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Social License to Operate: How to Get It, and How to Keep It

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EXECUTIVE SUMMARY

This paper examines the nature and attributes of social license and analyzes its growing importance as a critical success factor for resource development.

Main Findings

“Social license” generally refers to a local community’s acceptance or approval of a company’s project or ongoing presence in an area. It is increasingly recognized by various stakeholders and communities as a prerequisite to development. The development of social license occurs outside of formal permitting or regulatory processes, and requires sustained investment by proponents to acquire and maintain social capital within the context of trust-based relationships. Often intangible and informal, social license can nevertheless be realized through a robust suite of actions centered on timely and effective communication, meaningful dialogue, and ethical and responsible behavior.

Policy Implications

- Local conditions, needs, and customs vary considerably and are often opaque, but have a significant impact on the likely success of various approaches to building social capital and trust. These regional and cultural differences demand a flexible and responsive approach and must be understood early in order to enable the development and implementation of an effective strategy to earn and maintain social license.
- Governments could facilitate the necessary stakeholder mapping in regions for which they are responsible and provide a regulatory framework that sets companies on the right path for engagement with communities and stakeholders.
- Social media tools empower stakeholders and communities to access and share information on company behaviors, technologies, and projects as they are implemented around the world. Understanding and managing this reality will be important for companies seeking social license.
- Voluntary measures integral to corporate-responsibility frameworks contribute to achieving social license, particularly through enhancing a company’s reputation and strengthening its capacity for effective communication, engagement, and collaboration. However, such measures do not obviate the need for project-specific action to earn and maintain social license.
- The growing reliance on social media tools by stakeholders and proponents alike, and the risks associated with disclosure through them, may lead to an increased need for the development of guiding ethical and technical codes of conduct or other standards.

Social license to operate is emerging as a critical success factor for resource development in many regions. Increasingly, gaining social license is seen as an important aspect of managing environmental and social risks. Furthermore, acting beyond the minimum requirements of regulatory approvals is an important component of establishing a company's long-term reputation and brand among stakeholders and communities. This process of acquiring social license demands early and ongoing investment of effort by proponents to develop and maintain social capital within the context of trust-based relationships with aboriginal people, local communities, and other interested groups. Often intangible and informal, social license can nevertheless be realized through a robust suite of actions centered on timely and effective communication, meaningful dialogue, and ethical and responsible behavior.

This paper examines the nature and attributes of social license, identifies actions and behaviors that contribute to it, considers the role of voluntary measures and corporate responsibility in enhancing social license, and discusses the evolving policy and regulatory context within which social license exists. The implications of convergence between social media platforms and technologies for building trust and social capital, which are key determinants of social license, are also explored. Case studies illustrating important success factors in the achievement of social license are presented. Finally, the paper concludes by sharing lessons learned from observing successful and unsuccessful attempts to develop social license and highlighting trends driving its growing importance for resource development.

Background: What is Social License?

The term "social license," or "social license to operate," generally refers to a local community's acceptance or approval of a project or a company's ongoing presence. It is usually informal and intangible, and is granted by a community based on the opinions and views of stakeholders, including local populations, aboriginal groups, and other interested parties. Due to this intangibility, it can be difficult to determine when social license has been achieved for a project. Social license may manifest in a variety of ways, ranging from absence of opposition to vocal support or even advocacy, and these various levels of social license (as well as, of course, the absence of social license) may occur at the same time among different interested parties.

Social license is dynamic, generally taking time to achieve and effort to maintain, and can be lost or degraded in response to events and behaviors exhibited by a company or its agents.

While the notion of social license is consistent with the norms and legal frameworks of many countries and jurisdictions, it is distinct from regulatory license, which can typically only be conferred by governments. Regulatory license comprises formal authorization related to specific legislative and regulatory requirements and procedural conditions, and must be obtained before a regulated project or activity can proceed. Regulatory license is usually clearly defined in scope and received at a specific time, by a recognized government authority. Social license, in contrast, is informal and has no basis in law. Nevertheless, social license shares certain attributes with regulatory license. In particular, social license is often conditional and, while not mandatory as regulatory license is, is increasingly regarded as a practical necessity before a project or activity—regulated or not—can proceed. In short, regulatory license does not obviate the need for and value of social license in most circumstances.

Indeed, many energy, mining, and other resource-based firms are finding that attention to social license is beneficial for their long-term prospects in a region. The lessons of some notable failures in the regulatory approval process can be linked to broader issues of social license and community engagement, and many firms are now striving to learn from the cautionary tales of failed projects.

