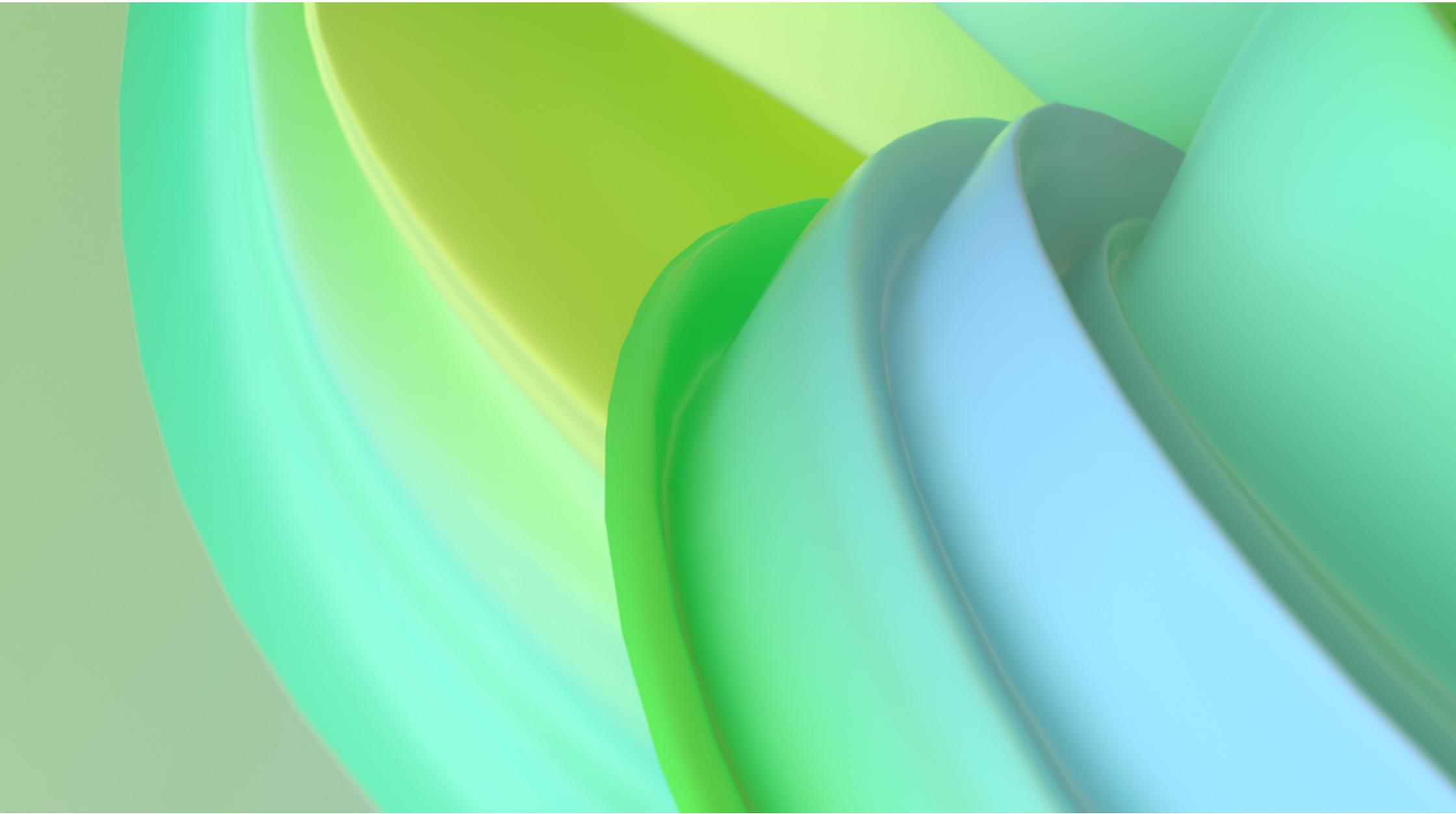


Baker  
McKenzie.

# A License to be Bold

Transforming Industrials



# **The Struggle to Thrive**



Industrials are operating in an environment of near total disruption, and leaders now report that the pandemic has provided a **license to be bold**. This report uncovers the priorities and challenges of Industrial organizations adapting to the new market, and offers legal insight to support transformation across the sector.



“COVID-19 has been a catalyst for change. In the past there was a lack of urgency and fear of taking the company in the wrong direction. Today we know we must make faster decisions and adapt more quickly to new market shocks.”

Managing Director, Manufacturing, Germany

At the beginning of 2020, Baker McKenzie research among leaders of the largest global Industrial companies highlighted resistance to change. 70% reported the need to innovate was overstated and 85% believed that traditional drivers of growth would continue to accelerate growth in the future.

Far from a lack of ambition, this scepticism was borne out of the practical challenges of

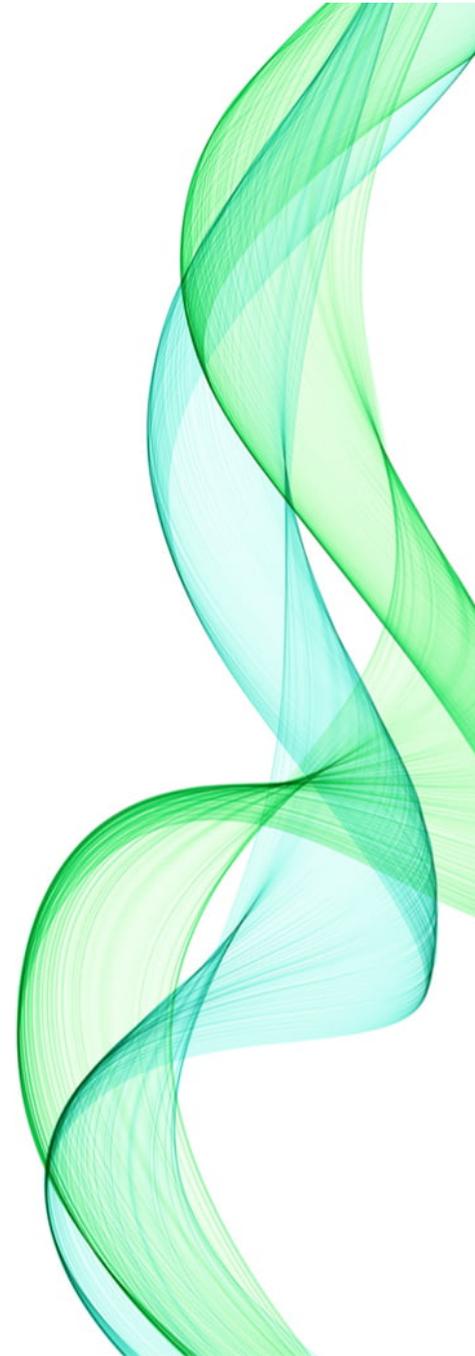
transformation and concern with protecting immediate business performance. Balancing innovation with core strengths is complicated, but for Industrials, the cost of managing legacy assets, environmental impact and labor issues, in particular, adds significant complexity to any effort to change. 72% of Industrial leaders reported that pivoting the existing business model was the top barrier to evolution.

