

The US Corporate Response to Recent Supreme Court Decisions

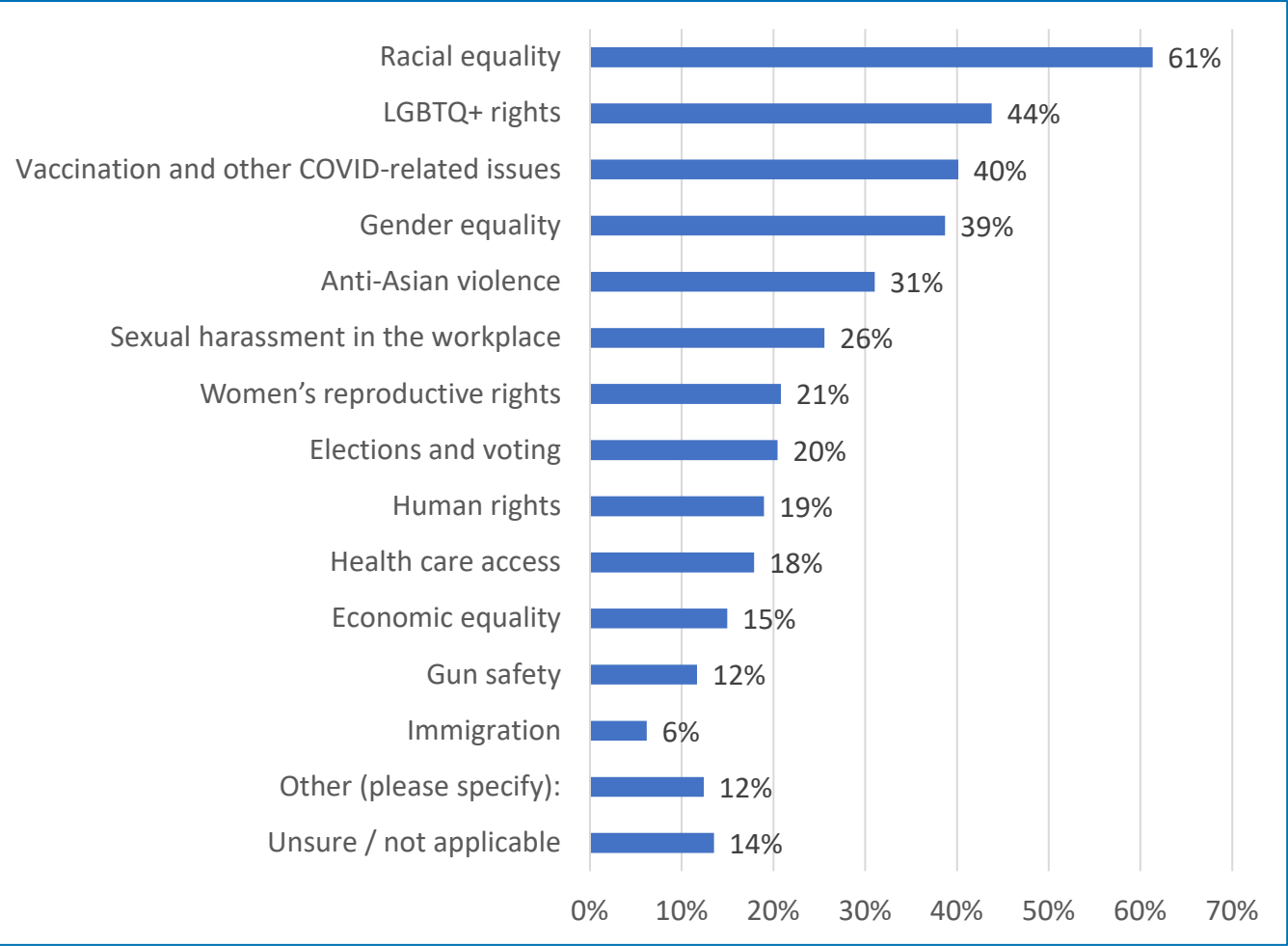


Even when companies do not speak up publicly, they may address issues internally based on the nature of the subject.

- A clear majority of surveyed corporations have made public statements in the past two years addressing racial equality, and substantial percentages of firms have publicly addressed other issues relating to equality, including gender equality, LGBTQ+ rights, and anti-Asian violence. . . . Following the Dobbs decision, our survey indicates that only 10 percent of companies responded, or plan to respond, with public statements. By contrast, a majority (51 percent) either have internally addressed, or plan to address, women’s reproductive rights. This is in line with how companies are initially acting in response to the decision: not through outward-facing actions such as adjusting their political or nonprofit contributions, but through their own internal employee benefit policies. The two most common internal responses have been to communicate existing health care benefits (42 percent of respondents) or to offer travel expenses to employees to obtain an abortion outside their state of residence (30 percent).



