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Curbing Corporate Social Responsibility

Jeremy Sammut

Beyond a Culture War Account

Corporate Social Responsibility (CSR) is based on the belief that for corporations to hold a 'social licence' to operate, they must fulfil a range of social obligations beyond their traditional profit-making role. This includes ensuring that corporate decision-making considers the social impacts of company activities on the interests of wider groups of stakeholders in the community.

Recent attention paid to CSR in Australia has seen 'politically correct' corporations accused of indulging in gratuitous political diversions from their primary duty: to protect shareholder's financial interests. In response to the unprecedented part that leading companies played in the same-sex marriage campaign, critics have argued that companies should "stick to their knitting" and not meddle in politically-contentious social debates.

An alternative interpretation is that the rise of CSR — and its institutionalisation within business — is a product of intersecting economic, social and cultural factors in contemporary society that have led to greater scrutiny of corporate conduct.

In a more complex, more questioning, and more globalised world, factors such as the concentration of economic and political power in large corporations, the emergence of counter-cultural attitudes towards established authority, and the growth of the international environmental movement, have all combined in the marketplace of public opinion to shape how the community has expected modern corporations to be accountable for — and transparent about — their social impacts.

However, CSR threatens to become an ever more expansive rubric to justify active corporate involvement in economic, social and cultural debates — which would see the current CSR activities of 'big corporates' prove to be just the tip of the politicisation of Australian companies.

CSR in Australia

It was only in the 1990s that major Australian companies started to develop CSR policies; mainly in response to corporate scandals. This led to criticism that most CSR activities were mere 'window dressing' to polish tarnished company reputations. The response by Australian business has been to encourage a more meaningful approach.

In 2002, the Corporate Governance Council of the Australian Stock Exchange's (ASX) formulated *The Principles of Good Corporate Governance and Best Practice*. Each of the three revised iterations of ASX's best practice guide has presented CSR as a 'core business' feature of good corporate governance.

ASX has endorsed what is known as the 'material business risk' approach, which seeks to 'mainstream' and 'integrate' CSR into strategic decision-making and operational practices across all levels of company management. Under ASX's guidelines, considering the social impact of company activities on the reasonable and legitimate interests of stakeholders is viewed as a form of 'risk management' of non-financial risks relating to environmental sustainability or other social issues considered 'material' to the long-term success of the business.

There is merit in the 'business case' for CSR: in well-managed corporations, it is reasonable and realistic for company directors and managers to exercise good commercial judgement to effectively manage social risks to the company's interests in the best interests of shareholders.

However, within the existing CSR debate in business circles, there has been insufficient discussion of the risks — including the negative brand and reputational consequences of embroiling companies in politically-charged issues.

This is particularly relevant at a time when momentum is building to further mainstream CSR at the heart of corporate governance — proposed via the ASX's revised corporate governance standards, which refer to "the fundamental importance of a listed entity's social license to operate ... in a socially responsible manner" — and to even make CSR mandatory by changing company law, and have corporations participate in 'systemic' political change.

Is the Business... Politics?

The mainstreaming of CSR has been accompanied by the growth of an influential and strategically-placed 'industry' of CSR professionals within Australian business. This is typified by the elevation within management structures of HR departments transformed into 'people and culture' divisions in charge of CSR policies such as promoting gender, sexual and racial 'diversity'.

CSR has also been heavily promoted by the 'Big Four' consultancy and professional services firms because of the potential to drive growth in new business such as external audits of corporate sustainability reports.

The growth of the industry means the corporate landscape is now populated with internal and external actors with powerful and self-interested motives to promote and encourage the mainstreaming of CSR practices within companies.

Hence, the CSR professional-led discussion within business circles generally tends to consist of companies being criticised for not doing enough CSR, while emphasising the supposed benefits of them doing more.

Alarming, the aims and objectives articulated by CSR professionals speak of the subversion of companies from traditional business endeavours towards open political activism.

This is revealed by the activist mindset of CSR professionals who assert that the "focus is now clearly on business' role in society as a driver of change" and that the next step in the professionalisation, mainstreaming, and integration of CSR is enabling companies to meaningfully participate in driving "systemic change" around pressing social, environmental, and economic issues.

On this understanding of the ultimate focus of CSR, the business of business will not just be CSR in the best interests of the business: the business of business will be politics.

Is CSR Legal, or Illegal?

CSR professional activists also argue that corporate political involvement in 'systemic change' should be facilitated by government action to regulate CSR governance and management practices. This would entail revolutionary changes to company law that would introduce mandatory CSR obligations, explicitly defining the non-shareholder interests directors can consider.

Mandatory CSR laws would give directors a vague, but potentially unlimited, discretion to consider the competing or conflicting interests of stakeholders for their own sake; which would leave directors effectively unaccountable to shareholders.

CSR is legal because, under existing company law, directors have a wide discretion concerning the non-shareholder interests they may be required to consider — so long as the proper purpose is to protect shareholder's interests in general.

