There are just less people to worry about. But that is only because they count a certain type of a worker as an employee. Uber, as you might assume, if you are in any major metropolitan area has around 3 million cars on the road now operating under the Uber banner. So if we get to this point where labor, which seems to have the purse strings at the moment with our society and the great renegotiation, or resignation, or reshuffling, or whatever you want to call it, if labor begins to demand that they are better recognized as a workforce and these EU type regulations start to take shape, then investors in digital platforms may need to look at how well big-box retailers manage their risks to understand if the app that they're invested in are able to similarly deal with a much larger and complex workforce than they are currently having to report.

And that's it for the week. I want to thank Cole and Andrew for joining me to discuss the news with an ESG twist. And I wanted to thank you so much for listening. If you like what you heard, don't forget to rate and review us. That really helps and it gets us a bit more exposure, which is helpful as well. And if you want to keep hearing me every week subscribe. And it can automatically get downloaded to whatever app, or platform, or medium that you use to listen to my voice. Thanks as always and talk to you next week.

Speaker 4:

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