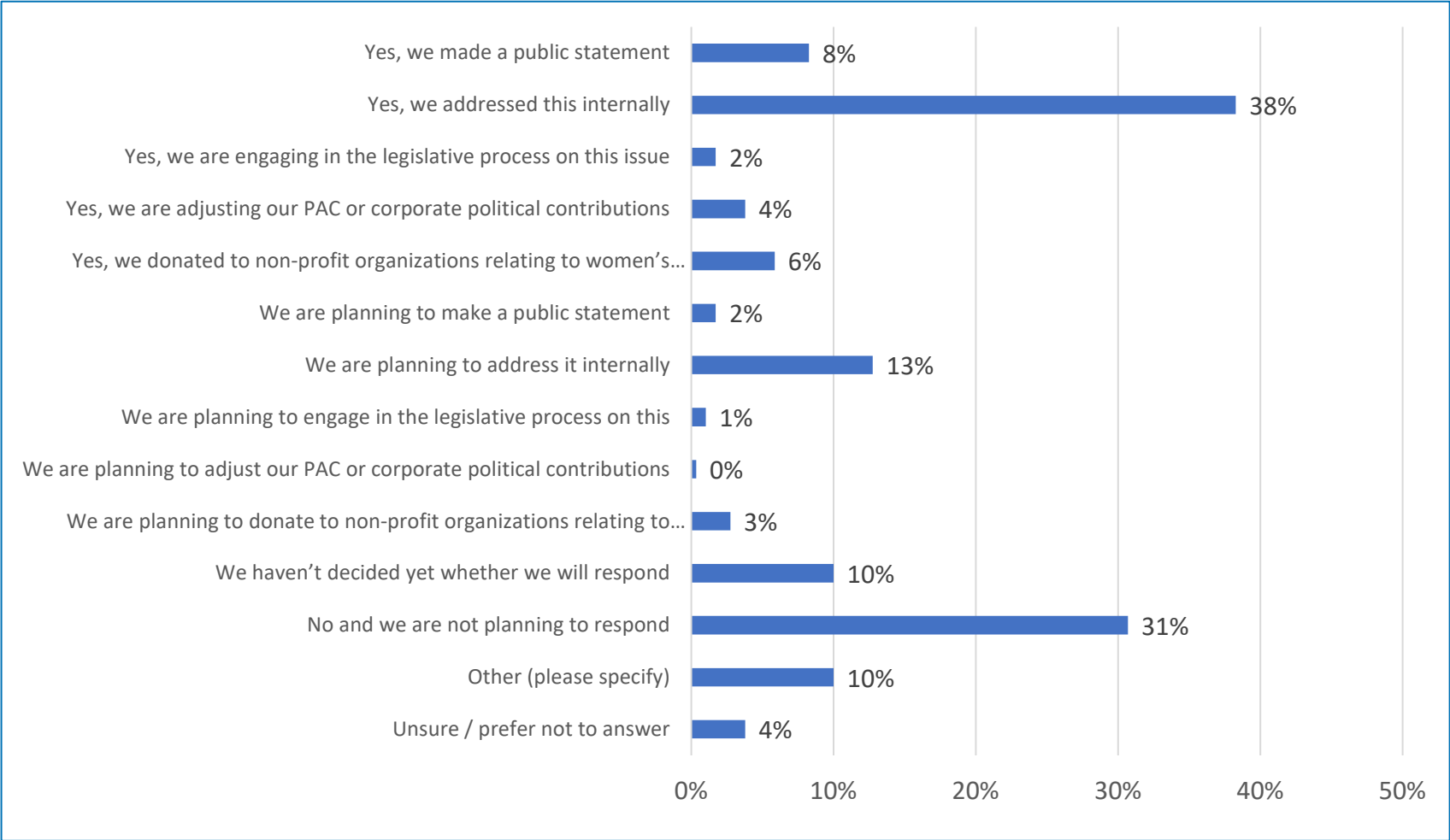
Q1: On which of the following social issues has your company taken a public stance since the beginning of 2020? (Select all that apply)



N=274



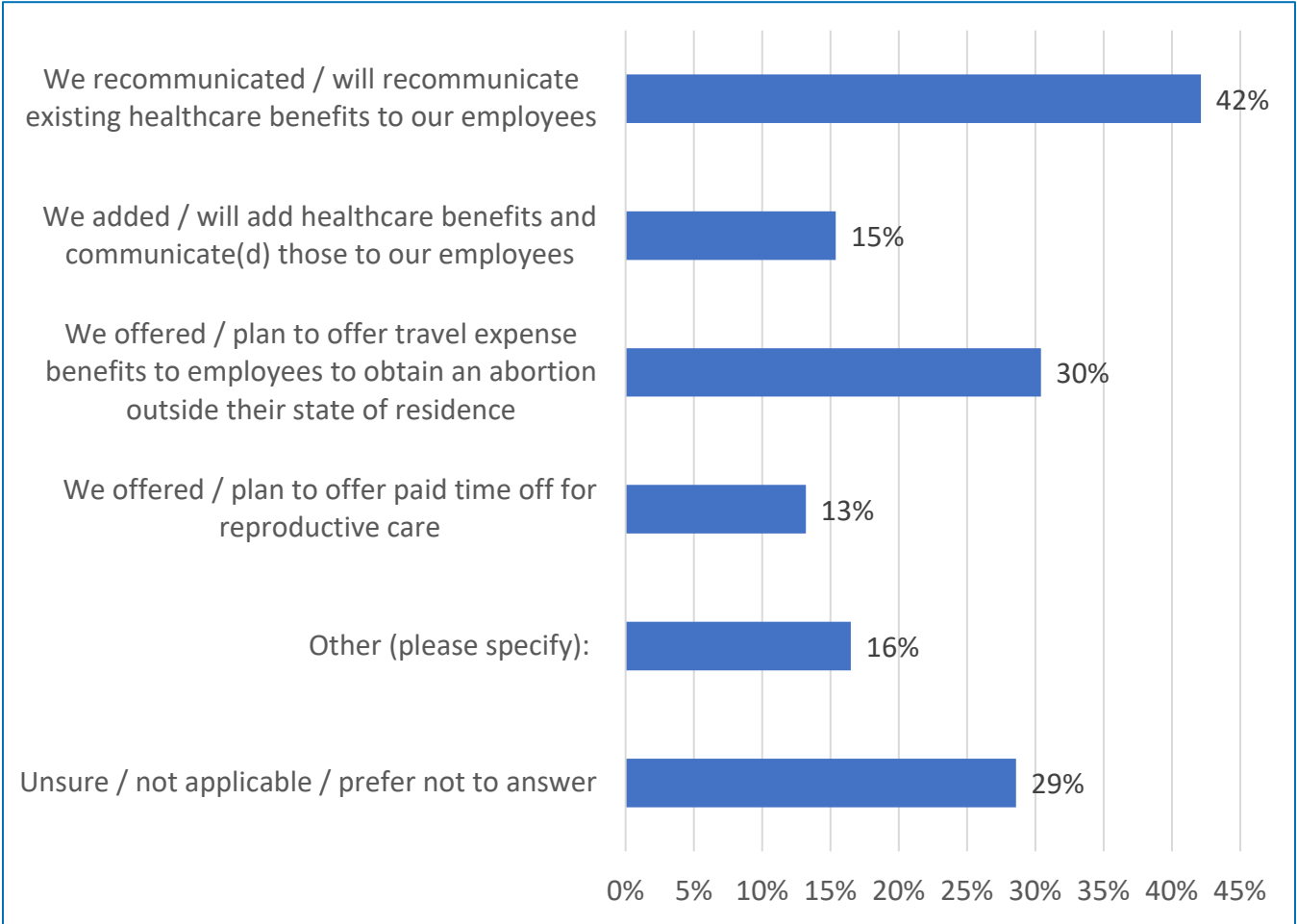
Q2: Has your company responded to the US Supreme Court’s decision on June 24th in Dobbs v. Jackson Women’s Health Organization (overturning Roe v. Wade and Casey v. Planned Parenthood)? (Select all that apply)



N=290



Q3: If your company has addressed / is planning to address the US Supreme Court's decision in Dobbs internally, what action(s) has it taken / is it planning to take? (Select all that apply)



