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Corporate Governance: What is it?

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Abstract

The emergence of the phenomenon that has come to be called in modern times, Corporate Governance is described. A selection of corporate governance definitions from the literature is examined. A definition of corporate governance emerging from research data is provided using the language of participating practitioners in governance in Australia. Content analysis was used as the analytical tool in the construction of the definition. The definition-in-use which was the outcome of the analysis is aligned strongly with stakeholder theory.

Introduction

The paper begins with a brief overview of the antecedents of modern governance. It notes that modern governance asserted its place in the literature in the final decade of the twentieth century. Definitions of the phenomenon of corporate governance from the literature are discussed. The paper then reports on data from a qualitative research study of directors of publicly listed Australian companies in which participating directors attempt to describe corporate governance. The language used by these practitioners in their description of corporate governance has been analysed and used to construct a 'definition-in-use' of corporate governance. These ideas are further examined in the light of relevant literature.

Antecedents of Modern Governance

The phenomenon that has come to be called corporate governance has been practised much longer than the term has been in use. Tricker (1997) considers that Plato's dialogue dealing with Guardians of the Republic and the governance of the Greek City States describes activities associated with the contemporary concept of

corporate governance while Francis (1997) suggests that the corporate form of business enterprise can trace its origins back to Roman times. Others (Berle and Means, 1932) view the growth of corporate enterprises in the seventeenth and eighteenth centuries as the precedent for modern corporate governance. The lack of unanimity regarding its historical emergence combined with the assumption that in practice it has been around longer than the term corporate governance, supports the idea that most of the beliefs underpinning corporate governance practices were based on 'taken-for-granted' views that later took on the form of institutionalised thought (Whiteley and McCabe, 2001).

The organising principles that underpin the governance of the modern corporate entity have come to be identified as corporate governance (Francis, 1997; Bosch, 1995; Hilmer, 1993). The term, 'corporate governance', emerges in the literature of the nineteen-eighties, becoming an established field of literature in the nineteen-nineties. A comprehensive literature search does not provide conclusive proof of Monks and Minow's claim (1996) that the term does not appear in literature until around 1985. However, a search for book titles with the term 'corporate governance' yielded 'zero finds' for the period prior to 1988. From 41 items for the period between 1989 and 2000 all except one was published after 1991. A search of journal literature yielded 'zero finds' for the period prior to 1979 and only one between 1979 and 1983. The number of finds gradually increased as the search period was extended into the late nineteen eighties and continued to increase into the twenty first century.

Modern Governance

Rumelt, Schendel and Teece (1994) describe the established paradigm for organisations and their internal systems as featuring characteristics of control, predictability and measurability. Francis (1997, pp. 37-38) describes this model as

the ownership model. He quotes William T. Allen, Chancellor of Delaware County, as proposing that there are two inconsistent views of the corporation.

In the first conception, the corporation is seen as the private property of its owners (stockholders); its purpose is to advance the purpose of its owners (usually to increase their wealth) and directors are seen as the agents of owners whose function is faithfully to advance the financial interests of owners.

The second conception sees the corporation not as the private property of the stockholders, but as an institution; a form of social compact among various constituencies. This social entity conception sees the purpose of the corporation as not individual but social (Francis, 1997, p. 37).

The two views have differing theoretical orientations. The concept of the organisation as a social entity (Francis, 1997) assumes diversity that is readily open to new influences. The social model is oriented around stakeholder theory (Freeman, 1999; Frooman, 1999; Donaldson and Preston, 1995; Freeman, 1984). This is distinct from the property view of the organisation, which is underpinned by the tenets of agency theory (Worsham, Eisner and Ringquist, 1997; Gomez-Mejia and Balkin, 1992; Holmstrom, 1979). Francis views the property model (agency theory) and the social entity model (stakeholder theory) as opposing models. He claims that the decision on the ascendant model will ultimately be made by society on a political basis.

