

Where Google's Reforms Fall Short

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Eric Newcomer

Outraged employees at Alphabet Inc.'s Google scored a win on Thursday, when the company agreed to end to forced arbitration for sexual harassment and assault complaints. The announcement, made by Chief Executive Officer Sundar Pichai, came after employees staged a 20,000-person walkout last week over allegations of sexual misconduct in Google's upper echelons.

Pichai's announcement was meant to address some of the demands made by the protesting employees. You can read all of them here. But Google's response wasn't nearly as expansive as the employees were hoping for.

To get a sense of what the company still needs to do to make peace with its workers, I spoke with Jeanne Christensen, a lawyer at Wigdor LLP who is currently suing Uber Technologies Inc., Avon and the hedge fund Point72 Asset Management over gender-related claims. The announcement is a big deal, Christensen said. "Up until now the largest company that made this decision was Microsoft, and I think people expected a lot more to follow, but they didn't," she said. Google's decision is "a huge step for a company of this size."

But she also said the progress comes with some serious asterisks. For example, Google isn't waiving anti-class action provisions. "If it's a systemic problem, then that's what class actions address, that's why they're useful," she said. "Class actions are a way for people who have claims with low damages to get a lawyer willing to take their case."

Google's not alone in this: When it scaled back its own arbitration rules, Uber didn't waive its class action prohibitions either. Microsoft, on the other hand, does allow workers to file a sexual harassment class-action suit, a spokesman said.

Another drawback in Google's announcement: If you read protesters' demands closely, they ask for "An end to forced arbitration in cases of harassment *and discrimination*." But Google promises an end to forced arbitration on sexual harassment and sexual assault.

"Discrimination" isn't included. That could mean that some cases, such as unfair treatment because of a pregnancy, might not be covered by the rule change.

As employees point out in their response to Google's announcement, the new policy also doesn't address race-related concerns. "Does that mean at Google if you're discriminated against on the basis of skin color, you have to go to arbitration?" Christensen asks.

The partial victory presents a dilemma for protesters. Should they celebrate the positive steps or turn up the heat until their more substantive demands are met? The Google Walkout twitter account tweeted Thursday, "While we're thrilled to see progress on sexual harassment, we will not let up on the demands most urgent for women of color: an employee representative on the

board, elevating the chief diversity officer, greater transparency on & an end to opportunity inequity at Google & beyond."

It will be interesting to see whether newly empowered Democrats in Congress take up legislation on mandatory arbitration and class action prohibitions. Democratic Senator Elizabeth Warren tweeted this month, "I stand with those calling for an end to sexual harassment & discrimination at @Google."

It does appear that the tide of public opinion is shifting. In May, Uber ended its own arbitration requirement. And in a recent op-ed co-authored with former Fox News anchor Gretchen Carlson, Uber Chief Legal Officer Tony West wrote about how companies needed to respond to sexual harassment and assault issues on their own (without the government forcing their hand). "Reforming corporate America's approach to mandatory arbitration and confidentiality policies is key to stopping sexual harassment and assault," they wrote. "Every business can do its part."

Now, both lawmakers and activist tech employees will need to decide how far those businesses need to go.