N=273

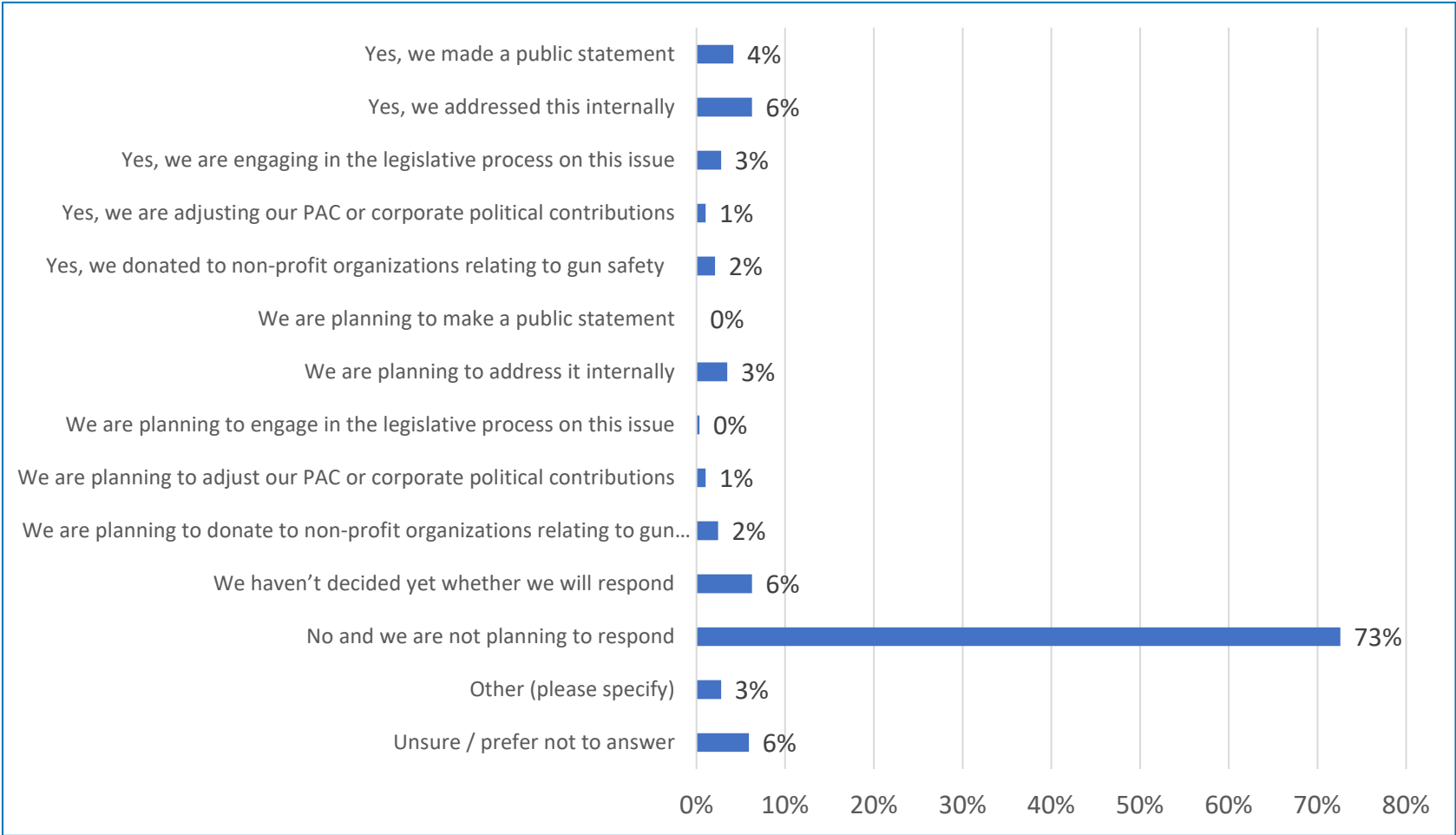


Similar types of events can lead to widely divergent responses.

- There has been a sharp contrast in the level of response generated by the two recent Supreme Court decisions. While 31 percent of companies are not planning to respond to the Dobbs decision, 73 percent are not addressing Bruen. This reflects not only the extent to which an event is perceived to directly affect stakeholders, but also the pressure that is brought to bear on companies. While 26 percent of companies say they have felt pressure to respond to the Dobbs decision, and 13 percent to both decisions, no firms say they felt pressure to respond only to Bruen.



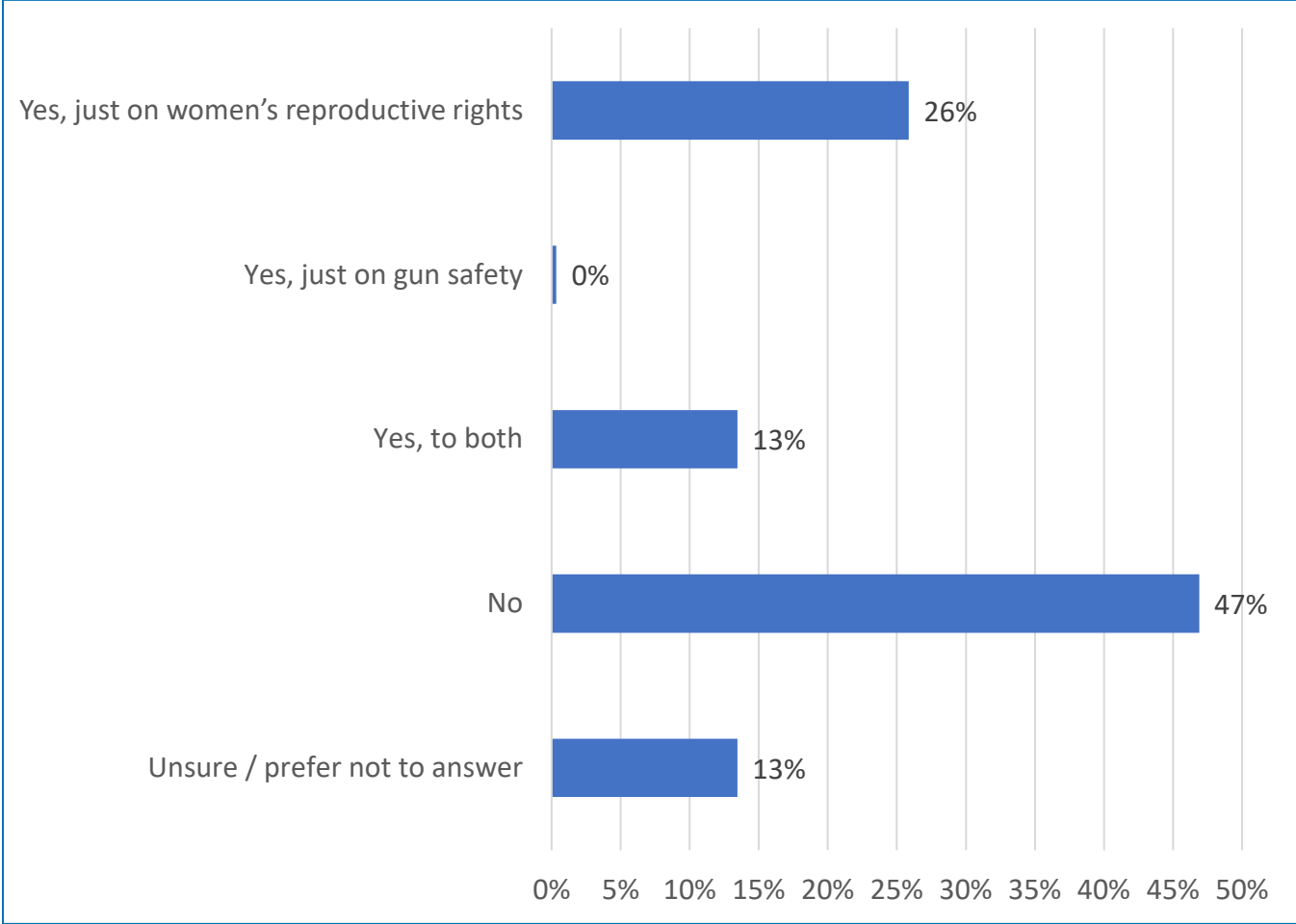
Q5: Has your company responded to the US Supreme Court’s decision on June 23rd in New York State Rifle & Pistol Ass’n v. Bruen (overturn the New York law restricting concealed carry guns)? (Select all that apply)