The Watershed Era

Corporate governance writers (Francis, 1997; Useem, 1996; Bosch, 1995; Renton, 1994; Pease and McMillan, 1993) see the nineteen-eighties as catalysing a turning point for corporate governance. This is particularly so for Australia, the United

Kingdom and the United States. The 'excesses of the eighties' (Pease and McMillan, 1993, p. 3) is a term used to describe various corporate governance behaviours of the nineteen-eighties. The excesses and unchallenged indiscretions were often generated, and even justified, by the 'boom' characteristic of the stock markets around the globe (Hilmer, 1993). Hilmer sees the poor corporate governance of the time as both a product of the boom times and the principle underlying cause of the losses of that period. The watershed era of the nineteen-eighties is identified by the events more than by the writings.

In reaction to the excesses of the nineteen-eighties legislative and regulatory controls were revisited. This resulted in a swing towards promoting a greater emphasis on conformance to legal and regulatory requirements. By the mid nineteen-nineties writers (Francis, 1997; Bosch, 1995; Bosch, 1993; Hilmer, 1993) claimed that the preoccupation with conformance issues was now at the expense of an equally important feature of governance, that of performance.

Diversity in the Nineteen-Nineties

A closer examination of the elements of governance produced a diversity of thinking that had not previously been experienced in corporate governance literature. At the beginning of the nineteen-nineties the emphasis was placed on the responsibilities of due care and diligence. This was demonstrated in the regulatory controls and legislation (Factor, 1996) that were introduced at that time. In Australia this emphasis was further demonstrated in 1995 with the first printing of the Blue Book (AIMA, 1997). The Corporate Law Economic Reform Program (CLERP) discussion (The Treasury, 1997), followed by the Corporations Act 2001 (Australian Federal Government, 2001) continued a process of review, assessment and revision of corporate governance practices in Australia. Legislative and regulatory changes elsewhere in the developed economies mirrored this activity. In the United Kingdom

the path to reform in Corporate Governance was ratified with the Cadbury Report (1992). On the world stage the Caux Round Table (1994) established a universal standard for conducting business internationally.

At the same time there was a reassessment of the need for boards to focus on performance issues (Hilmer, 1993) rather than allowing conformance issues and 'black letter' law mentality to drive the board's processes and functions (Pease and McMillan, 1993). There were calls for directors to bring the pendulum to a steady holding pattern in which the two functions, performance and conformance, could be given their place in corporate governance activities (Hilmer, 1993).

Attention also focused on two differentiating models of the corporation: the property model and the social model. Unlike Francis (1997), Eisenhardt (1989), and Donaldson and Preston (1995), proposed that the two theories can support and inform each other. Eisenhardt (1989) argued for the use of agency theory along with complementary organisational theories in order to better capture the complexity of the issues involved. Donaldson and Preston (1995) argued that stakeholder theory is best understood by viewing it as a convergence of theories that can be normatively based on the evolving theory of property, on the basis that property rights and human rights are intrinsically linked. Freeman (1999) argued against the idea of developing convergent theories and promotes the use of divergent narratives in order to understand organisations better in stakeholder terms.

The Board of Company Directors (BOCD)

The context for the interviews with directors in this study is the BOCD. The model for board membership in Australian public listed companies is that of a majority of Non-Executive Directors (Bosch, 1993). The executives on a board include the Chief Executive Officer (CEO) and in many instances, the Chief Financial Officer (CFO).

The Company Secretary, while not a member of the board, can be present at board meetings and provide advice. AIMA (1997, p.20) proposed that in the appointment of Non-Executive Directors (NEDs) 'international best practice requires that the majority of individuals on the board should be genuinely independent'. Independence on the board provides 'an appropriate mix of skills and experience' (Bosch, 1993, p. 12) and 'independent judgement to tasks where there is a potential for conflict of interest' (Directorate for Financial Fiscal and Enterprise Affairs, 1999, p. 9).

In Australia, the BOCD in the twenty-first century is generally accepted as being accountable to shareholders and regulatory bodies. Baxt (2002) advises that

The yardstick by which a director may safely judge his or her own actions at times of difficulty and conflict is this: Taking account of all the circumstances, is what I propose to do in my honest belief in the best interests of all the shareholders of the particular company of which I am director? (p. 43).