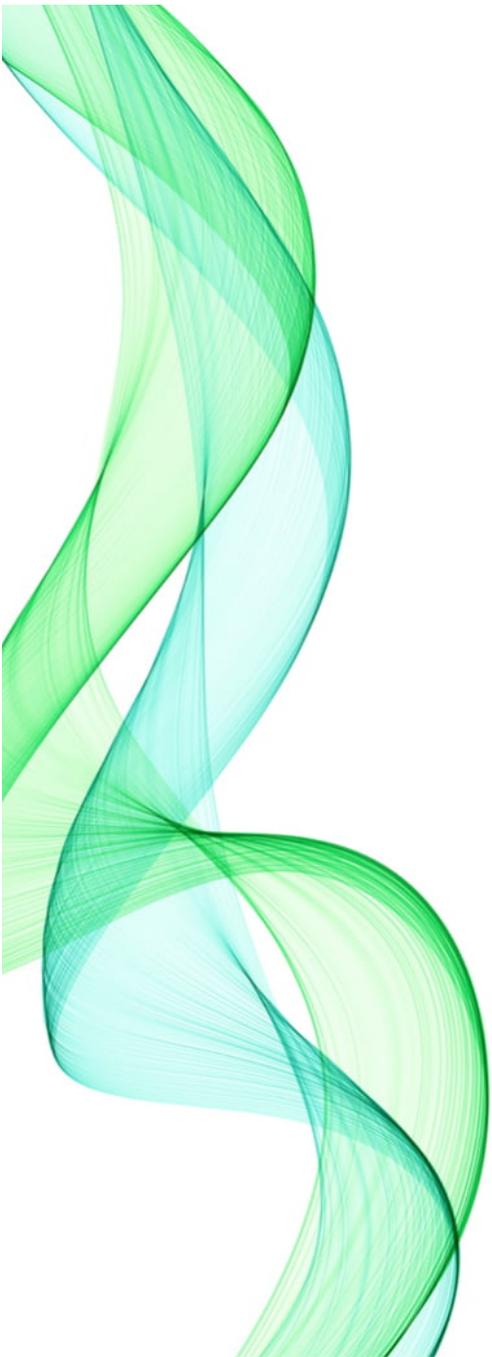
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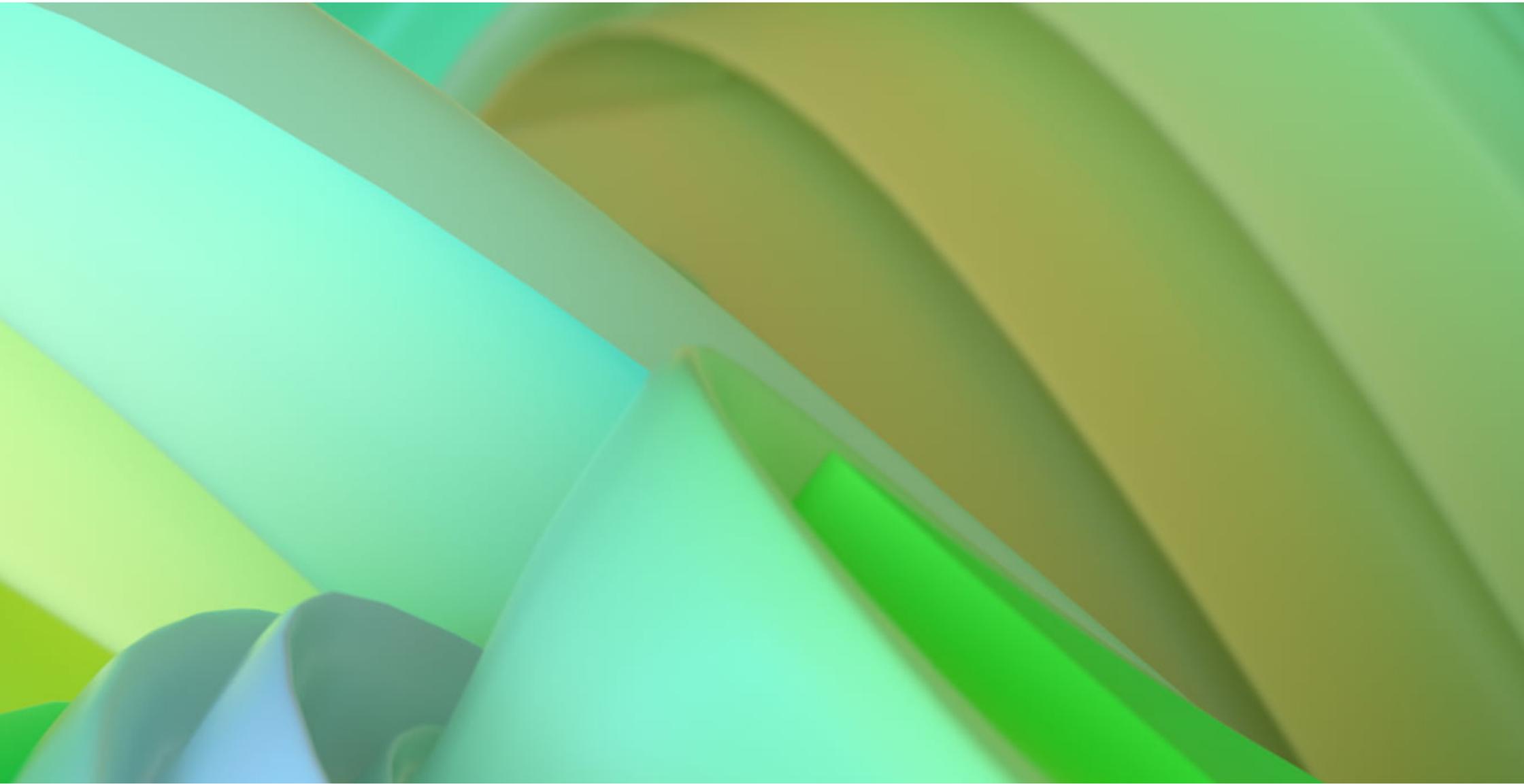


Interviews with sector leaders highlight renewed action and energy, with companies looking to acquire technology and reimagine systems, networks and services to thrive in future. They **report three areas of focus: adapting to the new market; digitalizing for growth; and disruption-proofing supply chains**. This report shares the experiences of peers around the world and explores legal considerations to support transformation.

One year on, these challenges remain, but the calculus has shifted. Disruption arising from COVID-19 has accelerated trends already apparent in the market — particularly digitalization and trade volatility — and transformation has gone from “nice to have” to necessity. There is a significant imperative to change and, with greater stakeholder buy in and long-term viability outweighing short-term performance, Industrials have a new license to be bold.



**Dr Nikolaus Reinhuber**  
Partner in Frankfurt, Global Chair of Baker McKenzie’s Industrials, Manufacturing & Transportation Industry Group



# **PART I: Adapting to a New Market**



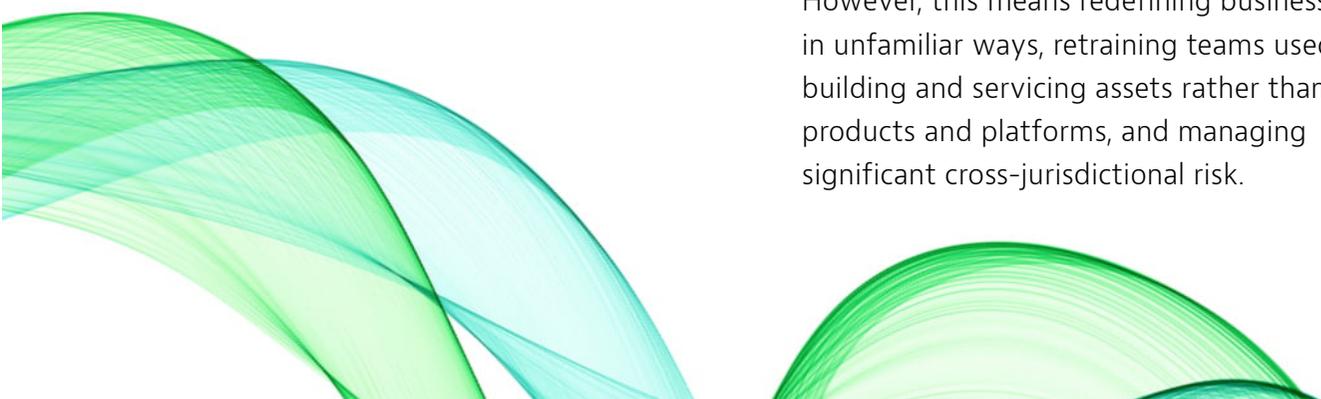
We have no choice but to adapt to an environment of perpetual disruption and to find the tools to reinvent ourselves. We have to become chameleons."

Vice President, Industrial services provider, France

Industrials have historically grown by expanding global footprints, workforces, assets and product lines. But in today's environment, flexibility rules. Companies in the sector have significant new opportunities to shift to more profitable service models and reduce the burden of managing global operations and ageing infrastructure.

However, this means redefining business models in unfamiliar ways, retraining teams used to building and servicing assets rather than digital products and platforms, and managing significant cross-jurisdictional risk.

The expense and energy involved in reinventing complex, global, asset-rich business models and operating structures cannot be understated. Managing legacy assets, environmental impact and labor issues, in particular, is both costly and cumbersome, so when Industrials invest in a particular market or structure it is a very significant, long-term enterprise. The risk associated with these decisions explains why they are often taken more slowly than the market demands.





We are trying to reorganize our company on a bigger scale than before and at a faster pace than before."

Senior Vice President, Engineering, Germany

One year ago, less than half of Industrials reported taking transformational action in the face of disruption – relying on the strategies of the past to deliver in future. But today, lean, agile and innovative are the industry watch words, as leaders reorganize to adapt to the new reality.



Organizations that are more innovative and can quickly change and respond to new market conditions will be best placed to succeed. Those who are more agile will survive."

Managing Director, Manufacturing multinational, China

To support these goals, releasing unproductive capital and unleashing it to adapt and grow will be a priority for Industrials in 2021 and beyond. Acquiring assets that can boost organic growth and open up new market opportunities will be key to regaining revenue and setting a path for strong financial performance.

Only

**40%**

**of leaders were adopting bold strategies to meet disruption.**

# Legal Insight: Restructuring for Competitive Advantage

Restructuring is a significant and challenging undertaking for Industrials. That so many are now reconsidering their structures and how they can be leveraged for advantage is a tell-tale sign of a market in extreme flux.