N=288



Q7: Has your company received pressure to respond to either women's reproductive rights or gun safety?



N=290

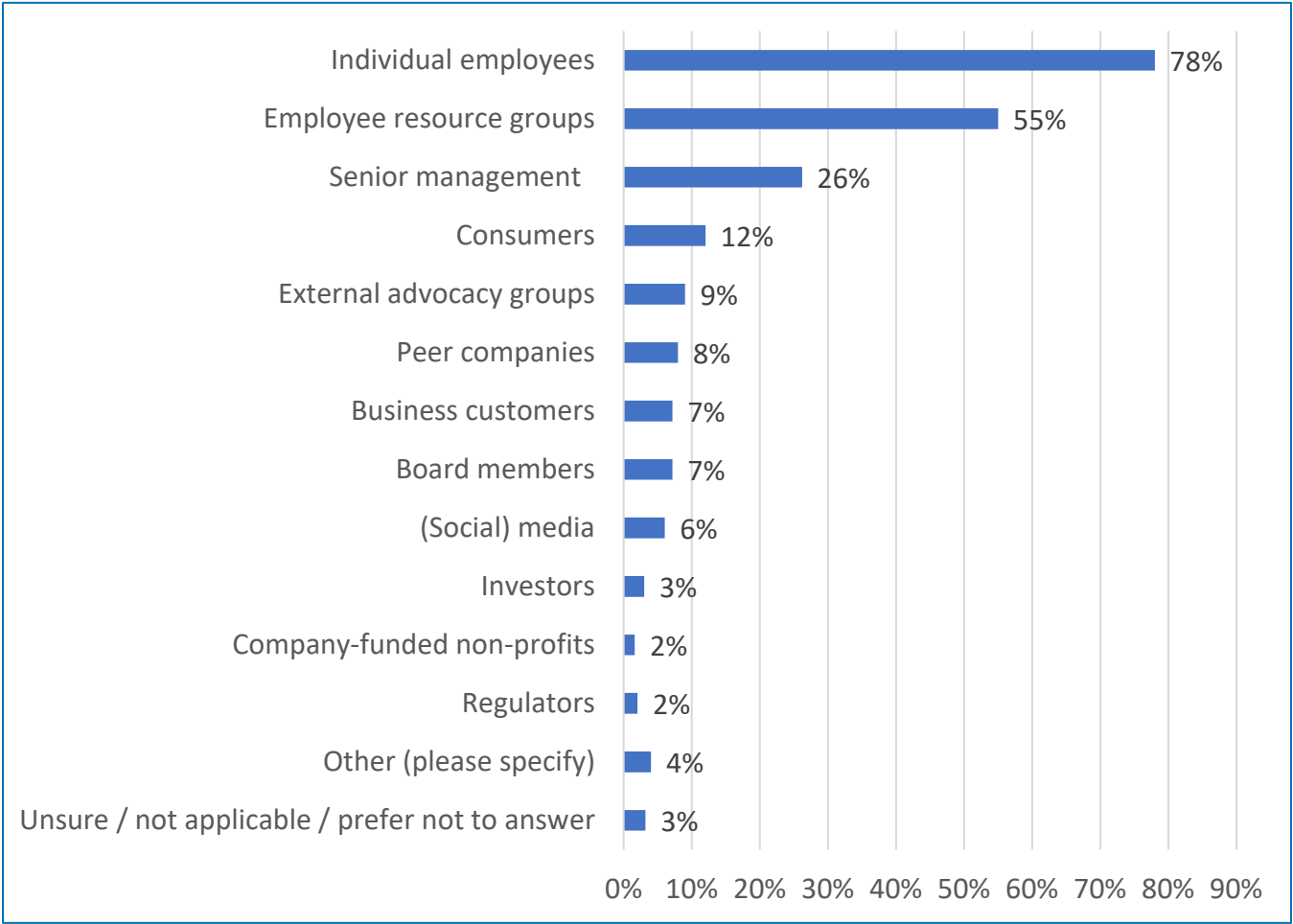


Companies need to ensure they have a consistent way to respond to employee pressure on social issues.

- Of companies that have received pressure to respond to the Court's decisions on reproductive rights and guns, 78 percent say the pressure has come from individual employees, and 55 percent cite employee resource groups (ERGs). . . . Companies should consider establishing a mechanism for employees to raise issues and should have consistent criteria and a process for management to decide whether and how to address those issues. For example, some firms have asked ERGs to provide regular input to the CEO; others have established a separate employee committee to raise issues for senior management and board consideration.