The company's annual report, presented to the regulatory bodies and shareholders at the annual general meeting, is the principal instrument of accountability. The requirements for disclosure are set down in the Corporations Law arising from the Corporate Law Economic Reform Program (CLERP). (The Treasury, 1997, Baxt, 2002), and the ASX Listing Rules. Baxt (2002, p. xi), commenting on these reforms, emphasised that, 'the Commonwealth Criminal Code which came into effect on 15 December 2001, places a premium on compliance.'

Definitions of Corporate Governance

In the research interviews, directors often claimed that there was no single, satisfactory definition of corporate governance.

.../it would be interesting if you could come up with a good definition of it for a start.../ it tends to be a bit of an airy, fairy sort of concept, corporate governance.../

A range of definitions of corporate governance emerged in the nineteen nineties. Despite being a global issue, the local context influences the way it is handled; for example the type of relationships that banking institutions have with organisations in Germany or Japan (Van den Berghe and De Ridder, 1999; Turnbull, 1997). Definitions can be based on the unitary board model, as in Australia, or alternatively the dual board model, as in parts of Europe.

Van den Berghe and De Ridder (1999) claim that it is not easy to define the term without ambiguity. However the range of definitions that they provide can be broadly organised into two groups. One group defines corporate governance in terms of processes and outcomes. The second group is broadly focused on relationships.

Both of these perspectives are reflected in Van den Berghe's and de Ridder's (1999, p. 21) position that 'corporate governance has to do with the governance of companies and the responsibility for this governance.' 'Governance' of companies implies that processes are at work, while 'taking responsibility' implies that relationships are at work. A definition such as this does little to shed light on the contextual application of governance (Finkelstein and Hambrick, 1996). The context in which corporate governance operates provides the diversity of definitions.

Definitions with a process/outcomes focus

Sources used by Van den Berghe and De Ridder (1999) that focus on processes and/or outcomes are the Belgian Banking and Finance Commission (1997), and Gomez (1997). Other writers whose definitions fit within this category include Carver (1990), Hawley and Williams (1997) and Francis (1997).

The Belgian Banking and Finance Commission (Belgische Commissie Corporate Governance van de Beurs van Brussel, 1997) definition limits the corporate governance concept to shareholding companies. Bain and Band (1996) and Carver (1990) do not support such limits. Carver (1990), working principally but not exclusively from a 'not-for-profit' perspective, describes all boards as bearing ultimate accountability for organisational activity and accomplishment.

Gomez describes the European two-tiered governance model that effectively separates and distinguishes between management and governance.

Management ... the more or less rationalised mechanical organisation of the hierarchies and powers to achieve efficiency once the objectives have been defined ...; governance ... the choice of objectives and the means to achieve them in order to check that they have actually been achieved in the interests of the parties of the enterprise (Gomez, 1997) as quoted by (Van den Berghe and De Ridder, 1999, p. 21).

The single or unitary board is the operational model for companies listed on the Australian Stock Exchange (ASX). Gomez's definition of corporate governance in supervisory terms may suit a European-styled two-tiered board but is more likely to be rejected by a unitary board (Van den Berghe and De Ridder, 1999).

Hawley and Williams (1997, p. 208) describe governance from the finance view of the modern corporation as 'the rules and institutions by which agents are constrained to act'. Francis (1997) describes the term governance using its Latin derivative 'to steer' (a ship). He describes how it is necessary to prevent the ship (the company) from straying into dangerous waters (concerned with conformance - processes), while at the same time guiding it to its chosen destination (ensuring performance - outcomes).

Definitions with a relationship focus

For the definitions focusing on relationships Van den Berghe and De Ridder (1999), include Verbehke (1996), Lanoo (1995) and Cadbury (1996). Other sources providing definitions that demonstrate a focus on relationships include Wolfson (1984), Bosch (1993), Nexia International (1996) and Tricker (1997).

