Submission to Inquiry: Sustainability Reporting in the New South Wales Public Sector Inquiry

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5 October 2004

Ms Vicki Buchbach
The Committee Manager
Public Accounts Committee
Parliament House
Macquarie Street
Sydney NSW 2000

RE: Sustainability Reporting in the New South Wales Public Sector

Dear Ms Buchbach

Please find attached a report – Corporate Citizenship and the Role of Government: the Public Policy Case, that was published in 2003 for the Parliamentary Library, Parliament House, Canberra. Copies of the report can be downloaded at http://www.orfeusresearch.com.au or www.aph.gov.au/library/pubs/rp/2003-04/04rp04.pdf.

The report reviews the relationship between corporate citizenship and public policy. It argues that similar to the need for companies to understand the business case for corporate citizenship, governments should understand the public policy case for corporate citizenship, which rests on four key areas:

- National competitiveness
- The new civil governance
- Popularity with the electorate
- Complementing social policy

The report then explores the various potential policy options for corporate citizenship including not playing a role, legislation and regulation, non-regulatory activism, and governments acting as demonstrators of best practice in corporate citizenship. It concludes by suggesting that Australian governments do have a role to play in corporate citizenship but that role is not necessarily a regulatory one and offers a series of recommendations based on the non-regulatory activist model.

The report provides a rationale for why government agencies at the State and Federal level should adopt corporate citizenship practices such as sustainability reporting. The NSW Government can take up one of the preferred policy routes identified in the report by acting as a 'demonstrator of best practice' if it was to adopt sustainability or Triple Bottom Line reporting for the NSW public sector.

The report also identifies a range of initiatives other than Triple Bottom Line reporting that governments can adopt to promote corporate citizenship and sustainability.

Sincerely,

Dr Gianni Zappalà
Director, Orfeus Research &
Adjunct Associate Professor, University of Sydney

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Corporate Citizenship and the Role of Government: the Public Policy Case

Corporate citizenship means understanding and managing a company's influence on society and all its stakeholders. Good corporate citizenship integrates social, ethical, environmental, economic and philanthropic values in the core decision-making processes of a business. Until recently, the focus of the corporate citizenship debate has been on the business case—on why being good is good for business. Today, however, the focus is on the relationship between public policy and corporate citizenship, and the increasing pressure on governments to regulate corporate social behaviour. This Research Paper, which has an accompanying Research Note summarising the main arguments, explores the various potential policy options. It argues that, while there is a role for public policy in the area of corporate citizenship, that role is not necessarily a regulatory one.

Dr Gianni Zappalà
Consultant, Politics and Public Administration Group
1 December 2003

Acknowledgements

Enquiries

Executive Summary

Corporate citizenship means understanding and managing a company's influence on society and all its stakeholders. Good corporate citizenship integrates social, ethical, environmental, economic and philanthropic values in the core decision-making processes of a business. Corporate citizenship has supporters and detractors from across the political and ideological spectrum, business, non-government organisations (NGOs) and the general public. The focus of the corporate citizenship debate over the last few years has been on the business case—on why being good is good for business. More recently, the focus has shifted to the relationship between public policy and corporate citizenship and the role, if any, for government.

There is a role for public policy in the area of corporate citizenship, but that role is not necessarily a regulatory one. Similar to the need for companies to understand the business case for corporate citizenship, governments should understand the public policy case for corporate citizenship:

- national competitiveness: at the micro-level, studies clearly show that corporate citizenship practices have a positive effect on firms' financial performance. At the macro level, research is now focusing on the positive potential that *corporate social responsibility (CSR) clusters* can have on regional and national economies.

- civil governance: the contemporary trend in which the shifting balance of power between the state, market and civil society has led to new ways of providing societal direction. Corporate citizenship is central to models of governance where government is part of a wider 'network' rather than controlling through centralisation and hierarchy. Policy-makers who want to encourage 'governing without government' should therefore be interested in creating policies that encourage corporate citizenship.

- popularity with the electorate: while governments should not be constrained to supporting only those policies that have widespread political appeal, good public policy needs broad appeal to be successful. Popular opinion against socially irresponsible business practices has been growing and is a key reason that companies are taking the corporate citizenship route. Policies that promote corporate citizenship are popular with the electorate because they touch multiple spheres of peoples' lives. They will also assist in restoring peoples' confidence in key societal institutions.

- good social policy: corporate citizenship complements governments' role of providing good social policy. The social and environmental challenges facing society are too vast to be effectively dealt with by governments alone. Corporate citizenship is an important way that governments can increase economic competitiveness while also ensuring good social and environmental outcomes.

Options for public policies in corporate citizenship include:

- no government intervention in the area of corporate citizenship. This view is associated with critics of corporate citizenship, who argue that companies should not concern themselves with issues other than maximising returns for shareholders and that government should not intervene to divert the attention of companies to other issues.