In particular, the development of social license is increasingly viewed as an essential aspect of a company's long-term ability to develop and manage its endeavors and as a factor in maintaining the goodwill of regulators and the value of a company's brand. In addition, social license is important to companies because it:

- provides a proponent with legitimacy for its presence and actions from a local community's perspective;
- provides regulators with a level of comfort that a proponent is acting responsibly;
- minimizes the risk of costly delays in regulatory approvals due to opposition;
- assures shareholders and investors that a company is managing social and other risks associated with its projects and activities;
- enhances trust by demonstrating to regulators and other stakeholders that the company is genuinely striving for good performance; and
- protects a company's reputation in times of crisis.

Social License in Action: Selected Examples

The importance of recognizing social license to operate as a factor in project success can be underscored by looking at examples from around the world. Energy, mining, and other resource-based enterprises have pursued social license with varying success, and the following examples illustrate the approaches and investment associated with securing social license.¹

Innergex Renewable Energy and the Lil'wat Nation

Innergex Renewable Energy (Innergex) is a developer of hydroelectric and wind power projects across North America. Since 2008, Innergex² has been advancing hydroelectric facilities, totaling more than 121 megawatts, in the headwaters of the Lillooet River northwest of Pemberton, British Columbia, in Canada. The projects lie in the traditional territory of the Lil'wat Nation, an aboriginal people living in southwestern British Columbia. The Lil'wat territory covers nearly 800,000 hectares of land within the Lillooet River valley and includes Innergex's proposed project area.

Since fall 2008, during project planning and throughout the environmental assessment and ongoing regulatory process, Innergex has engaged with the Lil'wat Nation to obtain input regarding its interests and project-related issues and concerns. The nation has been kept up to date on the project through periodic meetings and presentations, site visits, quarterly reports, frequent formal and informal correspondence, and a range of other engagement tools. In addition, the Lil'wat Nation has participated in the archaeological, traditional use, environmental, and geotechnical work associated with the project.

Innergex's stated First Nations consultation goals and objectives include the following:

- establishing a working relationship with identified First Nations before or early in the environmental assessment process and providing the necessary information to build project awareness and understanding

¹ The information presented in these case studies is based solely on publicly available information. The views expressed in this paper are based on the authors' interpretation of the material and do not necessarily reflect the positions of communities, stakeholders, and companies identified.

² Innergex is operating here as Creek Power Inc., a joint venture between Innergex and Ledcor Power Group.

- seeking input from First Nations on the appropriate means of consultation and review of the consultation plan
- facilitating involvement by First Nations in all stages of project assessment and review
- keeping First Nations updated on the project via meetings and other formal and informal communications
- providing meaningful avenues for First Nations to offer feedback on the project
- consulting with First Nations regarding their perspectives and opinions about the project and its potential effects on aboriginal interests

As Innergex's engagement developed over time, the Lil'wat Nation moved from acceptance to approval of the project, offering direct letters of support to the regulatory agencies on behalf of Innergex and working positively to support the overall development of the project in the nation's territory.³ Innergex's approach to social license in this and other developments underscores the leadership that the emergent renewable energy sector has demonstrated in engaging aboriginal peoples and stakeholders in resource development.

The Kitimat LNG Project and the Haisla Nation

The Haisla Nation is an aboriginal people living on the north coast of British Columbia. Since at least the mid-1990s, various sites and areas within the Haisla Nation's traditional territory have been identified as potential sites for export or import facilities for liquefied natural gas (LNG). Proponents have been engaged with the Haisla to advance specific project proposals, and the Haisla have worked toward community benefits associated with these projects.

The Kitimat LNG project includes facilities for natural gas liquefaction, LNG storage, and marine loading adjacent to Douglas Channel near Kitimat, British Columbia. Chevron Canada and Apache Canada are each 50% owners of the Kitimat LNG plant and associated pipeline. Since its inception, Kitimat LNG has been developing the project with community and First Nations consultation and strict adherence to both provincial and federal government

³ For example, the director of the Lil'wat Nation's Department of Land, Resources and Public Infrastructure wrote to government regulators that "we have been working toward this agreement for the past four years and are very pleased to see its completion and to express our full support for the [project]." The full letter is available at http://a100.gov.bc.ca/appsdata/epic/documents/p357/1357842777175_4544dc09143661745872ce790c10f8e57097d212cf4103d96c067febf357ab8d.pdf.

environmental review processes. In 2005, Kitimat LNG and the Haisla Nation signed an agreement in principle and entered a mutually supportive and precedent-setting partnership for the development of LNG in the Haisla's territory.