Verbehke (Van den Berghe, 1999 p. 21) describes corporate governance as 'the structured interplay between the various players in a company.' There is an assumption that processes are in place but the emphasis is on the exchanges between the various 'players'. Lanoo (Van den Berghe, 1999, p. 22) is more explicit;

... the whole system of rights, processes and controls established internally and externally over the management of a business entity with the objective of protecting the interests of all the stakeholders (Van den Berghe & De Ridder 1999 p. 22).

Forster and Browne (1996) quote Wolfson (1984) who described governance as dealing with 'how best to control corporate management'. Bosch (1993) also describes the relationship as principally one of exercising control. The control aspect of the relationship is at the foundation of Cadbury's (1996) definition provided by Van den Berghe and De Ridder (1999). Nexia International (1996) expands on this 'control' definition and is specific about where these relationships are developed within the company:

Corporate governance is the way in which companies are directed and controlled, and encompasses issues such as the responsibilities of directors, and the relationship between shareholders, directors and auditors (Nexia International 1996, p. i).

Tricker (1997) provides the definition used by the editorial board of *Corporate Governance: An International Review*. It is predicated on a view of the organisation that is consistent with Francis' (1997) view of the organisation as a social entity.

We define corporate governance broadly as being concerned with the exercise of power over every type of corporate entity – whether in private or public ownership, large or small, simple or complex; whether family firm, subsidiary or associate company, joint venture in a strategic alliance, government business enterprise, or non-profit enterprise (Tricker, 1997, p. 179).

Grouping these definitions, as focused on either processes and outcomes or relationships, does not diminish the variations. Bain and Band (1996) suggest that the virtual organisation style of operating and networking will possibly require a new type of corporate governance, so providing new definitions. This does not necessarily mean that old definitions will be lost. However, as in all evolutionary processes, there is a tendency for the philosophy that underpins the principles of organising to be disassociated from newly developed ways of doing things (Whiteley, 1999). This research, by developing a definition-in-use, seeks to recombine the underlying philosophy and organising principles with the developing ways of doing things.

Research Design

The research was undertaken within a study of 'best practice corporate governance', and involved interviews with directors of Australian public listed companies and funds management executives. The interviews and analysis was undertaken within the period 1999 to 2001.

Assumptions underpinning the study

The study assumes that there is no single, universal theory of organisational structure to inform corporate governance models (Charkham, 1995). It also assumes that models of corporate governance adapt to their context (Van den Berghe and De Ridder, 1999), and occur within a prevailing legal framework (Wymeersch, 1998). Corporate governance operates in a market based economy (Hilmer, 1993).

The objectives of the overall study included the following objective:

- To elicit a definition of corporate governance from responses given by directors of public listed companies.

Methodology

This is a qualitative study, conducted within the constructivist paradigm using a modified grounded research approach (Glaser and Strauss, 1967; Strauss and Corbin, 1990; Whiteley, 2000). The principal body of data was gathered by means of interviews.

Interviews were conducted with forty-five directors of public listed Australian companies. Directors who were interviewed were on more than one public listed board. Their experiences have been gleaned from past and present board memberships. Directors drew on this overall experience, spreading their examples over time and geographical space. The research sought a shared view of the world of corporate governance as experienced by these company directors (McCabe, 2002).

Theoretical sampling of preliminary data guided the triangulation of data sources. Categories of meaning emerged from the interview data and from literature collected from the financial press. Content analysis, an adaptation of Glaser and Strauss (Glaser and Strauss, 1967) based on theoretical rules, was used to establish the categories. Theoretical sensitivity was developed as a result of comparison of data,

allowing for numerous iterations. Principal findings are based on the categories of meaning drawn from the interview data (McCabe, 2002).

Applying the Grounded Research Approach

The research makes use of the generative aspects of Grounded Theory (Glaser and Strauss, 1967) The iterative process used permits meaning to be arrived at via discovery and emergence in such a way as to be 'provisional, capable of reforming and reshaping as interaction proceeds' (Whiteley, 2000 p. 5).