Restructure usually comes in response to immediate cost pressures and intense competition, but companies must be aware of taking short-term decisions. With market conditions changing daily, many Industrials are stuck in “wait-and-see” mode. However, some are taking a proactive view. We are seeing a lot of carve outs of non-core business units – freeing up capital to reinvest in the core – and spin offs – targeting IPOs to realize greater profit.

Companies are also thinking creatively about how they structure for success – particularly to enter fast growth markets. For example, shifting to joint venture structures with local partners to

access new markets and lower the cost of supply chains. This is of particular benefit in China, where different cities have different requirements and considerations.



**Grace Tso**  
Partner in Hong Kong, Corporate

## SERVICES SNAPSHOT

Transactions will be a critical component of recovery and transformation for organizations the Industrial sector. As the world’s largest M&A practice, Baker McKenzie is ideally placed to support on complex, cross-border investments and divestments.

Find out [more](#).

# Legal Insight: Talent for Transformation

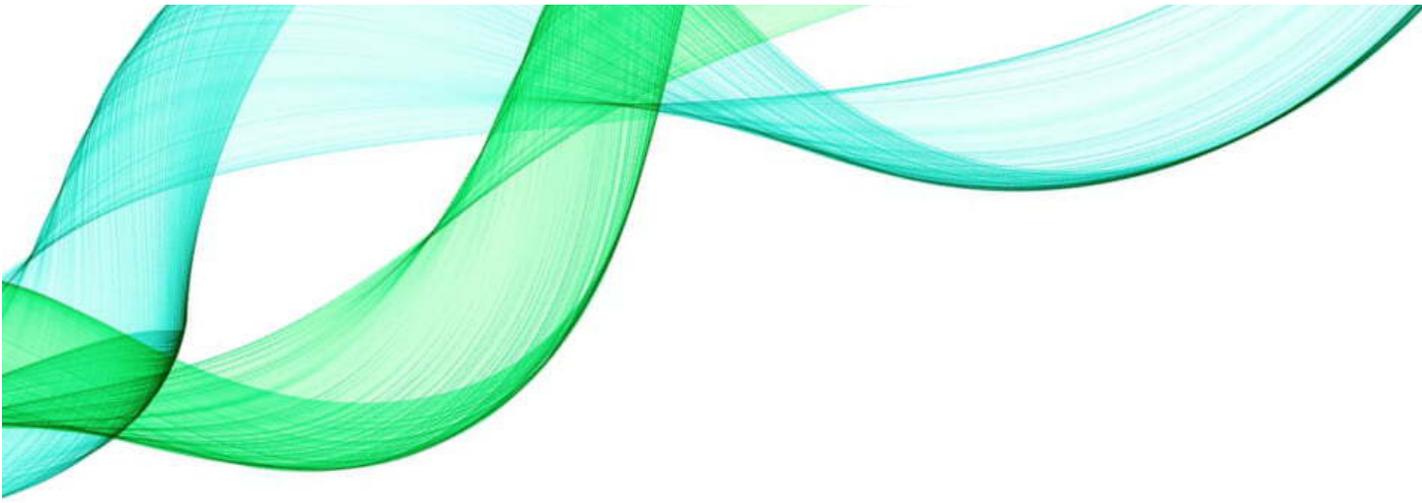
Access to talent is a key issue for Industrials as they transform. Without the right people and skills in place it will be impossible to deliver the new digital systems and services essential to change.

While upskilling existing teams is important, there are other lean and agile ways to access talent and execute on strategic activities in the modern workforce. Employers need to evolve how they think about the workforce.

**Augment:** Technology should and can be an enabler of the workforce and not a threat. Building augmented teams – in which individuals and technology work together to increase efficiency and capacity – is one compelling way to take advantage of new digital tools and allow employees to focus on more strategic tasks. While combining talent with technology is a strategic priority for Industrials, managing labor and union issues and bringing employees along with the change will be key to delivery.

**Engage:** An advantage of the modern workforce is ready access to highly skilled 'gig' workers – those embracing the mobility and flexibility afforded by technology and choosing to work in a non-traditional way. Industrials can make greater use of these individuals to boost the digital credentials of their existing teams, but must also pay attention to the potential risk to IP protection and reputation.





**Diversify:** Diverse talent represents a huge untapped economic resource that Industrials cannot afford to overlook. Accessing this talent pool could satisfy the immediate demand for highly skilled personnel in the sector and provide a much-needed boost to innovation by increasing diversity of thought. But Industrials must do the work to make it happen – creating internal programs and fast-track career paths, advocating for change and ensuring equal opportunity.

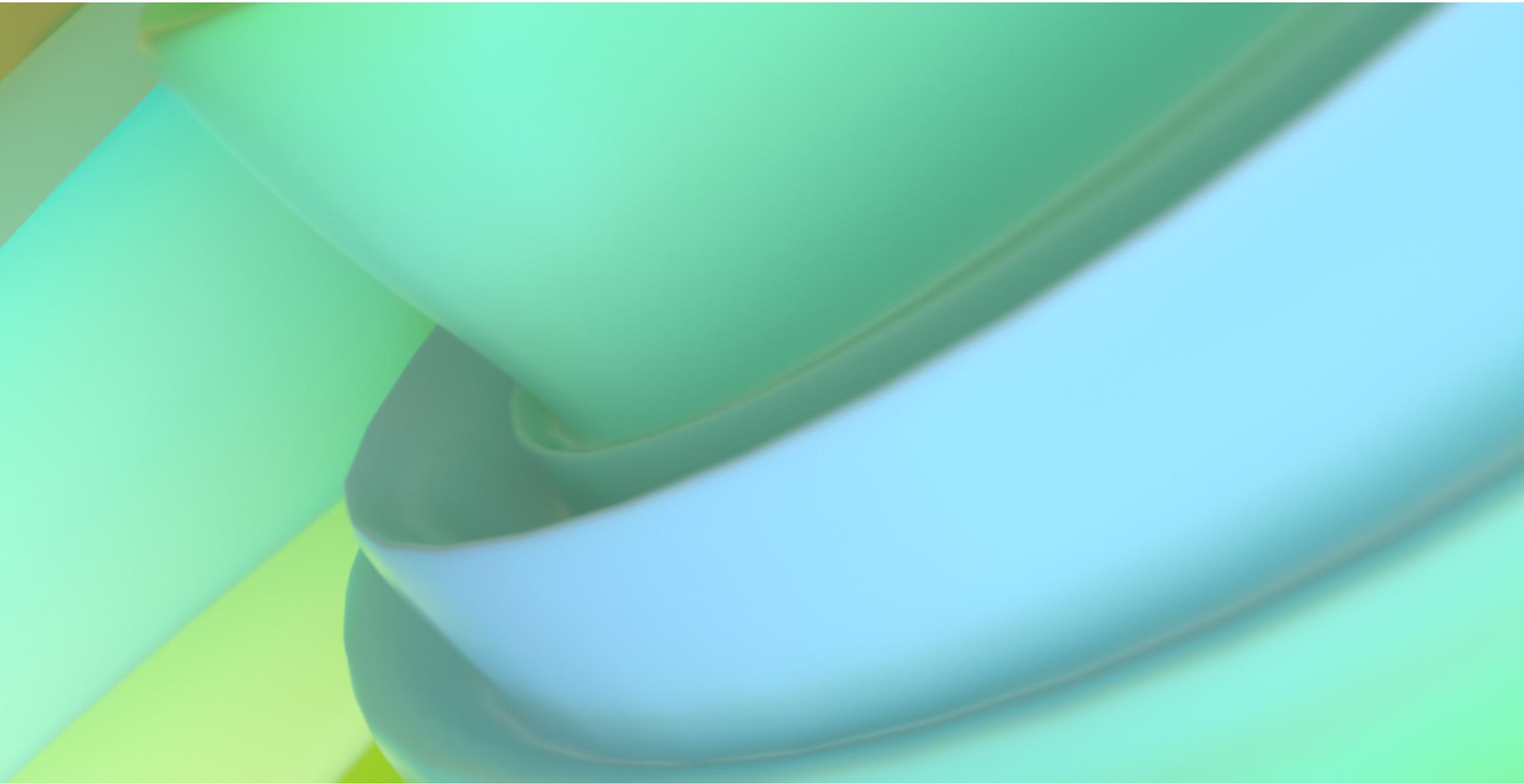


**Leticia Ribeiro**  
Partner in Brazil, Employment

## SERVICES SNAPSHOT

There is a new appetite for agility in modern workforces, with traditional employment models being reshaped to accommodate technological and societal change. Baker McKenzie helps organizations to future-proof human resources — embracing innovation while protecting interests.

Find out [more](#).



# **PART II: Digitalizing for Growth**

What were once the core drivers of growth in Industrials in some cases, have become significant liabilities. As well as putting Industrials transformation on the back foot compared to more nimble digital-first counterparts, the potential cost of failure has weighed heavily on Industrial leaders in the last year.