One of the key aspects of the partnership was Kitimat LNG's willingness to alter the location of the facility to an industrial site already developed by the Haisla. Chief Steve Wilson commented: "The Haisla acknowledge the openness Kitimat LNG has shown throughout the EA [environmental assessment] process to take Haisla interests into consideration. Our community has much to offer the project and will gain significantly from the opportunities it will afford our residents."⁴ By engaging with the Haisla Nation early in the process, Kitimat LNG has secured a partner in and advocate for the project, as well as further LNG development, and established the company's social license to operate in the Haisla's territory. Likewise, through working effectively with Kitimat LNG, the Haisla Nation has emerged as a substantial beneficiary of LNG development in its territory. The relationship includes a range of project-related benefits, such as economic growth, training opportunities, employment, and community and social benefits.

BP Tangguh LNG Project

BP's Tangguh LNG project is centered on the Bintuni Bay area of Papua, Indonesia—around a seven-hour flight from Jakarta. The project involves the tapping of six fields to extract combined reserves of approximately 14.4 trillion cubic feet of clean gas and includes two offshore production platforms located in Bintuni Bay. The offshore platforms will collect gas from the reservoir and transmit it through sub-sea pipelines to an LNG processing facility on the south shore, where tankers will load the LNG and take it to market.⁵

BP has undertaken a comprehensive program to foster social license and sustainable development following key principles of community, partnership, consultation, and corporate responsibility. Early in project development in 2002, BP completed an environmental and social impact analysis (ESIA) study identifying the project's social and economic impacts on the bay communities, the Bird's Head Peninsula of Papua, and the province as a whole. In addition, the

⁴ The statement is available at http://a100.gov.bc.ca/appsdata/epic/documents/p244/1135360077085_b0aa0411ff1344b6a728839c06a42867.pdf.

⁵ See the BP website, <http://www.bp.com/sectiongenericarticle.do?categoryId=9004779&contentId=7008759>.

ESIA established environmental, social, and economic-development commitments and the framework by which these commitments were to be achieved.

An integrated social strategy unit was then set up to develop and implement policies and programs in response to the obligations set out in the ESIA. Over time, a strategy evolved to address local needs by establishing local-level programs targeting communities affected by project activities. The programs implemented through project development have included:

- increasing the capacity of civil society and tribal and clan institutions to represent the interests of their constituents
- improving the capacity of Papuan businesses on the Bird's Head Peninsula to compete for project-related opportunities
- ensuring the participation of local, Papuan, and Indonesian people in the project
- establishing policies and guidelines to reduce spontaneous in-migration
- building awareness and understanding of the structure, roles, and responsibilities of government among village dwellers, enabling them to be active and well-informed participants
- establishing and delivering effective programs covering maternal and child health, malaria control, HIV/AIDS prevention, tuberculosis control, water and sanitation, and basic health services
- ensuring that potential employees have the skills required to participate in regulated, wage-based employment during construction
- equipping the adult population with relevant trade-sector skills to participate in developing bay area and regional economies following completion of construction
- improving the status of women through their greater participation in decision-making and the management of household and community resources

Thus, through a robust program of stakeholder analysis, engagement, and commitments, and by operating within internationally established norms and practices, BP has established formal regulatory approval of its development and gained acceptance among many communities affected by the project.

Principles for Earning Social License

The three case studies discussed in the preceding section illustrate the concept of social license and underscore the importance of a local community's approval or acceptance of a corporate project. Social license can be earned through a combination of activities and behaviors, centered on timely and effective communication, meaningful dialogue, and ethical and responsible environmental and social behavior, all of which contribute to building trust and credibility:

- effectively communicating projects and activities, including providing timely and complete information
- undertaking community engagement in a respectful manner
- listening to what a local community is saying, addressing concerns and issues, and using community input to improve projects and activities
- providing support for and building capacity in local communities by using a range of tools
- undertaking projects and activities in an environmentally, fiscally, and socially responsible manner (including but not necessarily limited to regulatory compliance)
- striving to ensure that local communities benefit from or are not unfairly affected by projects and activities

The following sections discuss the approaches and tools, understanding of situational diversity, and other key considerations for achieving social license.

Approaches and Tools

A proponent may use a range of approaches and tools to undertake these activities, including (but not limited to) direct, one-on-one consultation and engagement; community information sessions, open houses, and workshops; design charrettes; community investment programs; local employment and procurement programs; disclosure and reporting; and establishment of accessible communication channels and options, such as liaison officers, toll-free telephone numbers, websites, and social media platforms.

It is important to ensure that the approaches and tools used are appropriate for local conditions, needs, and customs. For example, some aboriginal groups have traditional protocols for communication, and violation of these protocols can seriously harm the long-term relationship with the group. In other instances, particularly remote communities, stakeholders may not have ready access to the Internet or other media and thus must be engaged through other means. Other challenges include complex systems of representation, governance, and decision-making within local communities and groups that may warrant specialized engagement methods. These local conditions, needs, and customs are often opaque to outsiders but must be understood to enable the development and implementation of an effective strategy to build and maintain social license.