Turner (1981) and Glaser (1978) both argue that 'orthodoxy of approach' should not be imposed on those using grounded theory. However, it is necessary to ensure adherence to the guiding principles. Whiteley (2000 pp. 6-7) argues that, in the business setting, often the process of institutionalisation has laid the basis for conceptualisation to a degree that contaminates the use of pure Grounded Theory (Glaser and Strauss, 1967). While there is still a need to make use of aspects of Grounded Theory (Strauss and Corbin, 1990; Glaser and Strauss, 1967), Whiteley (2000) proposes that a modified *grounded research approach* is more appropriate. It is reasonable to argue that the concept of corporate governance has become institutionalised to an extent that warrants the use of the grounded research approach proposed by Whiteley (McCabe, 2002).

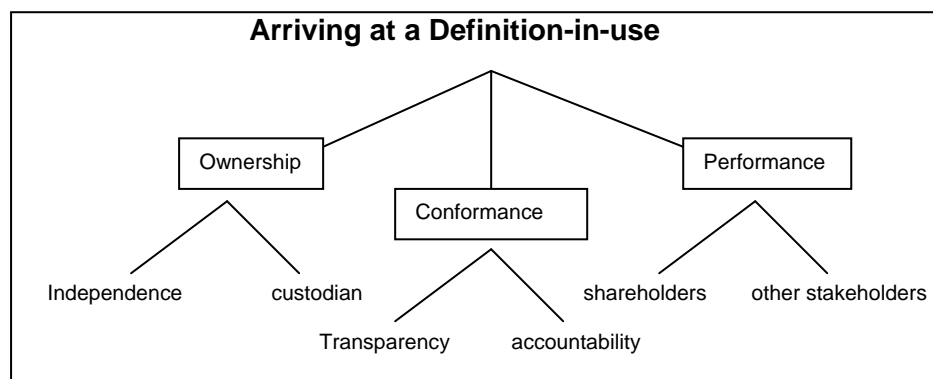
In reporting the data the convention adopted for acknowledging extracts from interviews is to introduce and to conclude each quote with the following designation .../

Corporate Governance - Definition-in-use

Directors concurred that there was a need to develop a good definition. Content analysis (Strauss, 1987) of the interviews with directors provided three categories of

data that contributed to the development of the definition. These are identified in Figure 1 as being 'ownership', 'conformance' and 'performance'.

Figure 1: Categories that provided the 'definition'



The extract below from the interview transcripts was chosen as being inclusive of the ideas expressed by other participating directors. The custodial role was considered a strong descriptor of the relationship that directors saw the BOCD having with shareholders.

.../ corporate governance is the ongoing, independent exercising of professional judgement by the board as custodians of the company's assets.../

Directors described corporate governance as the need to comply with regulatory requirements by carrying out functions that satisfied 'conformance' (see Figure 1). While some directors referred to responsibility and accountability, others referred to integrity. These were combined and added to the emerging definition.

.../ corporate governance is the ongoing independent exercising of professional judgement by the board as custodians of the company's assets.../ demonstrating integrity, responsibility and accountability.../

That the definition has a strong alignment with stakeholder theory is clearly demonstrated in the interview extracts selected as representative of the ideas provided by directors on the performance requirement of corporate governance.

.../ in the best interests of the shareholders, employees, customers and a variety of stakeholders.../

The definition-in-use arrived at using the words and ideas promoted by directors in their interviews became,

Corporate governance is the ongoing, independent exercising of professional judgement by the board as custodian of the company's assets, in the best interests of the shareholders, employees, customers and a variety of stakeholders with a commitment to demonstrate integrity, responsibility and accountability.

The definition constructed from interview extracts is further examined below with reference to both the research data and relevant literature.

Independent exercising of professional judgement

The word 'independent', as used by the participants, presents with two levels of meaning. It was used by directors to convey the ideas associated with the preferred model for Australian boards, a board structure comprised of 'a majority of non-executive directors with an appropriate mix of skills and experience' (Bosch, 1993, p. 12). Hilmer's (1993) recommendation was that no less than a third of the board should be genuinely independent.