Similarly, time-intensive sourcing, production cycles and regulatory approval can mean investments made in innovation are slow to commercialize – creating a profit gap that leaves Industrials vulnerable to activism and challenge by shareholders looking to retain steady returns.

However, the anticipated pain of change and regulatory uncertainty is now outweighed by the commercial imperative to pursue digital transformation. Leaders are taking comfort in knowing that there is huge market demand for new digital products, services and platforms, and can capitalize on the temporary reprieve from the financial watch of the market and shift in expectations of shareholders in relation to stable dividends. Now is the time to invest.

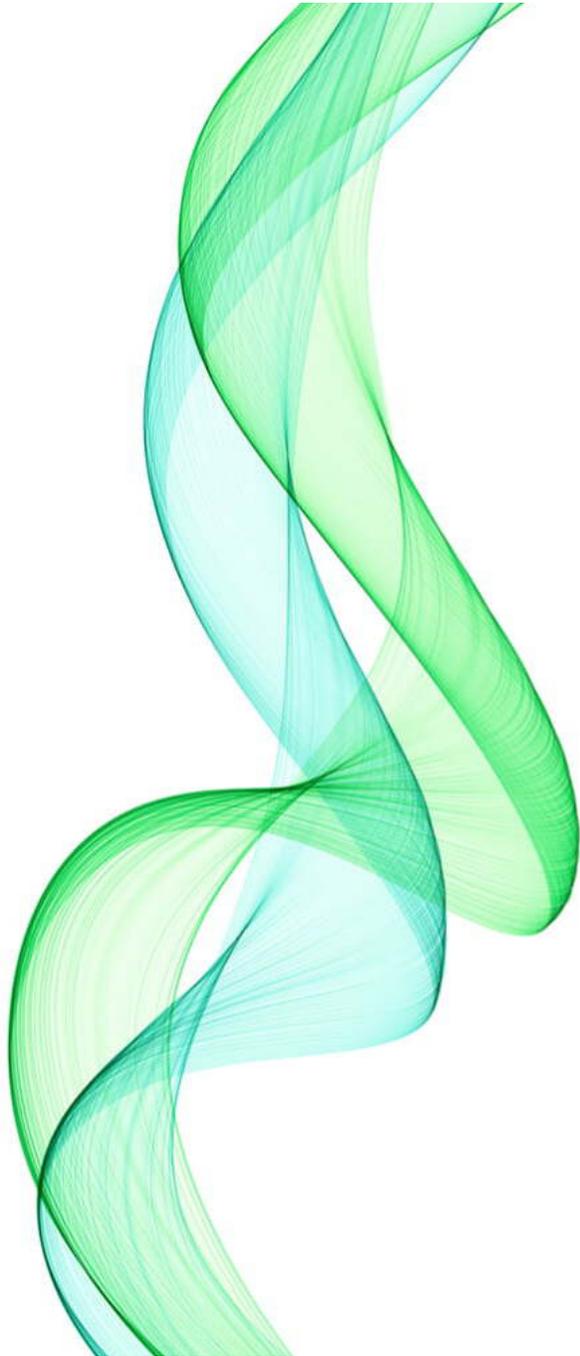
COVID-19 has exposed the varying phases of digital maturity across Industrials. While many organizations remain focused on digitizing operations and interactions for the sake of efficiency, a significant number are also considering how they can integrate revenue-generating technology into their business faster – digitalizing existing products and services, restructuring portfolios to free up investment, and acquiring mid-market innovators and minority stakes in start-up disruptors.



**“COVID-19 will accelerate the move towards technology and the overall process of digitalization. My organization has decided to give more attention to the development of technology – it is becoming increasingly important to the decisions we make and the tools we use.”**

General Manager, Automotive component manufacturer, Brazil





“As a business, we are adjusting to the market situation. While we have no crystal ball to see what the market will look like in the next six months, our priorities are buying and investing in new machines that will be fit for next generation technologies, and future-proofing our business model by exploring new services. But the biggest consideration for us with any digital move is whether it’s believable -- can we execute for customers?”

Vice President, Industrial services provider, France



“When industries face massive disruption, some organizations disappear and others become better and stronger than before. Technology and digitalization are critical to ensuring we emerge stronger, and acquiring these capabilities is the top priority for dealmaking at my firm. We are looking at remote technology, automation and AI.”

Vice President, Heavy machinery multinational, Saudi Arabia

What is clear is that Industrials need new tech-enabled solutions and capabilities now, if they are to evolve to meet the changing demands of customers and shareholders.

Acquiring “digital native” companies and accessing tech skills and intellectual property (IP) through joint ventures and minority investments is the leanest, fastest way to make this happen.

# Legal insight: Buying a Disruption-ready Footprint

Industrials are looking for targets that can fill gaps in top line growth and grant access to new markets — acquiring a disruption-ready footprint and innovation that is too difficult or costly to do in-house.

As well as acquiring companies, Industrials are pursuing joint ventures and taking minority stakes in industry disruptors — providing an ongoing commercial relationship and exclusivity without the threat of "culture shock" that can occur when more traditional companies attempt to manage cutting edge start-ups. Often both sides will succeed better if they operate separately.

Joint ventures and minority stakes have the additional advantage of reducing the cost to acquire disruptive technology, and spreading

hard-won innovation further. Industrials can enter into an agreement to use a particular platform, product or dataset without acquiring the whole company — also enabling those outside the sector to apply the same technology without fear of competition.

Whether M&A, joint ventures or minority investments, Industrials should be hyper-aware of valuing the IP they are buying accurately.



**Leif King**

Partner in Palo Alto, M&A

# Legal Insight: Managing Liability in Tech-enabled Products and Services

Even as technology is opening up innovative and valuable new product lines for Industrials, it is also affording these organizations new opportunities to shift to service-based models – unlocking access to ongoing revenue and customer bases.

While significant attention has been paid to building and operationalizing these new services, companies are often very late in considering changes to their legal obligations and liability, as a result of selling ongoing services alongside existing products

This requires a mindset shift – from the defined-period warranty model associated with products to, in the case of services, a long-term legal obligation to provide access without disruption or failure. This adds an additional layer of complexity to Industrials' customer relationships

and requires a higher degree of thought and foresight of potential risk.

The greatest challenge for Industrials in managing this new customer liability is data privacy compliance. Often the problematic issues of ongoing data collection, data flow between products, platforms, stakeholders and jurisdictions, and the transfer of customer data is not considered until after the service is operational.

In particular, this applies to the subsequent data use cases. Failure to anticipate these upfront could mean the organization is forced to decide between pursuing such use cases on a risky legal basis or losing the chance to unlock value.



At this point, some therefore decide to risk sub-standard data protection and management because it is too late to change the service. However, it is far better to consider these matters in service development – building solutions that are compliant, flexible and resilient by design.