- the traditional public policy approach of legislation and regulation. This path is already being followed by several governments around the world and is the preferred approach of NGOs. Much of the proposed and existing legislation in this area relates to having mandatory social and environmental reporting for publicly listed companies.

- adopting a non-regulatory activist approach. This option takes the view that while corporate citizenship should remain a primarily voluntary activity, government has an important role in providing for its support and development. The best example of this approach is that of the British government, which has a range of policies and systems in place to encourage responsible business practice. The British government's strong non-regulatory support for corporate citizenship has meant that proposals for 'harder' regulation have been unsuccessful. In other words, non-regulatory activism can be a safeguard against forms of regulation that may lead to a compliance process rather than business genuinely engaging with its surrounding community.

- governments acting as demonstrators of best practice in corporate citizenship. Measures include government agencies adopting 'triple bottom line' reporting, using government procurement and tender policies as well as 'public-private partnerships' so that companies that wish to do business with government will need to have a demonstrable corporate citizenship strategy.

Australian public policy in the area of corporate citizenship to date has been minimal and ad hoc. Policy inactivity could well create increased pressure for legislation from the electorate that may inadvertently hinder the longer-term development of genuine corporate citizenship. While there is a role for legislation, governments can do much more via supportive, coordinated and enabling policies and by showing strong political leadership on the issue. Based on a model of non-regulatory activism, options could include following the British example of appointing a Minister for Corporate Citizenship, upgrading the role of the Prime Minister's Community Business Partnership to support the Minister and commission research to form the basis of legislative review and innovation.

Introduction

Corporate citizenship or corporate social responsibility (CSR) means understanding and managing a company's influence on society and all its stakeholders. Good corporate citizenship integrates social, ethical, environmental, economic and philanthropic values in the core decision making processes of a business. Corporate citizenship has supporters and detractors from across the political and ideological spectrum, business, non-government organisations (NGOs) and the general public. The focus of the corporate citizenship debate over the last few years has been on why and how the Nikes, Westpacs, McDonald's, and Fords of the global economy have been engaging with the wider community and whether it is good for business. More recently, the focus has shifted to the relationship between public policy and corporate citizenship; in other words, is there a role for government?

Recent trends and evidence provide good grounds for believing that there is a role for government in corporate citizenship, but that role is not necessarily a regulatory one. While corporate citizenship has traditionally been regarded as an activity that companies engage in voluntarily, the growth and influence of the 'corporate citizenship movement' has led to increasing calls for governments in several countries to regulate the social behaviour of companies.

Supporters of a greater role for government in corporate citizenship can be found across the political spectrum in Australia. In February 1998, Prime Minister John Howard convened a Corporate Philanthropy Roundtable to promote the idea of a 'social coalition' and increase cross-sector collaboration between business and community groups.[1] The Roundtable later became the Prime Minister's Community Business Partnership and is returned to in later sections of this paper. Former Liberal leader Dr John Hewson, now Dean of the Macquarie Graduate School of Management, has also been a frequent commentator on the need for greater corporate social responsibility and is also Chair of the RepuTex Advisory Committee, a company that rates the corporate citizenship performance of the top one hundred companies in Australia.[2] The Shadow Treasurer, Mark Latham, who has been described as a 'passionate believer in the social responsibility of business', is also a leading proponent of a greater role for government in corporate citizenship.[3] Latham's view is that government should 'impose higher levels of corporate social responsibility' as part of the 'Third Way' approach to embracing pro-market and social democratic values.[4] While short on details, Latham's recent book *From the Suburbs* does recognise corporate citizenship as an important area for public policy.

Developing an appropriate role for government in corporate citizenship is not an easy task, however, in part because definitions and conceptions of corporate citizenship are fuzzy, varied and constantly evolving. Nevertheless, just as companies should understand the business case for corporate citizenship, governments should understand the public policy case for corporate citizenship.

This paper argues that there is a role for government in the area of corporate citizenship. It provides a broad overview of the main arguments and perspectives within the emerging debate on the relationship between public policy and corporate citizenship. The next section provides a brief overview of definitions of corporate citizenship before outlining the public policy case. The following section discusses the available routes that corporate citizenship public policy can take, providing recent examples from Australia and Europe. The penultimate section briefly puts forward some ideas for Australian public policy in corporate citizenship based on a non-regulatory activist model.