Q7a: If your company received pressure on either or both issues, where did this pressure come from? (Select all that apply)



N=115

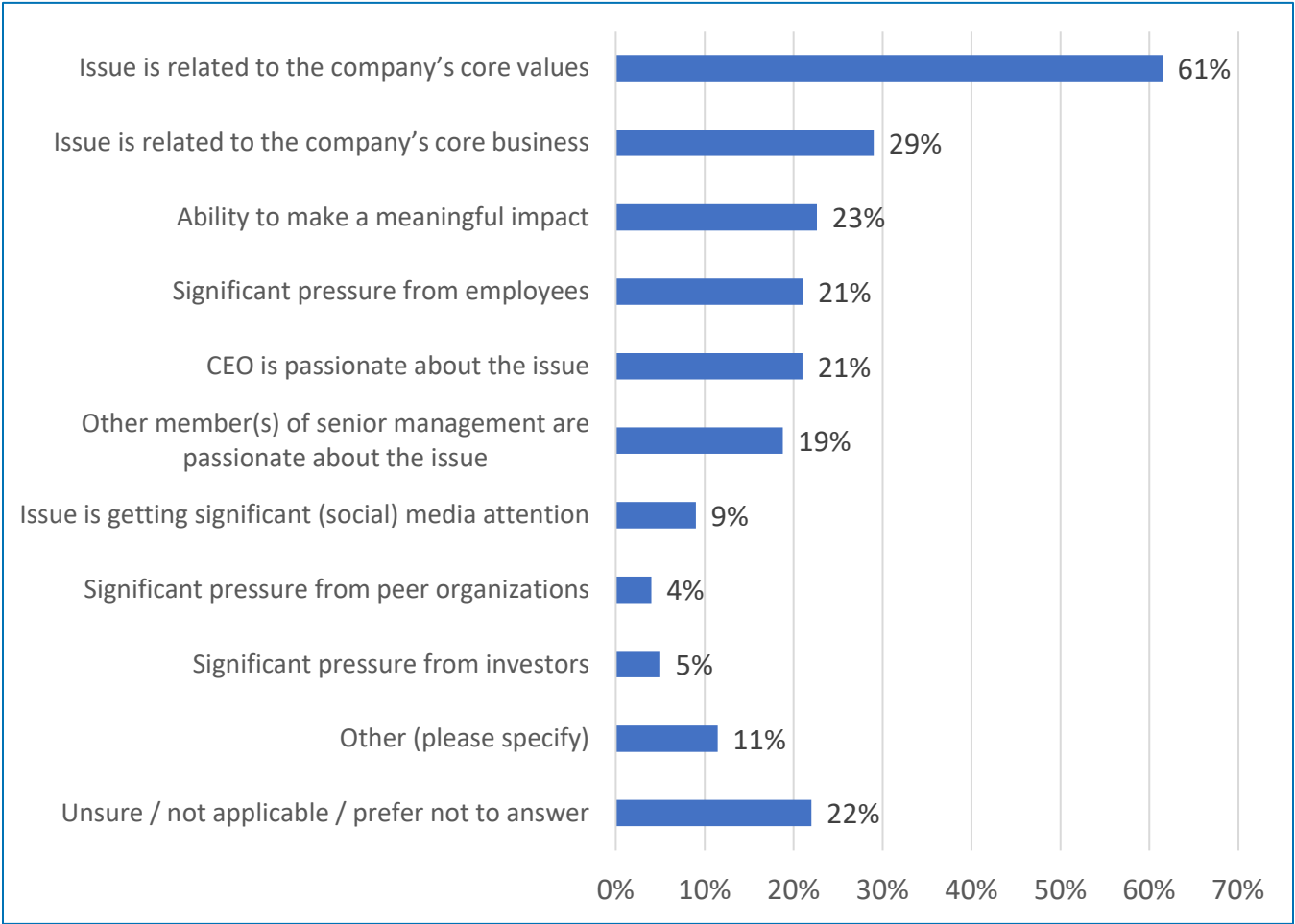


The criteria for deciding whether to address a social issue should include more than “company values.”

- Sixty-one percent of companies cite the issue’s relationship “to the company’s core values” as a criterion for deciding whether to take a stand on the issues raised by the Supreme Court’s decisions. Just 29 percent of companies cite the relationship to the company’s business, and 23 percent mention the ability to make a meaningful impact. If a company bases its decision exclusively on corporate values, it can create a virtually unlimited license (and perceived obligation) to take stands on social issues. And if a company declines to take a stand, it exposes itself to questions from employees and other key stakeholders about why the corporation’s values do not match their own. That is why it can be very helpful for a company to consider other factors, such as the connection with the company’s business and the ability to make an impact, in deciding whether to address a particular issue.



Q11: What are the criteria, if any, that your company has considered / is considering in making the decision? (Select all that apply)