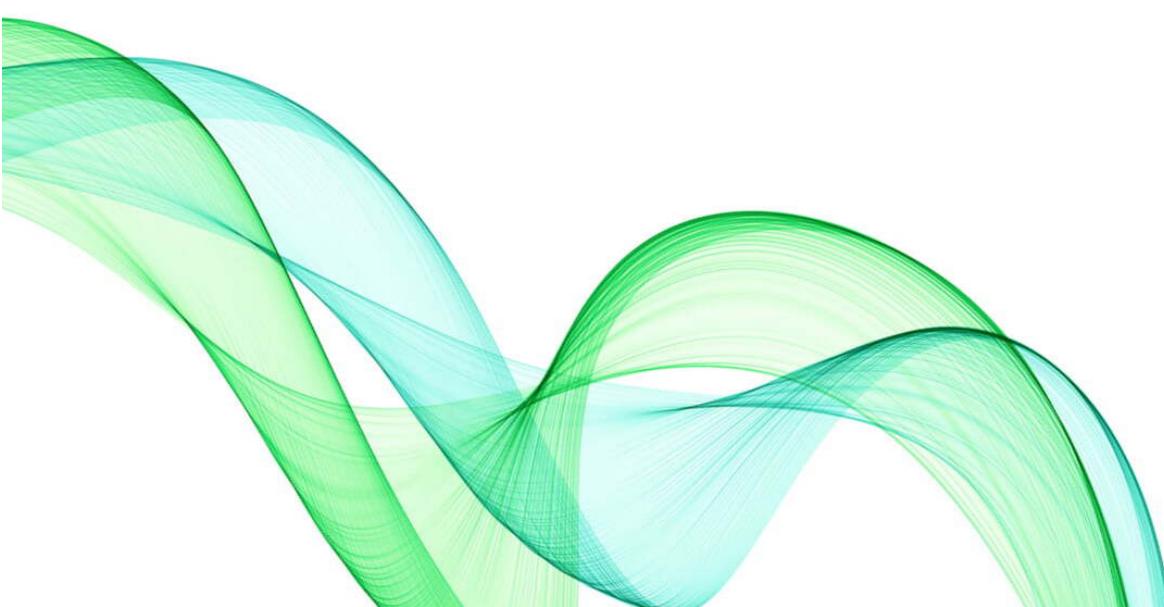
**Florian Tannen**

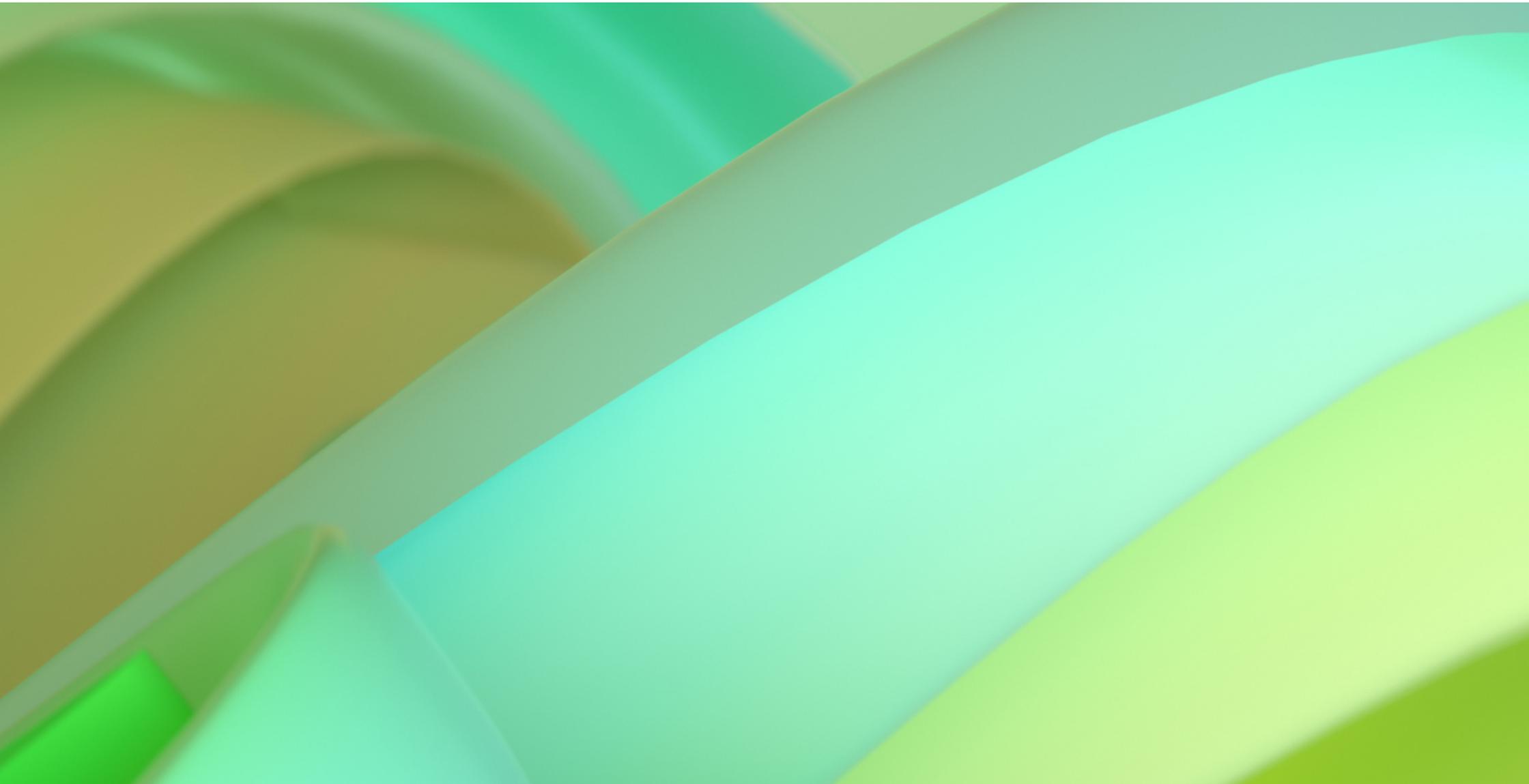
Partner in Munich, IP Technology

## SERVICES SNAPSHOT

The future of Industrials is digital, but pivoting away from traditional products, systems and processes is a significant challenge. Baker McKenzie's multidisciplinary team bridge vision and reality to make digital transformation happen.

Find out [more](#).





# **PART III: Disruption-proofing Supply Chains**



“Before COVID-19 we were growing our network globally, but today the priority is to consolidate supply chains to provide our customers with greater reassurance and ensure our own access to durable resources. The big challenge in our industry will be how to pivot to more local resources in this environment – particularly given growing disconnection between the US and China.”

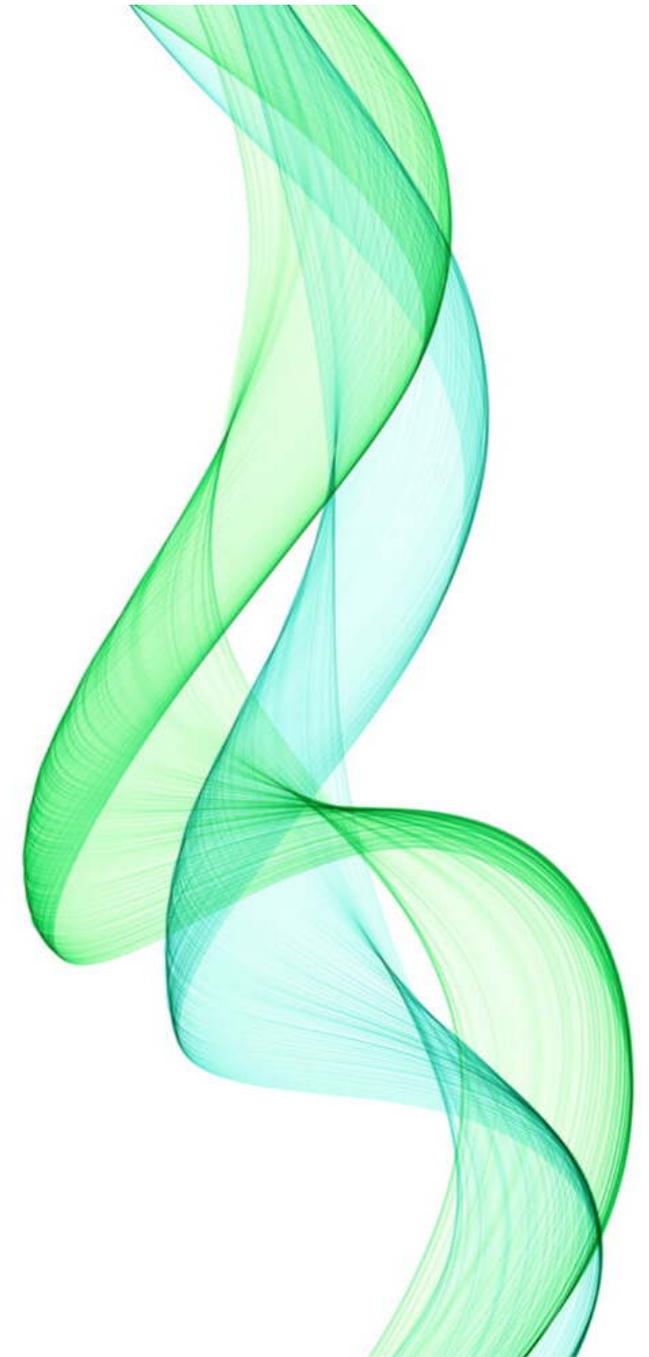


“Being an adaptable, future-proof business is about de-risking the supply chain. We have been forced to be flexible through COVID-19 and now we must address our overdependence on certain markets – particularly China, India and the US.”

Managing Director, Alternative energy company, Germany

At the beginning of 2020, 72% of leaders agreed that the legacy footprint of their company was leaving them exposed to trade volatility – a trend which has only accelerated in the last year. Industrials’ wide international reach means greater complexity, particularly as leaders have been faced with significant disruption to trading relationships, supply chain partnerships, and access to raw materials.

The pandemic has revealed the commercial importance of the supply chain – previously regarded as an operational issue, it has now emerged as a board level topic and indicator of overall business health. As a result, scrutiny of global supply chains has provided a catalyst for a long overdue assessment of the efficacy and sustainability of networks and relationships, and strengthening supply chains for the future is a top priority.





“We are focusing more on resilient supply chain management, liquidity and financial flexibility. We have spent a lot of time developing contingency plans, keeping in mind our end market demands and supply chains.”

Vice President, Heavy machinery manufacturer, USA

Many companies are investigating supply chain dependencies and considering how more sustainable production methods, circular manufacturing and customer-administered 3D printing can diversify and ease pain points in the event of future crises.