In their interviews, directors made the point that the term 'independent' encompasses the board's activities with regard to deliberation and making judgement (Bosch, 1993;

Wymeersch, 1998). This was what directors referred to as independence of mind or independent thinking.

.../ the ongoing independent exercising of professional judgement in the best interests of the shareholders.../ you somehow need to make the directors more independent in a real sense as well as in the structural definitional sense.../

For some directors the dilemma of independent thinking was seen to be greater for executive directors. As one of the participants explained,

.../ another executive director in the board meeting cannot get a second bite at the cherry and say well I know that is what the boss is bringing but I disagree. That is tantamount to handing in your resignation.../

Despite this, participants believe that an independence of mind is a necessary attribute for any director whether executive or independent.

.../ I mean the person who is on the board has to have an independence of mind .../ I want every body to have an independence of mind.../

However pragmatism dictates that those who have both independence of income and status more easily demonstrate this type of independence of thought. As one participant suggested:

.../ it is conceivable that you would have somebody there as a representative of a large shareholder who was an independent thinker but the probability would be less just as the probability that a retired executive would be independent, would be less .../

Pease and McMillan (1993, p. 29) point out that maintaining a strong independent view should not compromise the need to also maintain 'a sufficient and 'interested'

knowledge of the company'. Bosch (1993, p. 12) argues this can be addressed by ensuring that independent directors provide 'an appropriate mix of skills and experience'. Overriding both the need for adequate knowledge and diversity of skills is the need to bring 'independent judgement to tasks where there is a potential for conflict of interest' (Directorate for Financial Fiscal and Enterprise Affairs, 1999, p. 9).

Many of the participants considered that demonstrating independent thinking would go a long way to remove the 'rubber stamp' label (Berle and Means, 1932) associated with the role of the BOCD.

.../ I think that there is a much greater tendency now for boards to become involved and familiar with the substantive issues facing companies so that they really are increasingly engaging them in debate rather than rubber stamping or rejecting from a rather uninformed base.../

The discussion of how directors demonstrated their capacity for independent thinking covered such topics as having independent sources of information, making their own independent investigation into information supplied by management and being prepared to put forward independent views. Some independent directors have their own research staff to access sources of information external to the organisation.

.../ you are talking about a man or a woman who is very much their own person, who will speak out. Who is totally free of obligation to any specific interest within a company. Is totally concerned with the best interests of the company and is prepared in the belief that they are doing that .../ in a perfect world, you would have independent sources of knowledge.../

This description of independence finds resonance with Wymeersch's (1998) description:

... independence is not only a question of regulation and legal status. At the end of the day, it is a matter of the strength of the director, of his personal stamina and willpower (Wymeersch, 1998, p. 1099).

The all important question at the time of selection to the board was considered to be,

.../ do they have independence of mind and of thought?.../

Custodial Function

The custodial concept highlights the role of the BOCD to ensure that there are internal sanctions and checks on management to prevent it from acting in its own interests rather than the interests of shareholders (the agency problem). One participant commented on the custodial role as being,

.../ the responsibility that directors have to the shareholders as custodian of the company's assets .../

Having a BOCD in place is not sufficient in itself to ensure that shareholders interests are protected. Experiences of the shareholders of companies facing financial disasters over recent decades, HIH (Chenoweth and Hepworth, 2001), Adelaide Steamship Company (Francis, 1997), Bond Corporation (Bosch, 1995), AWA (Norburn, Boyd, Fox and Muth, 2000), Enron and Arthur Andersen (Washingtonpost.com, 2004) have provided ample evidence that more than structure is required.

The perception of directors that directors should demonstrate independent judgement indicates that they see themselves operating increasingly in a context where multiple realities emerge (Griffin, Shaw and Stacey, 1998). However, this view of the way a BOCD operates recognises that the interaction of boards is not restricted to the linear dimensions of two sets of players. There is recognition that all organisational players

influence, and are influenced, by events rather than simply the BOCD and shareholders. This is a key element in the principles underpinning stakeholder theory (Freeman, 1984; 1999). In the following quote one of the directors expands on the non-linear and societal view of the custodial role of the BOCD.