Corporate Citizenship: a Brief Overview

Corporate citizenship can be simply defined as being about 'business taking greater account of its social, environmental and financial footprints'.[5] While the terms corporate social responsibility and corporate citizenship are often used interchangeably, the latter term is indicative of a more holistic approach by companies, where the increased awareness of their role and impact in society is integrated into all business decisions and is accompanied by stakeholder engagement. As a recent text noted:

> [Corporate Citizenship] involves corporations becoming more informed and enlightened members of society and understanding that they are both public and private entities. Whether they like it or not they are created by society and derive their legitimacy from the societies in which they operate. They need to be able to articulate their role, scope and purpose as well as understand their full social and environmental impacts and responsibilities. *Corporate citizenship, as a progression from CSR, is therefore seen as a fuller understanding of the role of business in society* [emphasis added].[6]

The impact a company has on all its stakeholders is illustrated in Figure 1. The outer ring demonstrates the widest range of corporate expectations and responsibilities, while the next ring displays the primary stakeholders for a company. Figure 1 is an ideal type and in reality many of these areas are not separate. 'Social' impacts, for instance, may overlap with 'human resources' since many employee volunteer programs can lead to educational and professional development opportunities for staff.[7] 'Environmental' concerns can be addressed through internal measures such as energy and waste policies and external concerns such as product lifecycle, emissions and overall sustainable development. While 'ethical' issues are interwoven throughout all corporate policies and approaches, they can particularly affect human rights issues and labour standards, moral codes, trading policies and the types of products on offer. Finally, in the 'economic' realm, corporate citizenship can guide job creation and preservation, income growth and wealth generation, and overall product value.

Corporations have always had an influential (both good and bad) role in the development of society, especially over the last two hundred years. What has changed, however, is that the increased scope and extent of their 'ripple effect' has meant a commensurate increased focus on their responsibility to society.

Figure 1   A Company's 'Ripple Effect'[8]
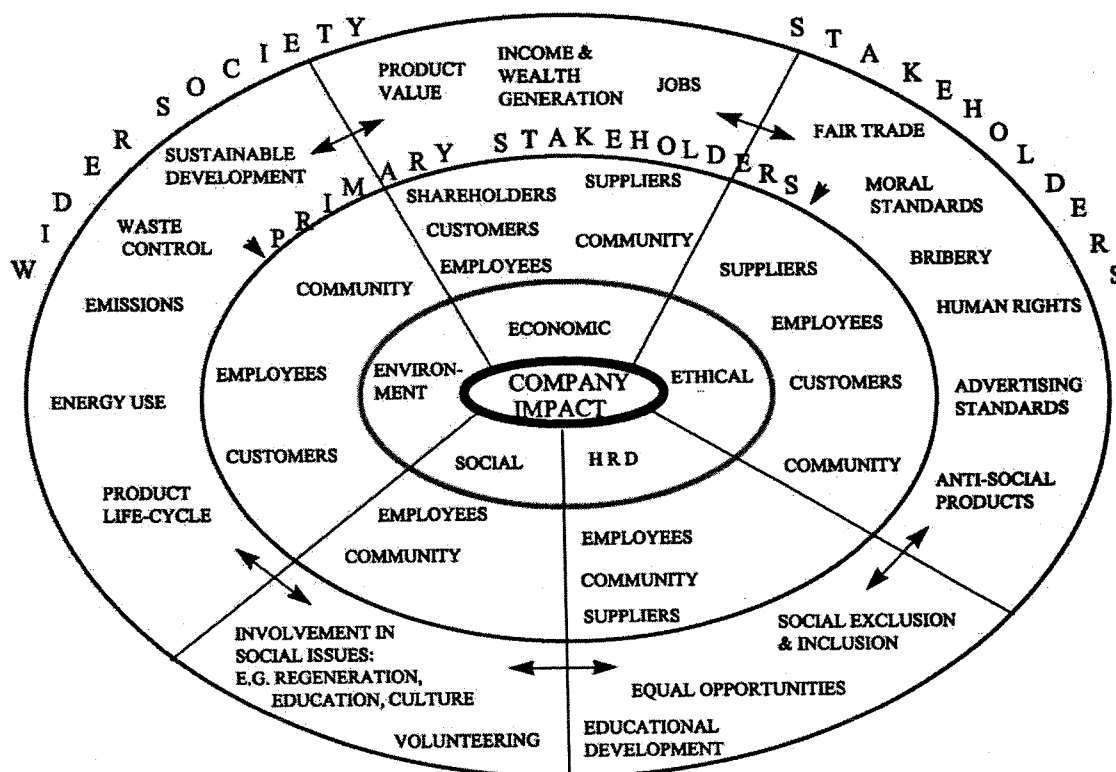
All companies, indeed organisations, can have a ripple effect on the society or societies in which they operate. Corporate citizenship as a subject and practice of inquiry has been about understanding the best way that companies can take account of their ripple effect, and mediate and transform that effect for mutual benefit. This is the essence of what has been termed the 'civil corporation'. A civil corporation is 'one that takes full advantage of opportunities for learning and action in building social and environmental objectives into its core business by effectively developing its internal values and competencies'.[9] Good corporate citizenship is therefore about integrating social, ethical, environmental, economic and philanthropic values in the core decision making processes of a business. It is only by doing this that businesses can become truly sustainable.[10]

The Public Policy Case for Corporate Citizenship

Before examining the different policy options available to government, this section outlines why government should be interested in corporate citizenship. Just as companies should understand the business case before they embark on various socially oriented activities, governments should understand the public policy case for corporate citizenship, which has at least four dimensions.