It is also important to understand that social media is transforming the very nature of dialogue and communication between and among proponents and stakeholders. Viewed initially as an optional or even peripheral medium, and still regarded by many as a potentially risky venue, social media is quickly emerging as the communication medium of choice for many stakeholders. The implications of social media for social license are discussed more fully later in this paper.

Managing Diversity

The activities and behavior of a company in one place or in relation to one project can affect its ability to achieve social license in or for another. For example, a company that has a reputation for meaningful and constructive dialogue with local communities, compliance, and proactive environmental management and responsiveness to crises will likely have an easier path to gaining social license for an undertaking in a new region. In contrast, a company that has a poor compliance and performance record and a reputation for disregarding community concerns will face a much greater challenge in building the trust and social capital necessary to achieve social license.

Notwithstanding, it is important to recognize that social license is often spatially diverse. It may be achieved for one kind of activity or project but not another, and in one region but not another. This variation partly stems from the difference in risk associated with different kinds of projects and activities, the company's experience in effectively managing those risks, and the differing interests and concerns of stakeholders at different times and places. With respect to the

latter point, it is important to recognize that social license does not generally reflect a consensus view held broadly by a single, homogenous community, but rather is a patchwork of divergent views on the level of social license achieved by a company and held by a diverse array of stakeholders with various political agendas and perceptions. These stakeholders can range from indigenous peoples with ancient claims to traditional use and occupation of the land to outside environmental groups who are interested in the project because of conservation goals established outside the project region. Consequently, achieving social license often demands a flexible approach that is responsive to the diverse needs and interests of a range of stakeholders and interested parties. A successful strategy will be grounded in early and careful characterization of the stakeholder landscape; this may be aided by engaging local community members as liaisons who can identify and navigate local customs and issues. Local government agencies may also be helpful in this regard, because they are likely to be aware of the spectrum of stakeholders and issues in the region for which they are responsible.

A distinction must also be made between broad and abstract matters of general public opinion, often reflected in and influenced by media coverage, and specific interests of local stakeholders, usually expressed through direct engagement. Proponents typically have greater capacity to establish relationships with local stakeholders and address specific issues than to shift public opinion directly. However, as local, specific social license increases in strength, particularly if that license manifests at the highest possible level of advocacy and partnership, there often is a favorable shift in general public opinion.

Key Considerations

The factors considered in the granting of social license vary, depending on the needs and priorities of those potentially affected by or interested in a project, but generally relate to how the company behaves and how consistent it is in its messages and actions. These factors may include, but are not necessarily limited to, the following questions:

- Does the company say what it will do and do what it says, and can the company demonstrate this consistency?
- Does the company deliver on its commitments and promises, including those made in regulatory proceedings and community engagement?

- Does the company voluntarily engage with the community to identify and help resolve issues?
- Does the company work with the community to build capacity?
- Does the company's stakeholder engagement lead to meaningful dialogue and improvement or is it merely lip service?
- Are local customs respected?
- Does the company strive to create opportunities for the local community to benefit from the project or activity?
- Does the company pay fair wages and offer fair compensation?
- Does the company respond appropriately to a crisis or does it abdicate responsibility when something goes wrong?

Positive performance in these areas moves a company closer to obtaining social license. It is important to note that when evaluating company action and behavior, stakeholders and interested parties often draw not only on present evidence but on information about past performance that may be found in regulatory proceedings, media coverage, and the company's own communications.

This list of factors begins to illustrate the complexity of social license. The ease of achieving social license is typically inversely related to the complexity and potential severity of impacts that may arise from a project and the diversity of needs and priorities of stakeholders and interested parties. Thus, it depends on a timely, sustained, and adequate effort to understand the potential impacts and opportunities presented by a project and to build and maintain trust with stakeholders based on common interests.

In the end, it is often easier to know when social license has not been granted than when it has been. Nevertheless, good indicators include the reduction or absence of vocal opposition to development, continued and increasing constructive participation in community and stakeholder dialogue, advocacy and expression of support for development, cooperation in community-based activities and enhancement measures, and willingness of key stakeholders to enter into partnerships or other forms of agreement. Although not a reliable indicator of social license, favorable and balanced media coverage may reflect growing social capital. Proponents should

avoid making assumptions about social license and rely instead on stakeholders to articulate their own level of satisfaction.

It is important to note that not all projects will receive social license, in many cases due to aspects of the project that are inherently contrary to the interests of local communities. The project may prevail despite this, as it could be a development of regional or national importance, or it could be rejected despite the best efforts of the corporate proponents. Efforts to secure social license cannot overcome fundamental weaknesses in project design or planning.