.../ at a more subjective level, the question then becomes, is the board ..., as custodians of the vision and hopefully the moral driver of the company, are they discharging that responsibility? Are they ensuring through the chief executive officer that employees and their benefits are appropriate, stimulating and effective?.../

Within stakeholder theory the custodial role requires an awareness and appreciation of value systems at work within the organisation.

Best Interests of Stakeholders

Jones (1995) provides a description of the firm in its relationship with its environment;

The firm is characterized by relationships with many groups and individuals ('stakeholders'), each with (a) the power to affect the firm's performance and/or (b) a stake in the firm's performance (Freeman, 1984). In many cases both conditions apply. Stakeholders include but are not limited to shareholders (p. 404).

Jones explored stakeholder groups on the normative assumption that the interests of all stakeholder groups have intrinsic value and no set of interests should assume to dominate over the others.

Directors interviewed also hold the view that the responsibility of the BOCD is not exclusively to shareholders, but should be inclusive of all stakeholders. However, as demonstrated in their statements on the custodial role for shareholders, these

directors would not concur with Jones (1995) that no set of interests should assume to dominate over the others. When directors discussed their representative role on the board there was agreement that directors were,

.../ elected to represent the owners of the company - the shareholders .../

However directors viewed the interests of stakeholders as not restricted to this group alone, but extended to a responsibility to

.../ guide the corporation to do the right thing for all its stakeholder groups over time .../

While Jones' (1995) definition appears to exclude those who have an interest in the organisation but are not in a position to affect the firm's performance, it was not clear that directors would make as fine a distinction. One definition provided by directors describes stakeholders as follows,

.../ all the active community groups who feel that they are stakeholders and they want their views taken account of.../

The particular stakeholder groups named in the emergent definition are those identified by directors in their interviews but are not necessarily exclusive of other groups. The implication is that the social entity of the organisation is adopted in preference to the property entity (Francis, 1997). Jones (1994) suggests that taking this view means moving from the perspective of what the corporation owns to the perspective of a system of primary stakeholder groups.

Jones' (1995) definition of the firm has further implications in that it recognises that stakeholder groups (Freeman, 1984), can be in a position to influence decision making within it. It also allows for individuals to belong to more than one group. With membership of stakeholder groups overlapping, and relationships between groups

and individuals varying both in formality and specificity, predictability is lessened. These groups and individuals are also part of other groups that interact with outside entities. In this complex arrangement there is a need for decision makers to rely on information and energy that is found in the environment supporting the operational context (Stacey, 1996). For the various stakeholders connected to the organisation this calls for a continual adaptation as relationships alter and new ones are formed (Jones, 1995). For the BOCD it requires an ability to continually read the environment, gaining both information and energy, enabling it to renew itself through self-organisation (Stacey, 1996).

In Freeman's view (1984) stakeholder theory addresses the potentially confrontational nature of the predictive 'them Vs us'. As a normative theory Freeman (1984) claims that the stakeholder approach does not prescribe a particular moral stance from within a predictive model (Griffin, Shaw and Stacey, 1998) but provides a framework that invites 'a host of differing moral views' for consideration. This view is closely aligned with Griffin, Shaw and Stacey's (1998) model where effective management of conflicting positions contributes to the shared understanding of values (Whiteley, 1995) of various players. This allows for the emergence of a position that is not exclusive to any of the stakeholder groups.

Central to the application of stakeholder theory is the identification of stakeholders (Luoma and Goodstein, 1999). The question 'who are those groups and individuals who can affect and be affected by the achievement of an organisation's purpose?' (Freeman, 1984 p. 54) has raised other questions concerning groups that previously were not considered. In Freeman's view there are illegitimate stakeholder groups, such as terrorists, that must also be taken into account if strategic plans are to be implemented (Romei, Eccleston and Shanahan, 2001).