National Competitiveness

The first public policy case for corporate citizenship relates to a key concern of governments—national competitiveness. There are many factors that explain why some nations are more successful in economic terms than others, but emerging evidence suggests that the widespread adoption of corporate citizenship practices can also contribute to the competitive advantage of nations.

At the micro level, studies show that corporate citizenship practices have a positive effect on firms' financial performance through their influence on reputation, staff morale, motivation, recruitment, turnover, consumer confidence and loyalty, government relations, and risk management. The key message from this well documented work is that companies can do well by doing good.[11] The improved financial performance that corporate citizenship may lead to at the micro level of the firm, however, does not necessarily always translate into competitive advantage at the macro level of the economy. This is primarily because the number of companies that have genuinely integrated corporate citizenship values and practices into their overall business strategy are still too few and far between to have major spill-over effects on the broader economy.[12] Furthermore, corporate citizenship practices may have adverse effects on some national economies because:

- they may lead to higher wage costs for companies that subscribe to codes of conduct possibly leading them to relocate operations offshore

- some environmental practices may lead to higher prices for consumers

- the possibility that increased costs associated with corporate citizenship may lead to inflexibility and reduced competitiveness

- they may be unviable and too expensive for smaller enterprises thus putting them at a disadvantage relative to the large global corporate players, and

- they may create non-tariff barriers to trade, putting countries that are unable to meet social and environmental standards imposed by the big labels at a disadvantage.

In other words, although corporate citizenship may be good for the bottom-line of particular companies, this does not necessarily always translate to being good for the bottom-line of particular countries.[13]

Nevertheless, recent research suggests that corporate citizenship can have positive macro economic effects through the creation and operation of *corporate social responsibility (CSR) clusters*.[14] Clusters are concentrations of interconnected organizations in one place that share a variety of resources and relationships. The collective resources and interactions that develop around clusters can provide competitive advantages for firms that locate within them, as well as being a subsequent source of national competitive

advantage. Drawing on the work of Harvard University Professor Michael Porter's work that 'clustering' can be a solid basis for competitive advantage, CSR clusters enable firms to address collectively issues related to corporate citizenship, such as managing stakeholders, reducing environmental impacts and undertaking social investment in ways that increase the expertise and decrease any costs associated with corporate citizenship. This research has identified four types of CSR clusters that are summarised in Table 1.[15]

Table 1. Corporate Social Responsibility Clusters

Cluster type	Cluster characteristics
Challenge	Initiated by civil society actors and tend to be characterised by antagonistic relationships between the actors. Form the initial stage in developing competitive advantage
Market-making	Led by one or more companies they recast competitive conditions internally by creating more sustainable products, services and processes
Partnership	Formal multi-sectoral relationships between firms, civil society groups and governments that support competitive advantage
Statutory	Public policies related to corporate citizenship practices and standards that support competitive advantage

There are two key drivers of CSR clusters: the 'legitimacy' factor and the 'productivity' factor. The former refers to situations where a firm's stakeholders can have a significant impact on its financial health and long term sustainability if it ignores social and environmental issues. The latter refers to situations where the 'potential for translating social and environmental enhancements ... into labour and resource efficiency and broader productivity effects' exist.[16]

Perhaps the most significant of the four clusters with respect to potential macro-economic effects are 'market-making clusters', often led by one or more firms that take a strong leadership role in corporate citizenship. This usually involves the development of more sustainable products, services, and processes within a well-planned approach to corporate citizenship. Importantly, these 'leader' firms are able to bring about change among their competitors and suppliers, leading to the adoption of corporate citizenship across industry sectors that in turn create business opportunities for smaller firms that specialise in providing sustainability services. Examples of firms that have played a leading role in this regard in Australia include Westpac, Rio Tinto and BHP Billiton, creating corporate citizenship markets in the finance and mining sectors respectively. More recently, Insurance Australia Group's (IAG) approach to sustainability has seen it use its role as a major national insurer to influence the social and environmental practices of its extensive

supply chain, such as car smash repairers and white goods retailers, which in turn can influence the behaviour of its policy holders.[17]