A final point to be made with respect to earning social license pertains to humility. The concept of social license is indicative of a departure from an era when regulatory license alone was adequate to advance a project or undertake an activity. Today, the primacy of the proponent in particular is diminished in relation to the ascendant influence of external stakeholders. In the context of social license, it is important to recognize that stakeholders will identify and define their own objectives and criteria for granting social license. Notwithstanding this, stakeholders do not hold equal influence. While this reality makes achieving, confirming, and documenting social license more difficult, it also points to the need for the proponent to understand the scope of social license and determine who holds the key for success.

Voluntary Measures and Corporate Responsibility: The Long View of Social License

Putting social license theory into practice can also be undertaken at a corporate level, unlinked to specific projects or geographies. Private-sector companies and state-owned enterprises may take voluntary measures to enhance social license, including internal and external stakeholder engagement, disclosure and reporting, and strengthening governance. These measures may collectively be referred to as corporate responsibility, corporate social responsibility, corporate citizenship, shared value, or sustainable business, among other terms. While each of these terms has a distinct meaning and scope, for the purposes of this paper, they are generally assumed to encompass those voluntary measures that go beyond traditional fiduciary responsibility, fiscal management, and regulatory compliance in order to address economic, social, environmental, ethical, and governance risks.

In general, such voluntary measures build reputation value and the level of trust—key determinants for social license—among a corporation’s stakeholders, in part because they help

demonstrate the company's values, preparedness, and experience in dealing with nonfinancial matters. The articulation of a values- or principles-based strategy, demonstrably supported by a framework of management systems, programs, and tools, gives stakeholders confidence that the corporation in question is proactively aware of how it affects, and may be affected by, the world in which it operates, and that such awareness guides the corporation's actions. Voluntary measures integral to corporate-responsibility initiatives or frameworks are generally implemented at an organizational level. While they contribute to the realization of social license, particularly through the enhancement of reputation and strengthening of corporate capacity for effective communication, engagement, and collaboration, they do not obviate the need for project-specific action, as described in this paper, to earn and maintain social license with specific stakeholders and communities. The aspects of voluntary measures that are most influential for social license are described in the following sections on stakeholder engagement, disclosure and reporting, and governance.

Stakeholder Engagement

Ongoing dialogue and engagement with stakeholders builds trust that can provide a base of social capital when advancing a specific project or when faced with a crisis. To be effective in terms of building social capital and social license, stakeholder engagement must be timely, inclusive, complete, and meaningful. Timeliness refers to ensuring that engagement commences before a stakeholder is affected by a corporation's actions and continues until legitimate issues are resolved or the effect ceases. While the scope and depth of engagement may vary by stakeholder group, corporations must recognize that stakeholders will self-identify. Thus, there is rarely any legitimate basis for choosing to exclude a stakeholder group from engagement. The information shared through engagement must be adequate to enable the stakeholder to fully understand how the corporation's actions may affect it and what the available options are, if any. Finally, the engagement must provide opportunities for the stakeholder to offer input, as well as demonstrate how the corporation has considered or will consider that input in its decision-making.

The relationships established through effective engagement will facilitate communication and mutual understanding when companies seek social license for a specific project, as well as when they try to retain social license during a crisis. Moreover, where stakeholder relationships

are particularly strong, these bonds can sometimes be leveraged to engage other stakeholders or to overcome opposition. This can happen when relationships become sufficiently advanced that the manifest benefits cause the stakeholders to become advocates, instead of neutral parties or outright opponents.

The trust developed through effective engagement provides a crucial cushion for an organization facing any kind of crisis. As long as engagement efforts have been sincere, and the company has demonstrably made meaningful attempts to address stakeholder concerns, such trust will buffer the company from an immediate loss of social license, provided that the company continues to effectively engage.

Disclosure and Reporting

Communication, specifically disclosure and reporting, is a close cousin of stakeholder engagement. Fulsome disclosure of performance, particularly against standardized reporting criteria, can build trust with external stakeholders. This is especially true when reporting is not limited to a corporation's good performance but also includes disclosure of incidents of noncompliance (with regulatory limits or self-imposed targets), accidents and near-misses, and actions taken to resolve such incidents.

Ongoing reporting illustrates, over time, the company's track record for engaging stakeholders, responding to concerns, mitigating impacts, and managing performance. If such reporting is credible and shows proactive management and continuous improvement, it can help raise the confidence of stakeholders that the foreseeable issues related to any specific project will be similarly well managed. This is likely to enhance social license. Similarly, a corporation's track record of crisis disclosure and reporting on outcomes may help not only demonstrate a preparedness to respond in times of crisis but also chart the path that the corporation's response to any future crisis will likely follow.