N=285

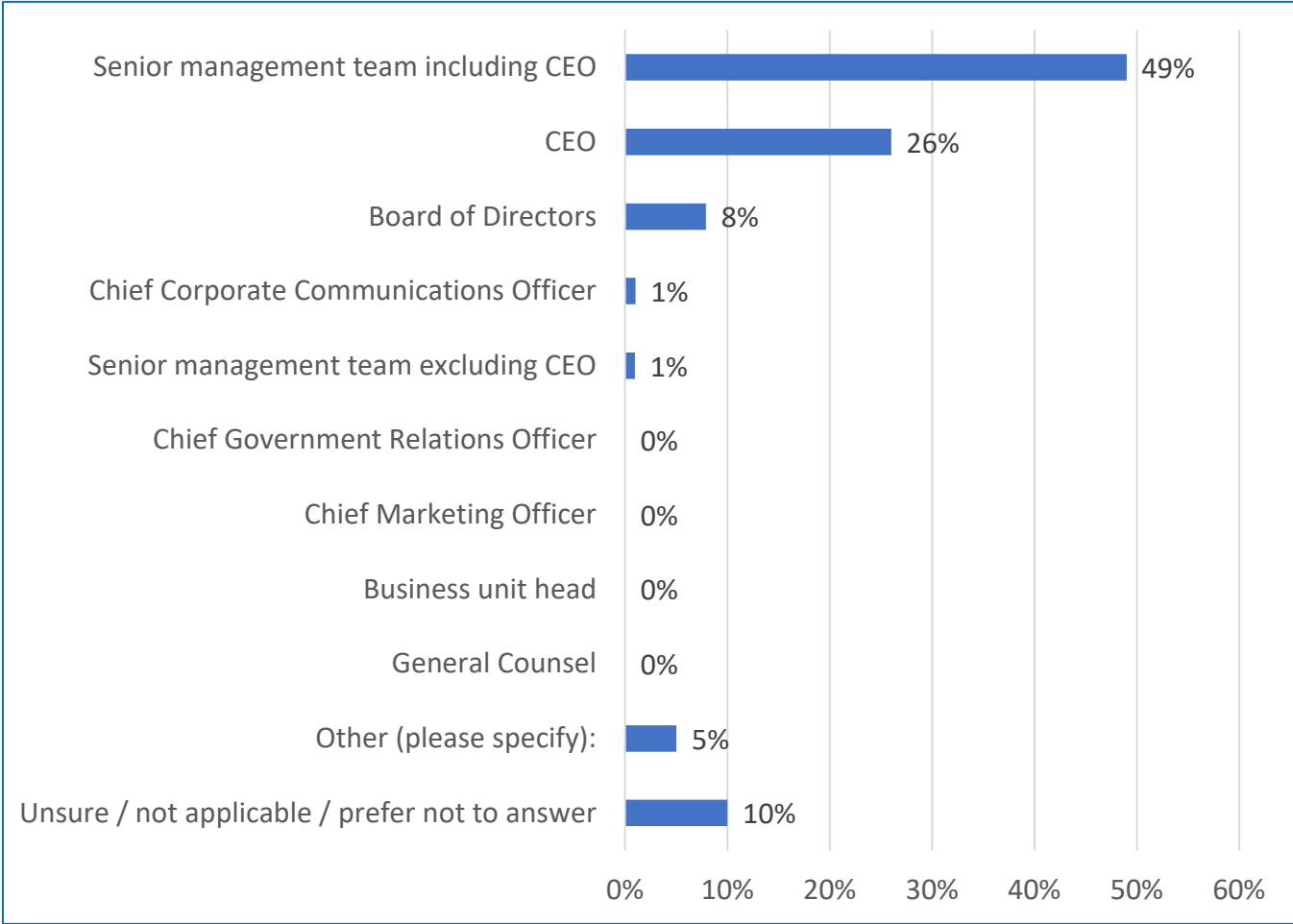


Senior management can take steps to avoid becoming an “echo chamber” in deciding the company’s position on social issues.

- A total of 75 percent of companies say the decision to take a stand on the two recent Supreme Court decisions rested with either the CEO alone or the CEO and senior management team collectively. Given senior management itself is often the source of pressure to take a stand on social issues—whether with respect to the war in Ukraine, political events of 2021, or the recent Supreme Court decisions—it is important for executives to consider the views of multiple stakeholders in making decisions. A majority of companies included legal, human resources, and communications in their recent decision-making processes, but only 29 percent included government relations, 18 percent corporate citizenship/community relations, 15 percent marketing, 14 percent finance, and 11 percent investor relations—despite the fact that these functions can help represent the views of the company’s regulators, communities, consumers, and shareholders. And while boards may not be deciding specific issues, it is also important to consult, or at least inform, the board before or at the time of the decision—as was the recent practice at about half the corporations.



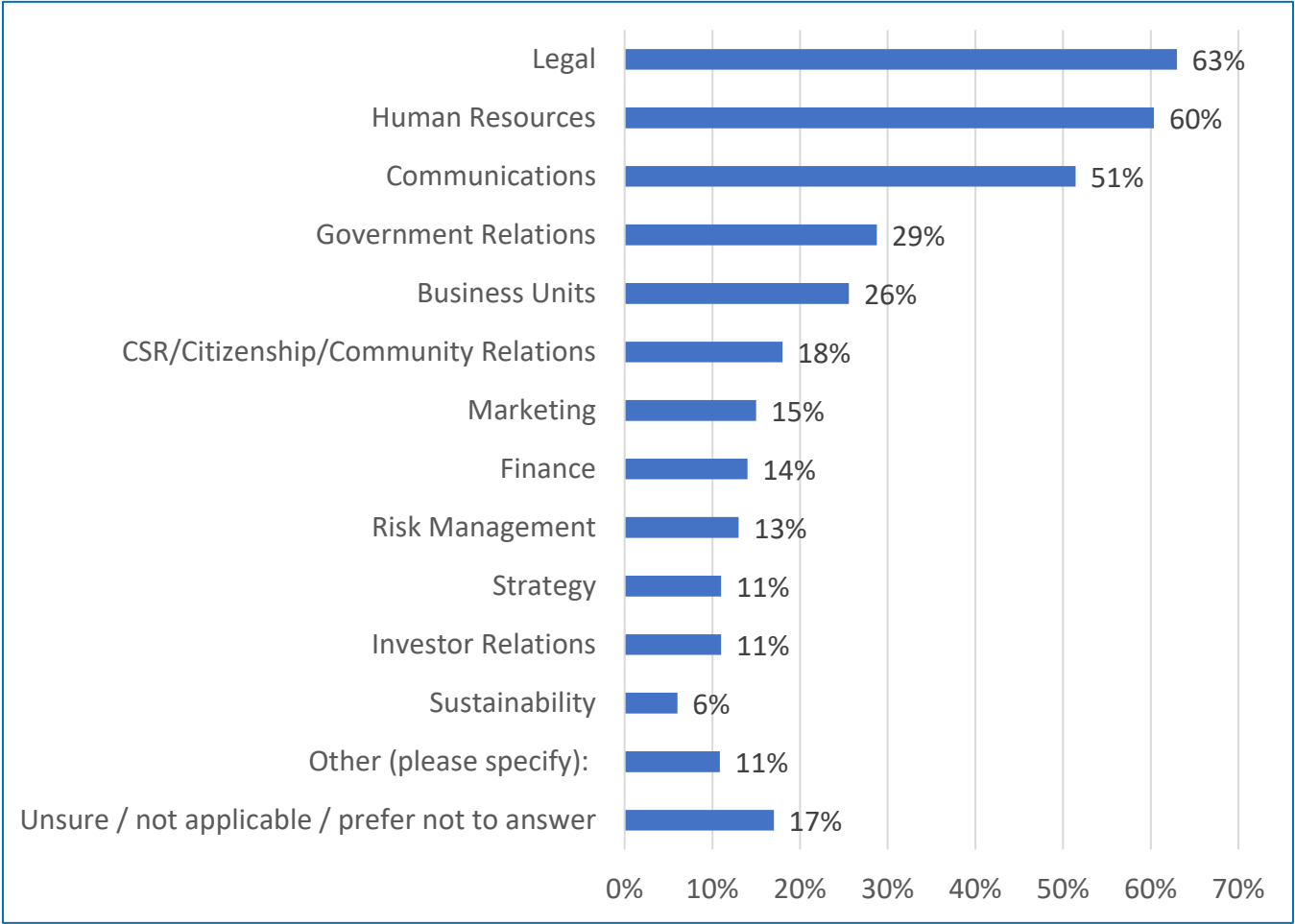
Q8: Who has made / will make the decision as to whether to weigh in on women's reproductive rights and gun safety?