Although research on the relationship between corporate citizenship and national competitiveness is still in its infancy, the area is too important to be ignored by governments and policy-makers. As is discussed later, there is a key role for public policy to nurture new forms of business models that can take advantage of the benefits of CSR clusters. The public policy challenge as some researchers have suggested is not to 'discover but to create the relationship between corporate responsibility, social inclusion and economic competitiveness'.[18]

The 'New Civil Governance'

The second public policy case for corporate citizenship relates to the new civil governance—the contemporary trend in which the shifting balance of power between the state, market and civil society has led to new ways of providing societal direction. Traditional relationships based on hierarchies are being replaced by more complex and fluid patterns of interactions, alliances and partnerships. Often alliances and partnerships between companies and civil society actors like NGOs are based initially on relationships of antagonism and confrontation (see 'Challenge Clusters' in Table 1). So-called 'name and shame' campaigns have at times led many companies in pharmaceuticals, mining, petroleum and textiles and footwear to adopt corporate citizenship practices and several have subsequently realised its competitive benefits. Initial confrontations over issues such as the use of sweat shop labour, or the prohibitive price of drugs for poorer countries can lead to more productive and continuous relationships between NGOs and companies, with the former at times adopting implementation and monitoring roles.[19]

Partnerships are central to the reasons companies embark on corporate citizenship, the community issues they focus on, how they engage in community activities and how they measure and verify their social performance. 'Partnership Clusters' have also been shown to lead to innovation and to enhance regional and national competitive advantage.[20] Multi-sectoral partnerships between companies, NGOs and government enable firms to improve their social, environmental and financial performance while overcoming the 'public goods' aspects of many corporate citizenship practices. Private firms operating alone have a natural disincentive to provide public goods like infrastructure, education, safety, or environmental protection as the benefits are enjoyed by all of society and not just those that pay for them. By partnering with NGOs or government, companies can provide some public goods (for example, corporate community involvement programs around education and poverty alleviation) while also gaining in a business sense (for example, reputation, employee motivation and skills).[21]

So corporate citizenship is central to models of governance where government is part of a wider 'network' rather than controlling through centralisation and hierarchy. Policy-makers who want to encourage this type of governance, described as 'governing without government',[22] need to develop policies that encourage corporate citizenship.

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Electoral Appeal

The third public policy case for corporate citizenship is that it is popular with the electorate. While governments should not be constrained to supporting only those policies that have widespread political appeal, good public policy needs broad appeal to be successful. Popular opinion against socially irresponsible business practices has been growing and is a key reason that companies are taking the corporate citizenship route.[23]

Voters are also employees, consumers of products and services, have savings in managed funds, and donate time and money to community and environmental causes. Corporate citizenship practices touch every one of these dimensions. Employees are increasingly demanding that their workplaces are ethical, safe, provide family-friendly hours and support their local communities. Consumer boycotts of products that are made by child labour or genetically modified are commonplace. Similarly, people are choosing to invest their money in ways that avoid companies or products considered to be harmful, leading to the growth of socially responsible or ethical investment.[24]

The political consequences of the above trends have led to the success of what are still euphemistically referred to as 'minor' or 'single-issue' parties such as the Greens. Policies that promote corporate citizenship are popular with the electorate precisely because they touch multiple spheres of people's lives. This is not about governments increasing their popularity by 'business bashing', but recognising that citizens' level of trust in big business is at an all time low compared for example to the high level recorded for NGOs that regularly participate in campaigns aimed at improving corporate behaviour.[25] Policies that encourage good corporate citizenship may assist in restoring people's confidence in key societal institutions.

Social Policy Complementarity

The final public policy case for corporate citizenship is that it is an important complement to governments' traditional role of providing good social policy. The social and environmental challenges facing society are too vast to be effectively dealt with by governments alone. Corporate citizenship is an important way that governments can increase economic competitiveness while also ensuring good social and environmental outcomes.[26] For instance, when activities such as corporate philanthropy, social venture capital, social entrepreneurship, community investment and employee volunteering are embedded within a wider strategic social policy framework, corporate citizenship can be more effective in addressing poverty, inequality and environmental degradation.[27] Individual initiatives by companies can then work together towards achieving wider societal goals that have been identified as requiring attention. In brief, corporate citizenship is attractive to government because it can substitute, complement and/or legitimise government effort and policies.[28]

Government will always have primary responsibility for social policy, but business can often bring new perspectives to solving intractable social problems. One of the best known

and successful examples of this is the partnership between the Indigenous community of Cape York and several businesses that comprise the Indigenous Enterprise Partnership (Westpac, Boston Consulting Group, Body Shop and the Myer Foundation).[29] The partnership aims to make Cape York a sustainable community for the local people by building on their own skills, knowledge and history and turning around problems associated with alcoholism, family income and economic development. The Cape York Indigenous Enterprise Partnership experience to date reinforces the earlier discussion on the new civil governance. The driver for this successful social enterprise came not from government, but from the local Indigenous community itself approaching companies like Westpac to become involved as equal partners.[30] The businesses involved gained internal benefits such as staff development and morale and external benefits such as reputation and future business sustainability. Governments' role in such initiatives is to act as a facilitator and enabler rather than the more traditional role of holder of the purse strings. As Westpac chairman Leon Davis stated recently when discussing the Cape York partnership:

> I think governments, both State and Federal, are working diligently on this [indigenous affairs] but you can't leave it to government and I don't think governments want it left to them either ... private enterprise has a special expertise ... [it] knows how to get things done, is not too worried about making mistakes because that's what business is all about, understanding what's coming down the track, correcting what you're doing so that you can anticipate mistakes and if you make mistakes you can quickly correct them.[31]

Business involvement in government policy making is not new, indeed, it has been central to neo-corporatist modes of State intervention. Unlike neo-corporatism, however, partnerships such as that described above tend to be formed and operate at the grass-roots level—at the source of the problem, rather than within formal and often bureaucratic corridors of power. To this extent, business involvement in policy making through corporate citizenship is more decentralised in nature than other forms of involvement such as neo-corporatism.

Public Policy Options for Corporate Citizenship

Given the strength of the public policy case, what are the main public policy options available to governments to follow in the area of corporate citizenship? This section outlines four broad routes.

Do Nothing

The first option is that government should not intervene at all in the area of corporate citizenship. This view is associated with critics of corporate citizenship, who argue that companies should not concern themselves with issues other than maximising returns for shareholders and that government should not intervene to divert the attention of companies to other issues.[32]

The case against corporate citizenship has a political and economic dimension. The political dimension is based on the view that civil society actors such as NGOs are a new, unwelcome, powerful and dangerous presence on the business landscape.[33] Civil society groups are also accused of being 'global salvationists' who fail to see the benefits of globalisation.[34] The role that NGOs may play within corporate citizenship varies, and includes entering into partnerships with companies, ensuring that companies comply with legislation as well as rating companies' performance against social, ethical and environmental score cards.[35] Any government support for corporate citizenship, especially in the form of legislation aimed at regulating companies' social impacts (for example, through disclosure of social reporting), only serves to bestow legitimacy on supposedly undemocratic, ill-informed and unaccountable NGOs according to the critics. Furthermore, they claim that corporate citizenship undermines the very basis of parliamentary democracy and any government efforts (weak or strong) to support it only enable NGOs to 'gain power at the expense of the electorate through Parliament' creating a form of 'civil socialism'. [36]

The approach of critics is to question the legitimacy of civil society groups that argue in favour of socially responsible business practices. The 'political' critique of corporate citizenship has recently received a great deal of attention in the media and coincided with the Federal Government commissioning the Institute of Public Affairs (a staunch critic of corporate citizenship and NGOs) to conduct a review of NGO accountability.[37] This comes at the same time that the Government's draft *Charities Bill 2003* has raised concerns that it may limit the ability of some not-for-profit organisations to lobby governments on behalf of their constituencies.[38]

The economic case against corporate citizenship is based on the view that accepting that companies have obligations to stakeholders other than shareholders deprives the latter of their legitimate property rights and instead confers power and responsibilities to groups who have no legitimate financial stake in the firm. Some commentators are also critical of the kind of multi-sectoral partnerships that were discussed in the previous section.[39] Corporate citizenship is seen as creating a situation of moral hazard because it may lead to a company's directors imposing their morals (for example, through corporate philanthropy) on others (for example, shareholders), and in effect giving away money that is not rightfully theirs.[40]

Although even the staunchest critics accept that there is a case for 'enlightened self-interest', any government support for corporate citizenship is frowned upon as it is argued that this will force companies to behave in ways that may not be in their best financial interests. It is argued that implementing corporate citizenship initiatives will increase costs and harm firm performance, distract managers from the 'real' task at hand, increase the time needed to make decisions because of the need to consult with relevant stakeholders and result in increased auditing costs due to social and environmental reporting.[41] In short, government action in this area is seen as nothing more than the imposition of another form of tax that will distort the operation of the free-market.[42]

Regulation and Legislation

The second policy route is the traditional approach of legislation and regulation. Governments already have of course numerous legislative instruments that regulate corporate behaviour in areas that are part of the corporate citizenship agenda, such as the environment, health and safety, consumer affairs, competition, and corporate governance. That companies need to observe existing laws in order to be considered socially responsible has always been a key tenet of earlier models of corporate citizenship and is a largely uncontested view.[43] The more recent regulation debate with respect to corporate citizenship, however, has been about whether governments need to introduce additional forms of legislation to regulate behaviour in areas such as social and environmental reporting, financial investment and human rights. Unfortunately, the debate has tended to become stuck in a 'voluntarism versus regulation' framework with the relevant parties unable or unwilling to see their respective merits and flaws.[44]