Governance

Transparent adoption of best principles and practices in corporate governance is an important factor contributing to general social license. Best-governance principles and practices go beyond regulatory compliance, fiduciary duty to shareholders, and management oversight. They include, but are not limited to, articulating purpose and vision, ensuring disclosure,

promoting a culture of integrity and ethical behavior, respecting stakeholder interests, and managing risk. In particular, a company's disclosure of its policies and procedures—of whistleblower protection and complaint response, for example—is an important way in which stakeholders can be assured of access to means of safely resolving issues that may arise in relation to a specific project. Similarly, disclosure of the corporation's ethics code can boost stakeholder confidence in honest and good-faith dialogue in the context of development proposals.

Policy Context : Public Policy and Legislative Approaches to Fostering Social License

As described above, social license per se is not a mandatory requirement in any jurisdiction, at least to our knowledge. However, the procedures involved in securing regulatory license often contribute to social license. In particular, most regulatory licensing processes involve some form of consultation or engagement on the part of the proponent or the regulator or statutory decision-maker. The scope and depth of consultation and engagement, and the procedures by which such consultation and engagement must be undertaken, vary by jurisdiction and regulatory authority and typically reflect both policy objectives and legal requirements.

In Canada and British Columbia, for example, environmental assessment processes require and encourage consultation and engagement with aboriginal people, the public, and other stakeholders. These processes aim to facilitate early identification and resolution of issues by providing for aboriginal, public, and other stakeholder input into the scope of environmental assessment, as well as into the adequacy of mitigation and management plans to avoid, eliminate, or reduce adverse effects of development. In some cases, the issuance of approvals and permits hinges on whether the proponent has demonstrably resolved all legitimate issues raised by stakeholders affected by the project, which can rarely be achieved without obtaining some degree of basic social license. Moreover, regulatory license may include conditions that oblige the proponent to continue stakeholder engagement throughout the life of the project. In this regard, social license serves to assure regulators and statutory decision-makers that their decisions will be accepted by the electorate.

Further, in Canada there are constitutional obligations on the part of government—both provincial and federal—to consult with (and perhaps accommodate) First Nations that may be

affected by resource development. In British Columbia, where treaties were not historically reached with First Nations at or shortly after the arrival of Europeans, outstanding First Nations claims contribute to an uncertain investment climate, because the ownership of resources may be unclear and the authority to grant a license may be shared. Some of these governance issues continue to be resolved through legal processes, thereby imposing greater uncertainty on the scope of proponent responsibilities. The Crown (as represented by the government) often delegates procedural aspects of aboriginal consultation to proponents, who then typically integrate such consultation with their own engagement efforts to build relationships and trust and to resolve outstanding issues. In these circumstances, the proponent's success in obtaining social license with key stakeholders can contribute to the fulfillment of government responsibilities to those same stakeholders.

Where aboriginal or indigenous people are present, it is emerging practice for companies to undertake a process of engagement characterized by sequential steps, each with progressively greater levels of trust and commitment. For example, the first bilateral milestone between a company and a First Nation may simply be a communication protocol, specifying the parties and outlining the steps to be taken for information sharing and exchange. This may be followed, in time, by a detailed impacts and benefits agreement that outlines each party's responsibilities for managing the potential negative effects and positive outcomes of the proposed development. Such bilateral agreements constitute and contribute to social license. Indeed, these supraregulatory agreements may be more effective in realizing community benefits than regulatory processes.⁶ However, notwithstanding the effectiveness and value of such agreements, the proponent cannot and should not assume the government's role or responsibility, and, to be clear, we do not advocate the superseding of regulatory license by social license.

Internationally, the concept of free, prior, and informed consent (FPIC), particularly as it pertains to resource development in areas occupied or claimed by indigenous peoples, is gaining purchase through a range of international conventions, national legislation, and subnational policy.⁷ Social license contributes to and may constitute FPIC in some circumstances. In

⁶ L. Galbraith, B. Bradshaw, and M.B. Rutherford, "Towards a New Supraregulatory Approach to Environmental Assessment in Northern Canada," *Impact Assessment and Project Appraisal* 25, no. 1 (2007): 27–41.

⁷ A very useful, but potentially outdated, overview of entrenchment of FPIC principles in international and domestic law and practices is provided in P. Tamang, "An Overview of the Principle of Free, Prior and Informed Consent and Indigenous Peoples in International and Domestic Laws and Practices" (paper presented at the Workshop on

addition, stakeholder engagement and the assessment and management of social (as well as environmental and other) risks are emerging as key principles and requisites of investment and financing mechanisms for international development projects. Examples include Equator Principles and World Bank and International Finance Corporation environmental and social safeguard policies and procedures. Likewise, the growth of international, national, and subnational government policy and regulatory frameworks and nongovernmental credit risk management mechanisms employed by the investment community has fostered attention to social license by emphasizing the need for demonstrably effective management of social and environmental risk.