Critics of corporate involvement in social debates have suggested CSR should be ruled illegal for breaching the Corporations Act. This would be counter-productive, as a successful legal challenge would only fuel the campaign for mandatory laws that would give CSR professional activists what they seek — a license for companies to participate in politics.

Mandatory CSR should not be legislated; because of the deleterious consequences for corporate governance. Nevertheless, corporate decision-makers need to be aware of how the ongoing professionalisation, mainstreaming and integrating of CSR threatens to lead to the politicisation of companies.

Implications for Corporate Leaders

Standard CSR practice has CSR professionals invite lobby groups to 'engage' with corporate entities to endorse their political, social, and cultural agendas — or risk the reputational consequences. CSR therefore has promethean qualities that leave companies vulnerable to being forced to become publicly involved in social issues that appear to have only tenuous (if any) links to their business interests.

Given that well-organised 'progressive' advocacy organisations have newfound ability to influence corporate reputations through social media, it may be difficult for corporate leaders to easily distinguish the difference between CSR activities justified by a business case and those that should be rejected as inherently politicising. Corporate leaders may also feel they are simply acting in a socially responsible way by reflecting society has already landed on social issues.

But the reality is that companies are politicised by taking sides on questions for which there is no community consensus, given the political polarisation evident in many western countries — including Australia — over social issues; between 'elites' holding progressive views, and 'ordinary' citizens holding more conservative views.

Public companies, given their special legal rights and privilege, should aspire to be pluralistic institutions that serve the whole community equally, which is impossible if companies acquire reputations for 'being political'. Associating a corporate brand with a divisive political position is hardly in the best interests of the company, given that not all employees, customers, shareholders and stakeholders will agree about what constitutes responsible corporate behaviour across social issues in a pluralistic society.

Notwithstanding the typical CSR rhetoric and appeal to the abstract notion of a 'social license', meddling in political issues that are faintly — if at all — connected to shareholder's interests is the Rubicon that the CSR activities of Australian business should not cross, to avoid companies becoming inappropriately politicised.

Politicisation is hardly an abstract concern. The substance of the revised corporate governance standards proposed by ASX — which suggest that companies must earn their social license to operate by acting 'socially responsibly' with regards to inherently politically contentious issues including human rights, climate change, taxation and wages — reflects the mindset, ambitions, and influence of the CSR industry.

The Community Pluralism Principle

The rhetoric emanating from the CSR industry about corporate involvement in political change should therefore be a wake-up call for company boards about the willingness of CSR professionals to play politics with shareholders' money at the margins of what might be permissible under company law.

Given that a legalistic approach to curbing CSR is fraught with danger, the potential escalation of CSR activities that threatens to lead to the politicisation of Australian companies should be addressed as part of good corporate governance as a matter of managing a genuine 'business risk'

However, corporate leaders who might wish to avoid the political risks and limit CSR activities to appropriate business parameters are currently unable to be guided by any alternative set of principles, policies or institutional framework to counter the well-established CSR doctrines and structures across business.

To prevent politicisation and preserve pluralism in Australian business, existing CSR philosophies should be qualified by introduction of a new principle into the language and practice of corporate governance — the Community Pluralism Principle:

It is important for modern corporations to consider their impact on all genuine stakeholders in the best

interests of shareholders. It is also important that engagement on social issues cannot be perceived to distract from company's core business mission, duties, and accountabilities, nor negatively affect its brand and reputation in the market of opinion in a political sense. It is a matter for boards of directors and other corporate decision-makers to manage these risks by ensuring that companies respect and reflect the pluralism of Australian society and remain open to the views and values of all employees, customers, shareholders and stakeholders across the community.

This statement could shape and guide corporate governance and decision-making by being inserted at the relevant place into ASX's *Corporate Governance Principles*, or by being voted on by shareholders at annual meetings and included in company constitutions, or by companies (under the direction of their boards) voluntarily subscribing to it to protect company brands.

Stopping Politicisation and Promoting True Diversity

It is unclear whether there is an appetite within the business community for pushing back against the CSR trend, given that opponents of 'progressive' CSR agendas can face professional repercussions. Company directors and senior managers can also personally benefit from CSR initiatives that associate their individual corporate profiles with 'worthy' social issues, literally at the expense of shareholders who bear all the associated costs of CSR incurred by public corporations.

But if the will to curb CSR exists — or greater awareness of the business risks of politicisation fosters the will — the ability of corporate leaders to explain their decisions by reference to the Community Pluralism Principle as an established part of good corporate governance would prevent companies from straying inappropriately into politics. It would instead leave the politics to politicians, parliaments, and the people.

Practicing this principle would also see companies practice the values of 'inclusiveness' that underpin many CSR initiatives — but in new, important, and genuinely tolerant ways. By promoting respect for the perspectives of all groups in the community, the Community Pluralism Principle would ensure that Australian corporations respect the only kind of diversity that ultimately matters in a liberal democracy: the diversity of political opinion that is the foundation of a free society.

About the Author

Jeremy Sammut

Dr Jeremy Sammut is a Senior Research Fellow and Director of the Culture, Prosperity and Civil Society program at The Centre for Independent Studies.