COVID-19 has also opened up new possibilities for managing, building and optimizing the supply chain — Industrials are now thinking about contract management organization (CMO) partnerships, blockchain systems, new markets, leveraging government incentives and more.

Leaders expect a rise in the use of tracking tools to help map the movement of goods in real time, as well as cloud solutions, Internet of Things (IoT) systems and blockchain ledgers designed to generate a holistic picture of the supply chain. As well as offering efficiency and the ability to counter supply failures quickly, end-to-end transparency of the entire supply chain will be critical to oversight on environmental, social and governance (ESG) issues — demonstrating compliance with key regulation and reporting on duty of care obligations to relevant stakeholders.



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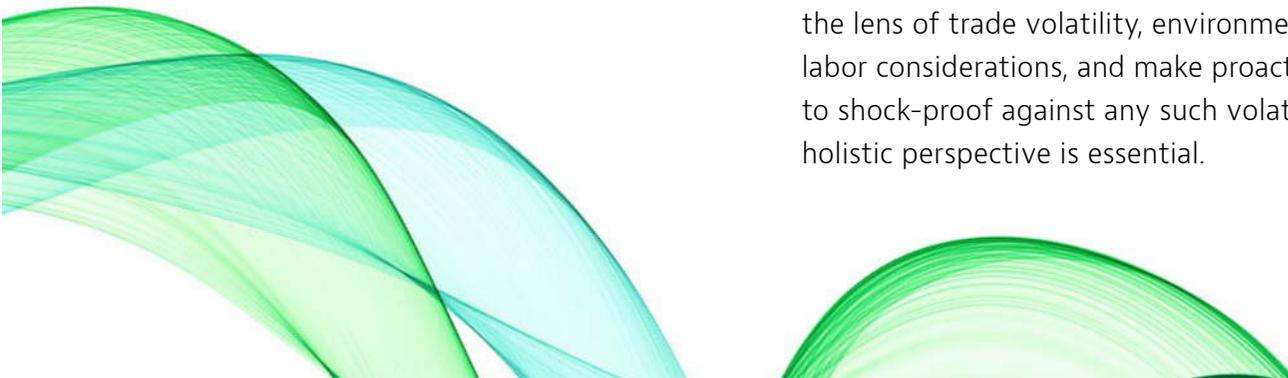
# Legal Insight: Considerations for Consolidating Subsidiaries and Suppliers

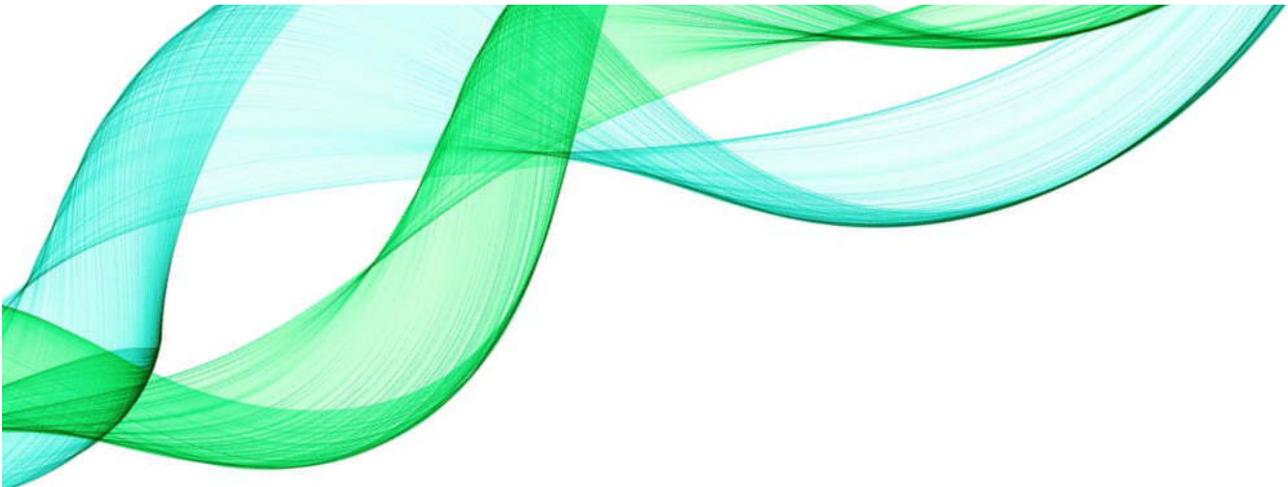
As the political agenda steps increasingly onto the domain of our economic landscape, Industrials can expect greater protectionism and complexity in relation to trade.

Hyper-awareness of potential change and more proactive management of supply chains and manufacturing dependencies are essential to avoid being caught out by unexpected tariffs and sanctions.

There is an opportunity now for Industrials to review their operations and partnerships through the lens of trade volatility, environmental and labor considerations, and make proactive change to shock-proof against any such volatility. But a holistic perspective is essential.

Shifting manufacturing to a lower cost jurisdiction may seem like a smart move. But rapidly evolving regulation makes this calculus more complex – particularly given the global imperative to raise compliance and governance standards in relation to sustainability and human rights. Cost-centered decisions made based on a narrow view of today's trade environment may quickly become incompatible with growth.





Instead, consider the full spectrum of issues – from tariffs and incentives to compliance and labor rules, access to talent, raw materials, resources and capital to infrastructure, investment protections and ease of exit. There are a range of factors at play.



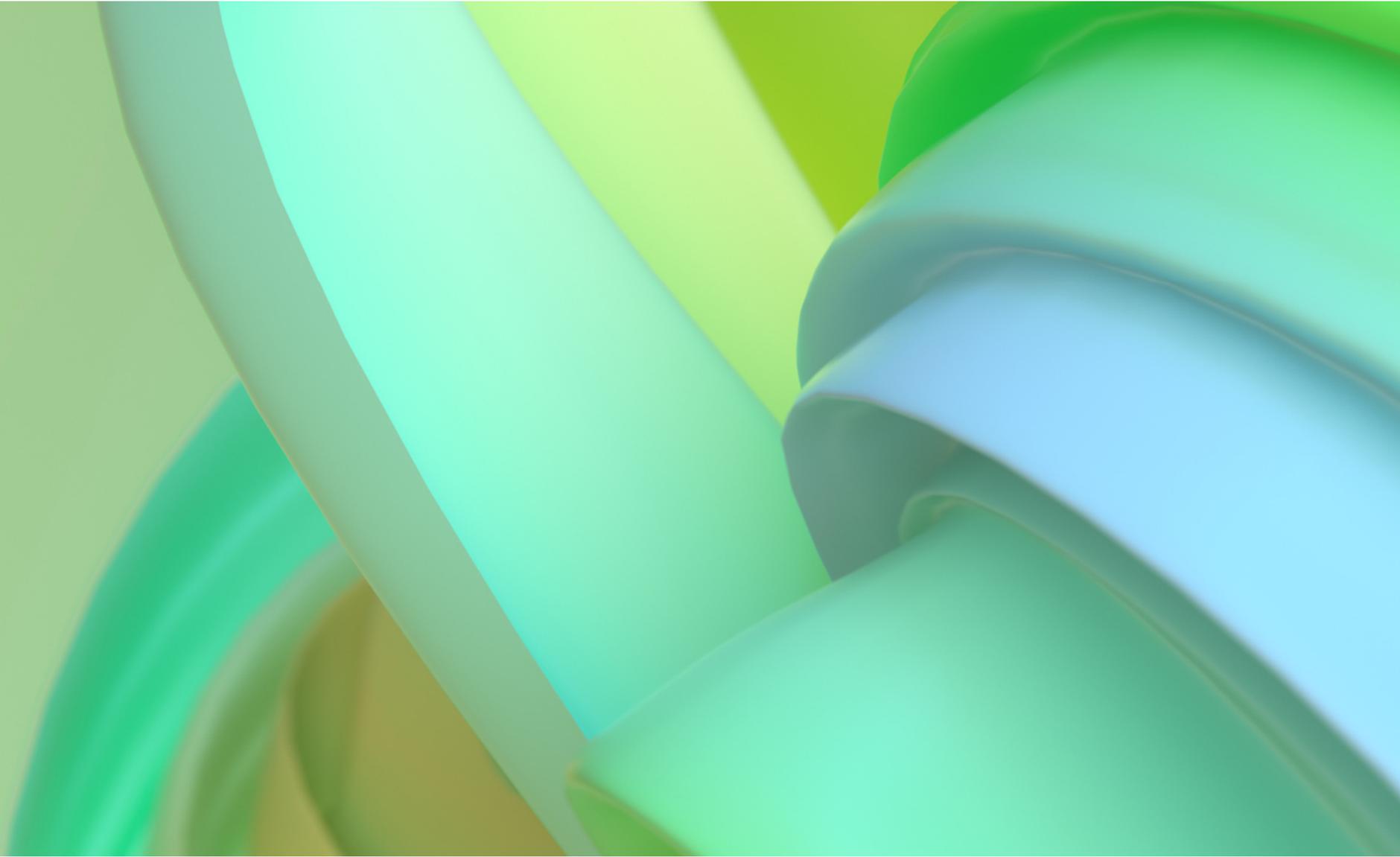
**Sunny Mann**

Partner in London, Head of Baker McKenzie's UK International Commercial and Trade Group

## SERVICES SNAPSHOT

Strengthening and transforming supply chains for the future means navigating unprecedented complexity. Baker McKenzie's multidisciplinary approach provides a connected perspective on the legal possibilities, risks and intricacies associated with change.

