

Encouraging corporate social responsibility

The Committee made several further recommendations aimed at developing CSR in Australia. A recommendation that has garnered some attention in the corporate world is the proposal for longer-term incentives in remuneration packages for company directors and executives – thereby ensuring company bosses are rewarded for planning for the future, not just their own tenure.

Other suggestions included:

- best practice leadership from Government agencies, including sustainability reporting and disclosure;
- Government funding for the establishing the Australian Corporate Responsibility Network, an organisation based on the UK-based Business in the Community network, which works with business to develop practical and sustainable approaches to CSR and promote best practice in their field;
- an ASX driven central web-based tool for disseminating sustainability information, based on the London Stock Exchange's Corporate Responsibility Exchange; and
- providing regulatory relief, or even financial incentives, for CSR practices. For example, inflated write-off arrangements for the year-one costs of initiating sustainability reports.

Reaction

The Report has been well received by business groups. Australian Institute of Company Directors chief executive Ralph Evans said, 'It's a win for the community and business. It encourages business to act in a socially responsible, environmentally responsible way, without making some heavy handed judgements' (*AAP Newsfeed*, 22 June 2006). Other commentators and CSR interest groups, however, have expressed the opinion that while the Report is a positive step, it does not go far enough.

The next step is the report of another inquiry – this one by the Corporations and Market Advisory Committee (*CAMAC*). The CAMAC inquiry covers very similar grounds to the Committee inquiry – with a focus on CSR, directors' duties and sustainability reporting – so it will be interesting to see if any conflicting recommendations are made.

Conclusion

The Report essentially recommends that corporate responsibility in Australia should continue to follow existing trends. It states that amendment to the Act is unnecessary. It promotes voluntary reporting without instituting an overarching reporting framework, and recommends against any future adoption of mandatory reporting provided the voluntary trend continues.

The clear expectation of the Committee is that leading companies and Government agencies will and should continue to incorporate corporate responsibility agendas and practices as an aspect of corporate governance driven partially by the market and 'peer pressure' - which the Report recognises as strong drivers for corporations to be good corporate citizens. The Report's message is: the major companies are moving in the right direction, but they, and the broader corporate world, need to keep progressing and engaging with CSR issues, or a mandatory regime could be introduced.

<p style="text-align: center;">A Postscript - The Corporations and Markets Advisory Committee Report (Dec 2006)</p>
<p style="text-align: center;">Wayne Gumley Monash University</p>

As mentioned in the previous article, the Corporations and Markets Advisory Committee (CAMAC) carried out a parallel inquiry to the Parliamentary Joint Committee and this inquiry has now concluded with the issue of the CAMAC Report on the Social Responsibility of Corporations in December 2006 (available at <http://www.camac.gov.au>). This report made recommendations similar in effect to those of the PJC, that current corporations law was adequate to deal with social and environmental responsibilities of corporations.

CAMAC started from the proposition that corporations are obliged to comply with the applicable laws, and beyond that, they are influenced by the marketplace of opinions and expectations in which their businesses are carried out. CAMAC noted that 'if market failure is judged to occur in a particular area, governments are able to intervene with legislation tailored to the problem'. With regard to the particular questions referred to the inquiry, the committee concluded as follows:

- 1) **Directors' duties** CAMAC did not support any clarification of directors' duties with respect to taking into account the interests of stakeholders in the broader community, as it contended that changes of this kind '... do not provide meaningful clarification for directors, yet risk obscuring their accountability.'
- 2) **Corporate disclosure** The committee contended that the obligation under s 299A of the Corporations Act which requires an 'operating and financial review' of a company's position in the directors report, already provides an appropriate mechanism for reporting of non-financial information and this should be extended beyond listed public companies to all listed entities. However it saw no need for further obligations upon corporations to report on social or environmental aspects of their activities.
- 3) **Encouraging socially responsible business practices** The committee was of the view that governments provide 'critical' boundaries for corporate behaviour primarily through legislation. It also concluded that the Government has a key role in providing the framework for governance of corporations and accountability by directors and corporate officers, eg through disclosure and reporting obligations, through regulatory agencies like ASIC and APRA. The committee recognised the 'business case' for social responsibility and did not see any need for fiscal or other incentives to promote these objectives.

It can be broadly concluded that CAMAC's report was more supportive of the current legal framework for corporate social responsibility than the PJC report. Whilst both reports resisted mandatory responses, the PJC recognised that the framework for corporate responsibility in Australia is still in its developmental stages, and thus corporations needed to show increasing engagement to obviate future moves toward mandatory approaches. By contrast CAMAC postulated that the 'critical boundaries' for corporate behaviour should be set by specific legislation on particular matters like environment and human rights, rather than any extensions to corporations law.

ENVIRONMENTAL LAW ROUNDTABLE OF AUSTRALIA AND NEW ZEALAND: Designing a Consensus Building Process and Advancing Corporate Social Responsibility

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Abstract

Corporate social responsibility includes taking steps to avoid, reduce or minimise disputes. When a dispute arises the good corporate citizen seeks ways to resolve that dispute quickly and cost effectively. Assisted dispute resolution comes in many different forms, including consensus building.

Consensus building is understood as the face to face, long-term dialogue between stakeholders to address an issue of common concern.¹ The design of a consensus building process can be described as a "keystone". Without careful process design at an early stage, an entire consensus building process can "collapse" and fail to successfully achieve the outcomes it promotes.

ELRANZ advocates for a detailed consensus building design for each harmonisation project referred to it through its growing network of Associates and members of the ELRANZ Working Group because it is socially responsible to do so.

¹ Innes, J E & Booher, D E (1999) 'Consensus Building and Complex Adaptive Systems: A Framework for Evaluating Collaborative Planning' *Journal of the American Planners Association*, 65(4), 412-423