Although social license is not explicitly required or prescribed by law, elements of social license—such as stakeholder engagement, issue resolution, and risk management—are required by many jurisdictions and investors. Thus, social license is over time becoming less a voluntary initiative and more a de facto prerequisite to development expected by various stakeholders.

Emerging and Future Challenges: The Impact of Social Media on Social License

Another significant factor affecting social license is the emergence of social media as a tool for communication, dialogue, and activism.⁸ Communities are now linked through the web and social media and have access to information about a company's behavior around the world, including, in many cases, information on its efforts, and the comparable efforts of other companies, to foster social license. Communities are thus better engaged, informed, and networked than ever before.

The traditional communications landscape has long been centralized and controlled, with information shaped by a few and pushed out to many. The emergence of new technologies, however, is effectively altering the media landscape, moving content production and distribution

Free, Prior and Informed Consent and Indigenous Peoples, organized by the Secretariat of the UN Permanent Forum on Indigenous Issues, January 17–19, 2005, New York).

⁸ Some content in this section is adapted from C.L. Horvath, "The Convergence of Social Media and Corporate Responsibility," *Making Sense of Responsibility*, web log, September 5, 2010, <http://makiningsenseofresponsibility.com/2010/09/05/the-convergence-of-social-media-and-corporate-responsibility>; and C.L. Horvath, "Social Media and the Extractive Sector: The Changing Currency of a Modern License to Operate," *CIM Magazine*, September/October 2011, http://www.cim.org/en/Publications-and-Technical-Resources/Publications/CIM-Magazine/September-October-2011/upfront/Social_media_and_the_extrative_sector.aspx.

out to the edges. This trend signals an important shift in communications and information flow from the traditional one-way “push” model common to mass media, in which a company crafts and delivers messages to its stakeholders, to a multidirectional “pull” model, in which a company and stakeholders are on a more even footing. In the latter model, stakeholders themselves define their own information requirements and actively seek out the sources, connections, and networks that will meet them. The outcome is increasing democratization of information and knowledge.

The development of new technologies—particularly social media platforms and mobile technologies—is occurring at a time of rapid globalization and increasing public awareness about pressing natural and social challenges. This convergence is driving a demand for greater transparency. Social media gives voice to previously isolated or remote stakeholders, who often come to the social media landscape with disproportionate credibility and trust, due in part to their perceived authenticity. Moreover, social media allows users to self-organize quickly into communities with shared interests. Trust can also be generated rapidly within online communities, and such trust creates opportunities for collaboration and action much more quickly than would be possible through traditional engagement.

At the same time, there is very low tolerance among social media users for antitrust behavior, whether it involves inappropriate data mining, breach of privacy, or attempts at message control. Consequently, unlike with traditional media, a company no longer dominates the messaging around its brand and reputation on social media. The vast majority of social media content is generated by users, and any attempt to censor or stifle content is likely to be met with distrust and suspicion, at best, and a significant backlash, at worst.

The scope and norms of the social web described above—openness, trust, and authenticity—are causing a shift in the way that companies build and maintain social capital, the currency of social license. Stakeholders now increasingly expect corporations not only to communicate their corporate-responsibility initiatives but also to engage in online dialogue about environmental, social, and governance issues. These characteristics of social media may be perceived as risks. However, by virtue of its very nature, social media presents myriad opportunities to increase social capital and, by extension, social license. When used effectively, social media tools facilitate connections with a wide range of stakeholders. Moreover, they make it possible to collaborate with stakeholders throughout the value chain to identify challenges, innovate solutions, and achieve sustainability goals. Stakeholder feedback can also help a

company identify and prioritize areas of performance for improvement. Whether it is to solve a technical problem or make a strategic decision, engaging stakeholders in the process of generating ideas can help companies keep up with the pace of change and complexity of today's economy, while also building valuable social capital. Yet entering this space requires not only new technologies and networks but a new organizational mindset as well—that is, there needs to be a culture of openness and collaboration that allows a company to engage effectively.

However, while social media use by corporations is becoming commonplace, its use for direct engagement with stakeholders is lagging. In 2010, SMI-Wizness found that approximately 85% of almost 300 companies in North America and Europe listed on the Dow Jones Sustainability Index were using social media, but that less than half used it for any sustainability or corporate-responsibility communications, and less than a quarter of companies had a dedicated social-media channel for sustainability and corporate responsibility.⁹ The oil and gas sector lagged behind all sectors in social media use for such communications. In 2012, by contrast, SMI-Wizness found that 176 major companies around the world had allotted dedicated resources and social media channels to their sustainability dialogue.¹⁰ However, although use of social media for sustainability and corporate-responsibility communications has increased in the last two years, the oil and gas and mining sectors continue to lag in this regard.