Find out [more](#).



# **PART IV: Making Transformation Happen**

Making transformation happen is the most challenging part of the journey Industrials are undertaking. While vision and culture are critically important, making decisive investments, taking action and seeing strategy through will be the difference between surviving and thriving.

Delivering change in today's disruptive environment requires new systems. For example, consolidating innovation efforts through cooperative working groups outside the organization or industry, and pooling talent and resources into these networks to speed up time to market.

But Baker McKenzie believes those organizations that meet disruption with a bold and innovative vision and execute effectively on it, will be best placed to adapt and grow over the coming decades. The industry has an imperative to change and a new license to be bold – the stage is set for transformation.



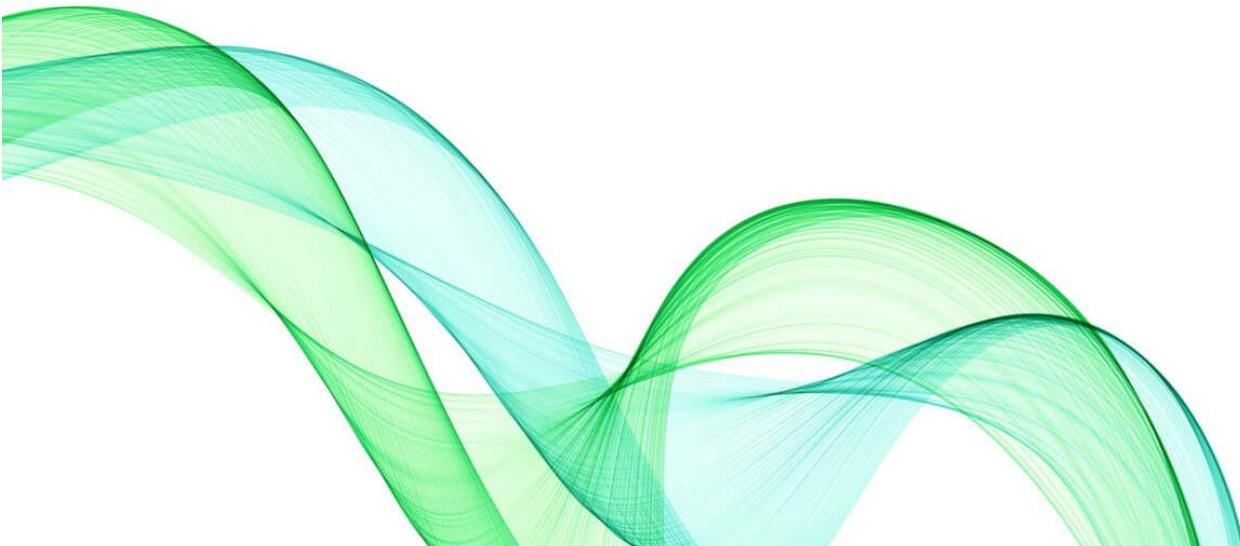
**"It is very important that Industrials can adapt – we must learn to flex better and faster to the changing world."**

Managing Director, Plastics, UK



**"Crises are becoming more common and hence we are focusing on developing new systems to manage these uncertainties."**

Managing Director, Automotive provider, Japan



# Legal insight: Predict the future by inventing it

The global pandemic has created a unique market situation, which is particularly powerful for Industrials. Where historically companies may have been restricted by market and shareholder expectations, availability of capital for innovation and preconceived ideas about how quickly they could change and adapt, now all bets are off.

Today the investor base is much more open to companies taking decisive action. In fact, they are demanding it. Any company that has not considered some form of strategic review of their operations and business model to focus on what is core is already behind. Companies need to come out of this pandemic stronger, leaner, quicker and more able to adapt to any situation.

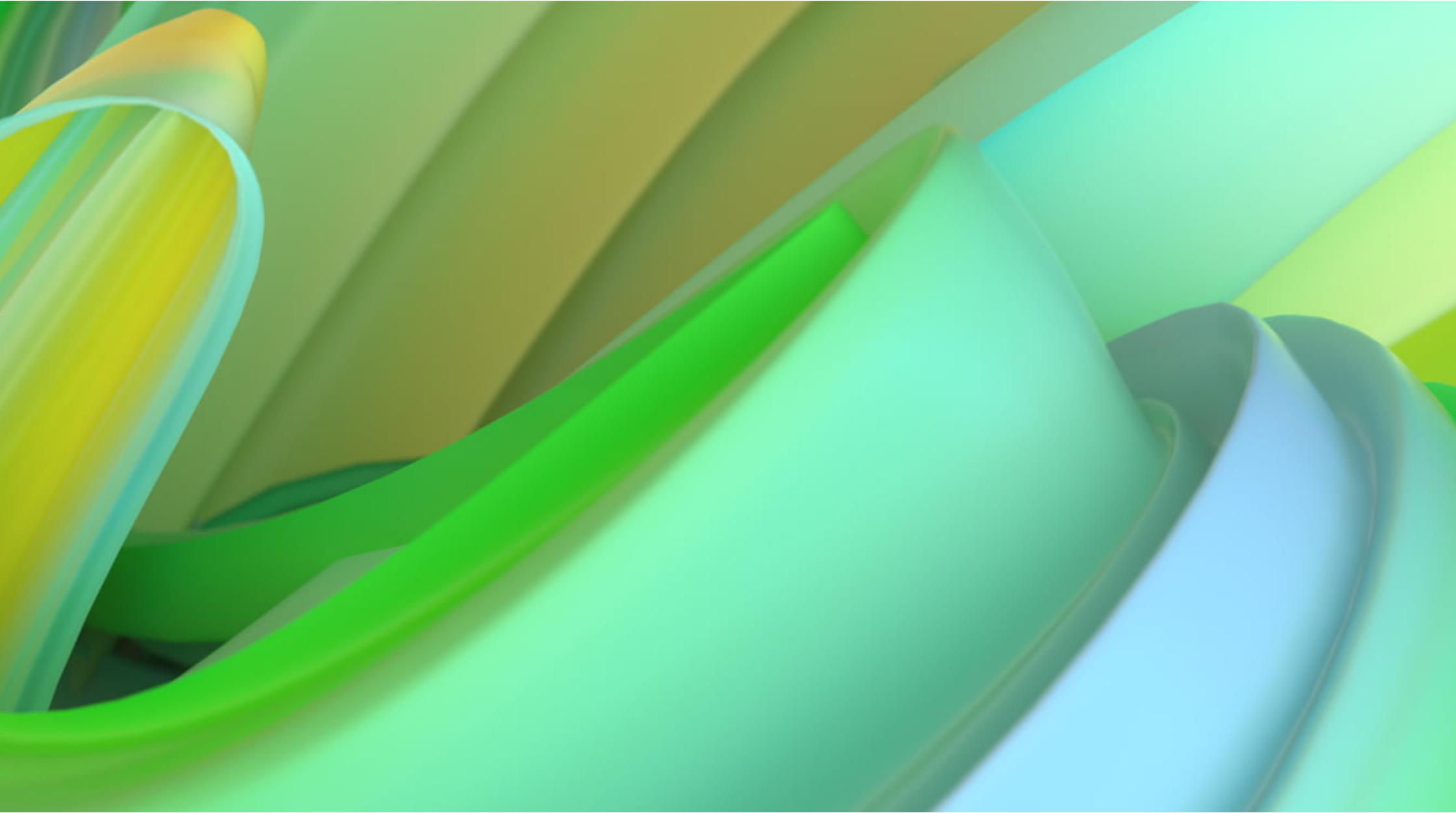
This doesn't necessarily mean starting with a completely blank sheet of paper. We are seeing companies taking another look at existing transformation plans and trying to accelerate them — how can we digitalize, innovate and

modernize in as short a period as possible? Transactions are key to this picture, with M&A strategy driven by the urgent need to access technology and talent, and to automate manufacturing processes and supply chains.

There are also big opportunities to invent a new future unencumbered by traditional products and services — particularly where sustainability aligns with commercial strategy. Industrials must proceed unafraid and get on with the business of change.