N=288



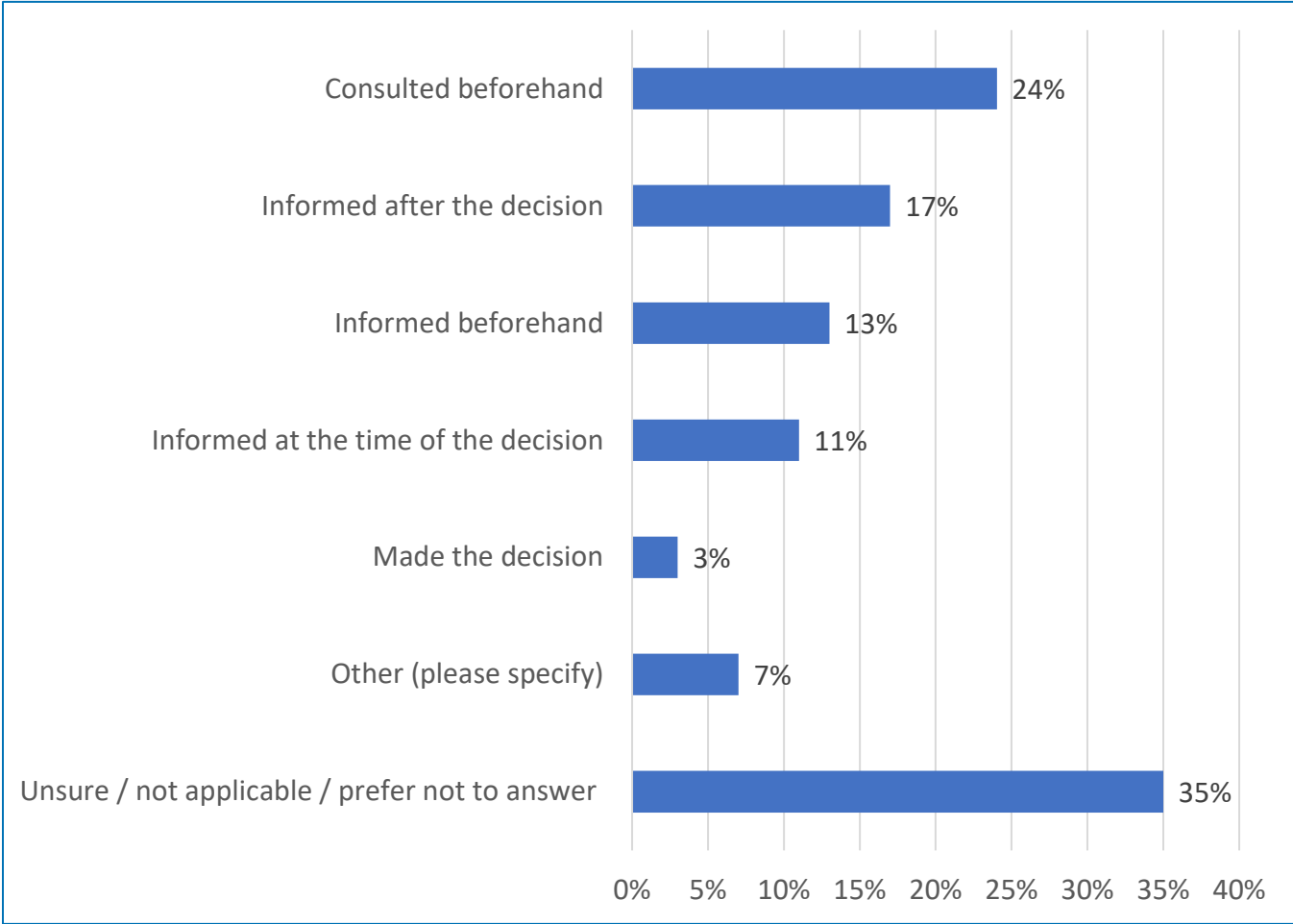
Q9: Which functions have been / will be consulted in deciding whether to respond to either issue? (Select all that apply)



N=284



Q10: How, if at all, was / will your board (be) involved in deciding to respond to either issue?
(Select all that apply)