Another binary framework that is common in these debates is the so-called 'soft law' versus 'hard law' distinction. Soft or quasi-legal forms of regulation include the myriad of national, regional (for example, European) and international codes, conventions, directives, agreements, and standards that exist to guide companies' thinking and practice in corporate citizenship. Indeed, according to an OECD survey there were almost 250 voluntary codes of conduct with relevance to corporate citizenship.[45] On the one hand this range may provide a degree of choice and flexibility for business. On the other hand it has made complying with codes complex, confusing and expensive for many well-intentioned companies. Over the last few years some of these codes have developed a greater prominence than others and have been referred to as the 'Global Eight'.[46] They include:

- the United Nations Global Compact

- International Labour Organization Conventions

- the OECD Guidelines for Multinational Enterprises

- ISO 14000 Series

- the Global Reporting Initiative (GRI)

- the Global Sullivan Principles

- Social Accountability 8000, and

- AccountAbility 1000.

Several large Australian-based companies, such as the National Australia Bank and Westpac have been instrumental in the development and implementation of some of these codes such as the GRI.[47] In addition, several Australian-based codes and standards have

also been developed which, while having the benefit of being tailored to Australian circumstances, also have the potential to add to the confusion for businesses wishing to pursue corporate citizenship. Some of the key voluntary standards include:

- *Australian Stock Exchange (ASX)*: In March 2003 the Corporate Governance Council of the ASX released its list of ten core corporate governance principles for publicly listed companies in Australia.[48] Developed by 21 stakeholder groups, Principle 10, on recognising the legitimate interests of stakeholders has nine best practice recommendations for Board members to follow with respect to social responsibility. While all the principles are voluntary, companies will need to explain to the ASX and investors if and why they have chosen not to follow the guidelines.

- *Standards Australia*: In July 2003 Standards Australia released a suite of five new Australian standards covering areas from corporate governance to Corporate Social Responsibility.[49] They are aimed at all companies, but in particular, the smaller non-listed companies that are not covered by the new Australian Stock Exchange corporate governance principles.

The suggestion is not that these codes and standards are unhelpful or unnecessary, but that there may be a role for public policy to assist in integrating, unifying and developing the many common elements that international and national codes share so as to reduce the complexity, and thereby encourage more companies in Australia to follow corporate citizenship initiatives.[50] Two recent initiatives in this direction include:

- *Environment Australia*: In June this year, Environment Australia (EA) launched a guide to assist companies report against environmental indicators.[51] While the guide caters for Australian conditions it draws on several other national and international codes (including the GRI).

- *The Prime Minister's Community Business Partnership (PMCBP)*: The PMCBP within the Department of Family and Community Services is also preparing an Australian-based guide to assist companies report against social indicators.[52] It also draws substantially on the GRI and the final guide will be launched at the end of the year. The guide uses 15 indicators related to issues such as: employment, health and safety, training and education, diversity and opportunity, strategy and management, freedom of association and collective bargaining, Indigenous rights, community, political contributions, and customer health and safety. A guide to reporting against economic indicators is also planned for 2004.[53]

Unlike most of the 'soft-law' initiatives described above, 'hard law' initiatives require companies to behave as good corporate citizens, for instance, by having mandatory social and environmental reporting and disclosure for companies. Such legislation broadens the scope of existing corporations' legislation to include aspects of good corporate citizenship behaviour. This path is already being followed by several governments around the world. Legislation was passed in France in 2002, for example, requiring listed companies to

report extensively on their environmental and social impact.[54] In South Africa, following the second King report into corporate governance, all companies listed on the Johannesburg Securities Exchange have been required since 1 September 2003 to report on their social and environmental performance using the GRI as their framework.[55]

In 2002, a Bill that would have imposed similar reporting requirements on company directors as well as establish a new regulatory body to set corporate citizenship guidelines failed to get through the British parliament. The Bill was supported by the CORE (Corporate Responsibility) Coalition—a group of high profile NGOs including Friends of the Earth, Amnesty International and Save the Children that have also campaigned for international regulations on corporate accountability at forums such as the World Summit on Sustainable Development.[56] Although the CORE Bill has so far failed to become enacted, debate on the merits and disadvantages of such legislation has continued to be at the forefront of British debates on corporate citizenship.[57]

In Australia, two recent examples of 'corporate citizenship legislation' include an attempt by the Australian Democrats to enact a corporate code of conduct and the *Financial Services Reform Act 2001*. In the first case, the Australian Democrats introduced a Corporate Code of Conduct Bill that aimed to regulate the activities of Australian companies employing more than 100 people in offshore operations with respect to human rights, the environment and labour standards.[58] The proposed legislation would have required these companies to report in Australia how they complied with a range of standards in the above areas. Although the Bill was defeated in 2001, a revised version is being prepared for reintroduction to the Senate this year.[59]