This finding may be surprising given that, in Canada at least, energy and natural-resource companies generally have a lot of experience in stakeholder engagement. Nonetheless, their use of social media to complement traditional engagement methods has, by and large, been slower—perhaps for fear of losing control of the message or concern about getting offside securities regulations. This gap threatens to undermine the credibility of corporate efforts to engage stakeholders, whose expectations have increasingly shifted from company-controlled communication toward balanced, two-way dialogue in which stakeholders themselves have the opportunity to define both the scope of exchange and the terms by which it is conducted.

One notable exception is Suncor, whose multichannel social media presence includes in-depth sustainability and corporate-responsibility content. Through its “Oil Sands Question and

⁹ M. Yeomans, “The SMI-Wizness Social Media Sustainability Index,” SMI-Wizness, January 2012, http://www.socialmediainfluence.com/SMI-report/smi_sustainability_report_final.pdf.

¹⁰ M. Yeomans, “The SMI-Wizness Social Media Sustainability Index,” SMI-Wizness, January 2013, <https://publisher.wizness.com/reports/the-smi-wizness-social-media-sustainability-index-2012>.

Response” blog, for example, Suncor is enabling two-way dialogue with stakeholders around tough issues such as energy demand, water use, and reclamation of tailings ponds. By focusing on science-based data and expanding the conversation to tackle oil-sands issues in a broader societal context, Suncor has created safe and respectful ground for engagement.

Companies that do not engage in dialogue through social media are increasingly conspicuous in their absence. They will likely experience declining levels of trust and respect from stakeholders, who already are complementing their own learning, networking, and activity with social media tools. In contrast, companies that are constructive and contributing members of the social web and that actively engage with stakeholders through social media are building social capital and relationships that facilitate the license to operate. Indeed, social media is effectively emerging as a critical tool in achieving and maintaining social license. This growing reliance on social media by stakeholders and proponents alike, and the risks associated with disclosure through it, may lead to an increased need for the development of guiding ethical and technical codes of conduct.¹¹

Conclusions

The emergence of social license as a critical success factor in resource development reflects a growing understanding of the importance of effective risk management, which is itself driven by society’s expanding knowledge of the environmental, social, and economic impacts of development. This trend has been driven also by the growing recognition and acceptance of concepts of social equity and justice.

Among the lessons learned from observing attempts to develop social license, it is apparent that the common aspects of success include:

- early and substantial analysis of communities and stakeholders potentially affected by a project to understand local conditions, needs, and customs, including communication protocols and constraints

¹¹ N.A. Raymond, C.N. Howarth, and J.J. Hutson, “Crisis Mapping Needs an Ethical Compass,” *Global Brief*, no. 9 (2012): 12–16.

- early engagement and consultation with affected communities and stakeholders to identify issues and interests and establish dialogue
- action on areas of mutual interest and enhancement of benefits targeted at specific community needs
- sustained and transparent communication, particularly in the context of the growing role of social media in rapidly disseminating information about companies, technologies, and projects
- effective partnering to develop commercial opportunities associated with a project

Proponents committed to these actions and behaviors are more likely to realize timely social, and consequently regulatory, license. However, like regulatory license, social license is often conditional and requires follow-up action, usually in the form of ongoing communication and fulfillment of commitments

Policymakers have an opportunity to create a regulatory and policy environment that sets in motion the consideration of social license in their jurisdictions. By establishing guidance and decision-making frameworks that reward corporate efforts to pursue a social license to operate, they can better achieve policy goals associated with the creation of community well-being and environmental stewardship. For their part, stakeholders and communities, acting with an enhanced expectation of a corporate interest in obtaining social license, should be prepared to engage with companies, establish a productive communication process, and work toward identifying mutual benefits from project development.

Social license cannot be viewed as transactional; it is founded on trust-based relationships that demand sustained attention. Even the suspension, cancellation, or closure of a development project requires a transitional approach that leaves a positive balance of social capital and protects the corporation's long-term reputation. Even the most experienced companies may make errors in their engagement with local communities and stakeholders. They may begin too late, fail to share complete information in a timely manner, breach communication protocols and local customs, inadvertently exclude important stakeholders, disregard important issues and concerns, or impose an unfair burden on the community. Successful companies will humbly acknowledge their mistakes; renew their commitment to timely and effective communication, meaningful

dialogue, and ethical and responsible behavior; and thereby begin to rebuild trust and social capital, the currency of social license.