**Jannan Crozier**, Corporate Partner in London and IMT Steering Group Committee Member



# Key Contacts

# Key Contacts



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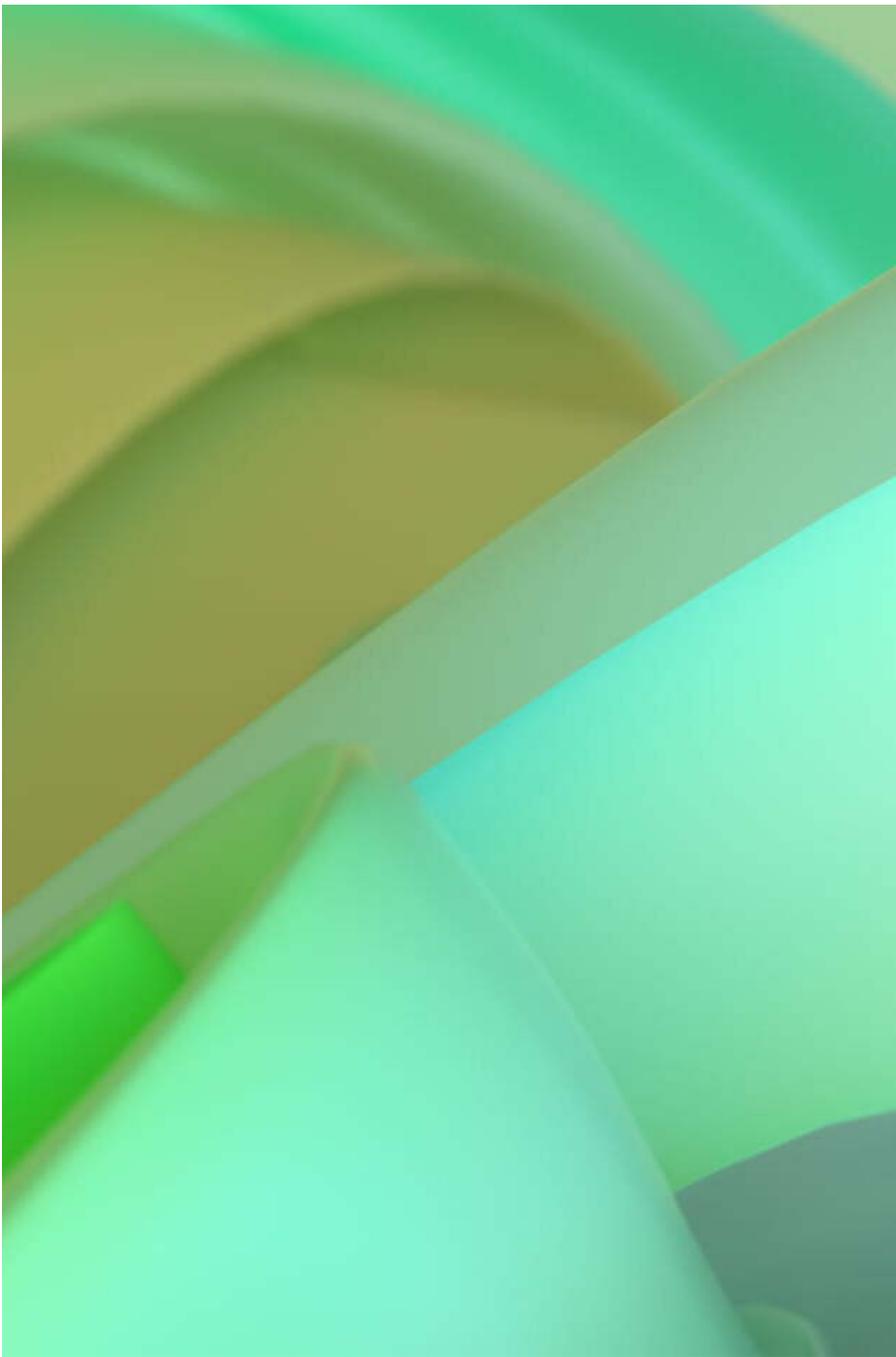
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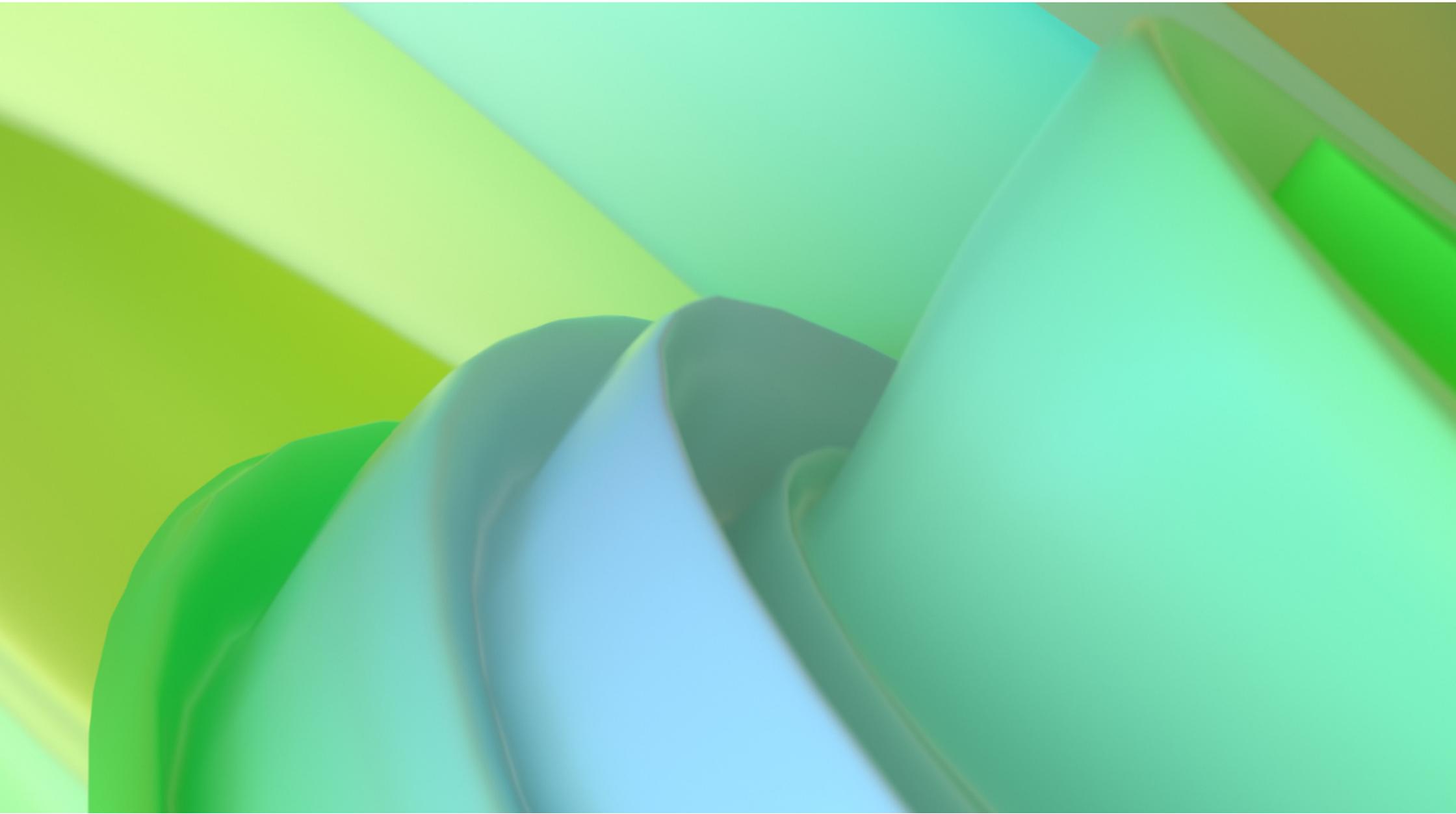
[View Bio](#)





## About the Research

In the winter of 2020, Baker McKenzie commissioned 13 in-depth interviews with leaders from Industrial companies in powerhouse markets: the USA; UK; Germany; France; Japan; China; and Brazil. These conversations build on previous quantitative research among 700 Industrial leaders, conducted by Baker McKenzie in the winter of 2019.



# **Our Resilience, Recovery & Renewal Model**

# The Resilience, Recovery & Renewal Model

Our Resilience, Recovery & Renewal model is helping organizations navigate the business and legal impact of the COVID-19 pandemic. While most businesses will pass through all three phases of the model, the phases themselves are non-linear and may recur or overlap, particularly for those with global operations. Wherever you are in your response to the pandemic, we will help you with the services and resources you need. Visit our [Resilience, Recovery & Renewal Roadmap to Stability hub](#) for more information. Also, visit our [Beyond COVID-19 Resource Center](#) for the latest legal and regulatory updates from around the world.



Thank you for reading

# **A License to be Bold: Transforming Industrials**