The role of stakeholders within an effective governance structure is highlighted in the *OECD Principles of Corporate Governance* (Directorate for Financial Fiscal and Enterprise Affairs, 1999). Principle III recommends that the rights of stakeholders be recognised and 'active co-operation between corporations and stakeholders in creating wealth, jobs and the sustainability of financially sound enterprises' be encouraged. Successful performance of the company is crucial, not only to the interests of the shareholders, but also to the other stakeholders.

For public listed companies, high on the list of priorities is the stated objective to 'provide superior, sustainable returns for shareholders' (BHP Billiton Ltd, 2003). As one of the participants described it:

.../ how do you measure the performance of a board? Ordinarily you measure it in relation to shareholder wealth or in relation to its strategic objectives or thrusts or performance.../

The fortune, or indeed misfortune, of any one group with interests in the organisation has a flow on effect for the entire range of groups associated with the company. As observed by directors,

.../ you see you have got to get everything in harmony and synergy .../ most biological organisms try to live in symbiotic relationships which expose them least to stress. Boards do the same thing. As the wick gets turned up, whoever is turning the wick up, society, shareholders, the industry you are in .../

In referring to the 'best interests of stakeholder' the intention is to focus on the performance of the company in a wider context than simply returning value to shareholders. Stakeholder theory (Freeman, 1984) provides a framework for the BOCD when working towards a shared understanding of all stakeholder interests.

Commitment to integrity, responsibility and Accountability

In the wake of the events of the nineteen-eighties the legal and regulatory framework controlled the way in which boards attended to conformance matters. This led to an observation by directors that integrity was no longer seen to be the operational framework for these matters (McCabe and Nowak, 1997).

First-stage analysis of the interviews with directors gave the impression that conformance activities were indeed directed and controlled by regulation. Further analysis revealed that directors believe that while these activities are controlled and monitored within a regulatory framework they should be driven by integrity. Bosch (1993) expresses a similar sentiment in the following statement,

In an economy run on market principles, the freedom allowed by society to the producers of goods and services is dependent on the degree to which the public has confidence in the integrity of the participants. The lower the standard of behaviour, the more regulations are needed (Bosch, 1993, p. 32).

Integrity is deemed by directors to underpin all that a director is called upon to do as a member of the BOCD.

.../ that the other directors on the board have integrity and have good reputations and you feel comfortable in working with them.../ decent people loaded with integrity .../ the characteristic that you are looking for in boards and management if it comes to that, is integrity.../

Some participants promoted the other side of the argument claiming that an over reliance on a regulatory approach promoted a culture where people would test the system and experiment with what they could 'get away with'.

.../ I think sometimes that changes in the law, changes in accounting methods really encourage people to be a bit cute about how they do things rather than to be absolutely transparent.../

The more proactive approach that places emphasis on the intent of the law rather than list of regulatory requirements was promoted as being more worthwhile for all interested parties.

.../ I think that people are becoming much more serious and concerned about, not only bringing out the annual report, but actually observing what is required.../

In 1996 the Australian Stock Exchange introduced Listing Rule 4.10.3 to promote the idea that corporate governance was not simply about government regulation but about directors, management and shareholders being responsible for the fate of the company (Factor, 1996).

The call by directors in this study for directors to demonstrate accountability and responsibility with integrity indicates that there is a belief among directors that conformance matters should be driven by an ethical rather than regulatory position (McCabe and Nowak, 1997). An assumption underpinning directors' comments is that integrity as an attribute of a value system is perceived and understood to be valued in the same way universally. This is an assumption that is open to challenge. Etzioni highlights the significance of moral factors within the corporation and insists that shared values are a result of extensive and continued moral dialogues (Etzioni, 1996).

Summary of the Definition-in-use

The definition includes defining features of the board, in particular its independent structure and its decision making role. It also includes the custodial role of the board

and the driving principles for dealing with conformance and performance issues conducted from a platform of integrity. The analysis here supports the position that all components of the definition are underpinned by an acceptance of stakeholder theory, recognising the corporation as a social entity.

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