N=284

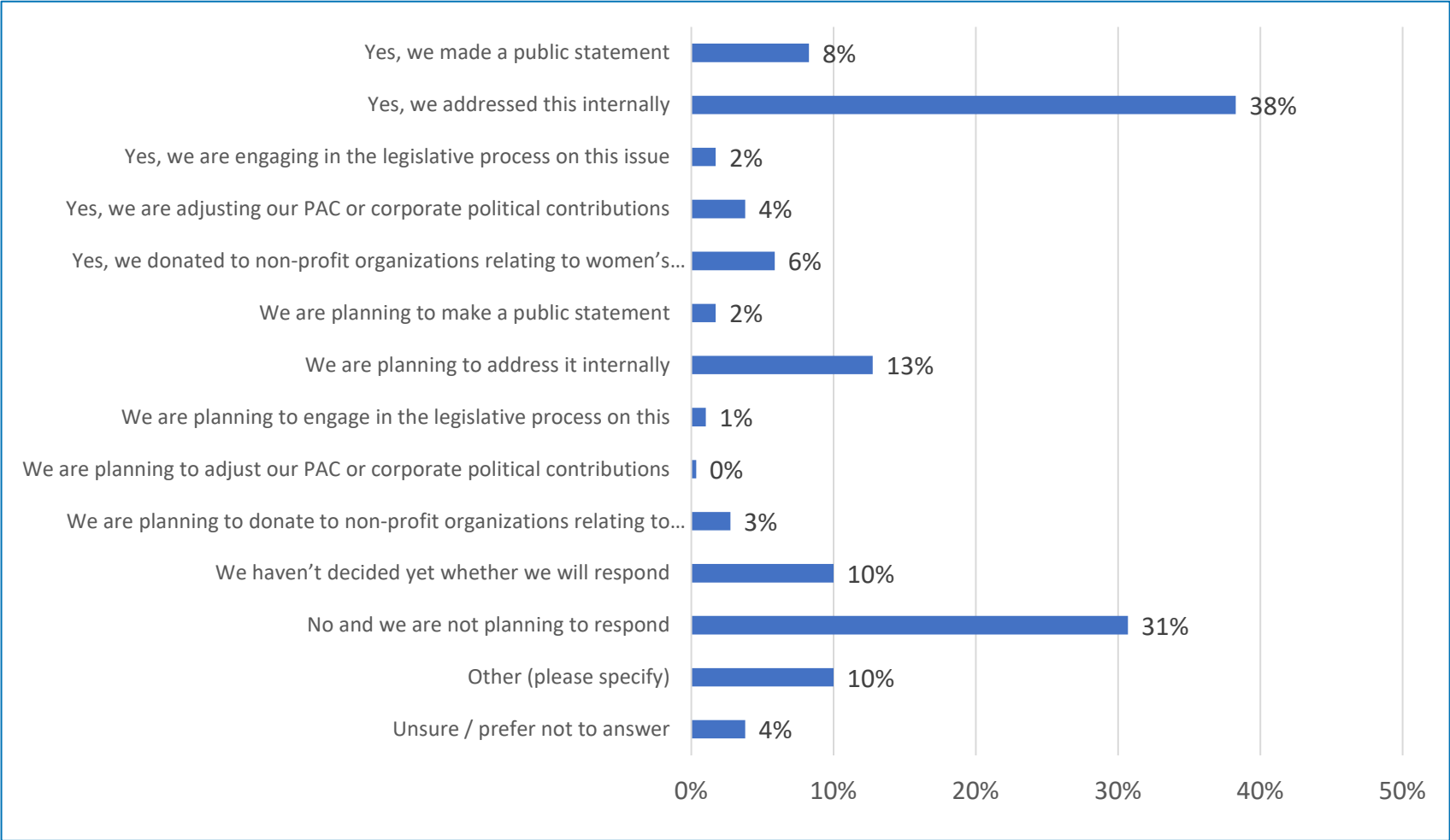


Companies need to prepare for ongoing pressure to address the issues of reproductive rights and gun safety through internal policies, political activities, and nonprofit contributions related to these issues.

- The percentage of companies that have decided to address the issues of women’s reproductive rights and guns by adjusting their lobbying activities, political contributions, or nonprofit donations is generally in the low single digits. But these areas are not likely to escape employee scrutiny—or pressure—for long. Further, with about one-third of companies that are addressing the Dobbs decision internally offering to provide travel benefits to enable employees to obtain an abortion out of state, many of the other firms may face questions as to why they are not offering similar benefits. The factors considered in deciding whether to adjust lobbying, political contributions, or employee health benefits are likely to be more complicated than those involved in deciding whether to make a public or internal statement on an issue. Companies should be sure to solicit input from all the relevant corporate functions in the process, especially the finance and government relations functions, which have largely not been involved to date.



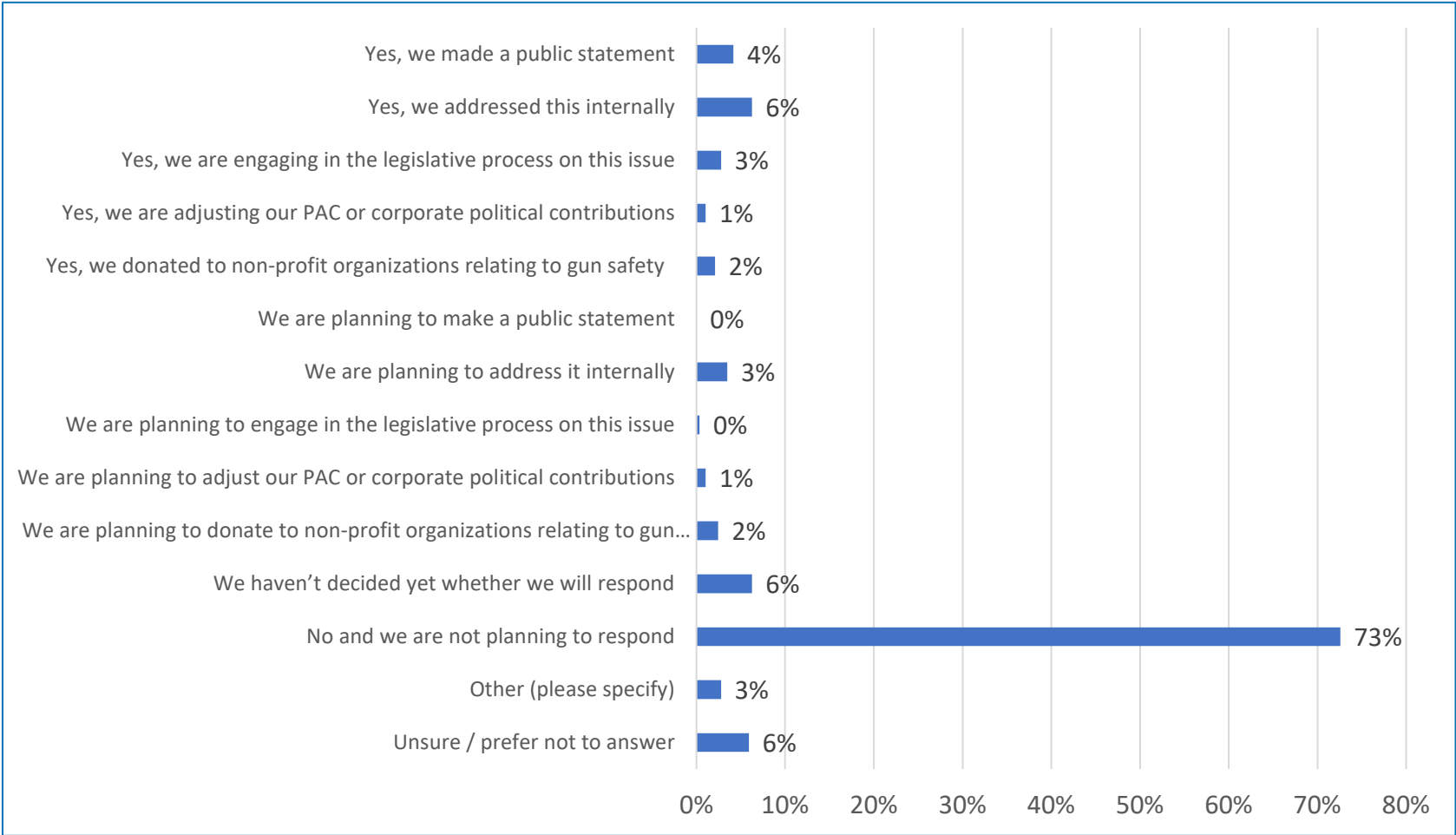
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N=290



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N=288