The second example is the *Financial Services Reform Act 2001* that imposes obligations on superannuation, life insurance and managed funds to disclose the extent to which they take account of environmental, social, labour and ethical standards in their investment decisions. The small section of the Act that creates this requirement, promoted by the Socially Responsible Investment (SRI) industry, environmental NGOs, unions, and companies including BP and Westpac was modelled on similar legislation introduced in Britain several years ago.[60] The SRI component of the Act (Section 1013D (1)) has its critics, who argue that it is ill-conceived, impractical, unnecessary and will impose greater costs on financial institutions.[61] The full impact of the Act will not become evident until 2004, however, when the Australian Securities and Investments Commission (ASIC) issues its final guidelines on the principles it will use to interpret how investment managers have taken account of non-financial factors in their decision making process and disclosed that to the market.[62]

While the legislative route is the preferred approach of NGOs and many civil society groups, it has also received limited support from some sections of the business community (namely corporate citizenship leaders) as well as the general public in Australia and elsewhere. From the business perspective, such legislation is seen as a way to create a level 'corporate citizenship playing field' for all companies as well as providing a clearer direction compared to the vast array of confusing and complex voluntary codes. These

companies also recognise that governments need to establish appropriate frameworks with the right kind of incentives for business to take up the corporate citizenship challenge. One survey of approximately 700 senior managers in the UK, for instance, found that 80 per cent believed that government needs to encourage corporate citizenship behaviour.[63] Another study noted that:

> Best practice CSR companies are expected to lead the way in supporting, or at least not protesting, government regulations on social and environmental performance, believing that such regulation will give them a competitive advantage in the marketplace. This bodes well for any future potential role of government in mandating improved CSR practice.[64]

Figure 2. People's views on most effective method of corporate citizenship legislation
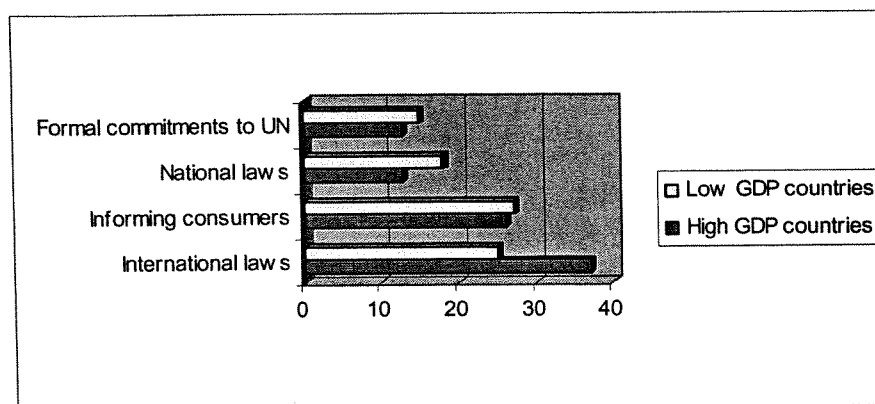
From the public's perspective, surveys reveal that a majority of people in over twenty countries think that governments should legislate to make companies more socially responsible.[65] One survey also found greater support, especially among wealthier countries, for uniform international laws as the most effective way to achieve this (see Figure 2).[66] As is discussed below, regulation is not the only policy instrument available to encourage responsible corporate behaviour; however, having few or no policies may create pressure for legislative solutions in the longer run. As the survey report noted, if demands for corporate citizenship continue to grow, 'regulators may consider a more active role in monitoring and shaping corporate behaviour, much as environmental regulations have evolved'.[67]

Non-Regulatory Activism

The third policy route, which has been termed 'non-regulatory activism', takes the view that while corporate citizenship should remain a primarily voluntary activity, government has an important role in providing for its support and development. Its philosophy is captured in a statement from Richard Lambert, editor of the London-based *Financial*

Times from 1991 to 2001, when speaking of the British government's track record in this area at the twentieth anniversary of the UK based organisation, Business in the Community:

> Its [the British government's] approach is that while responsible business practice cannot sensibly be imposed through regulation, the general regulatory and market framework should be designed to support business engagement in a responsible approach to the wider community.[68]

The British government's approach is indeed the best example of the 'non-regulatory activism' model of corporate citizenship public policy and has introduced a range of policies, systems and frameworks to encourage responsible business practice. These include being the first country to have a Minister for Corporate Social Responsibility. The Minister, whose portfolio lies within the Department of Trade and Industry (DTI), has provided strong political leadership and promotion of corporate citizenship and made it a central tenet of Britain's national competitiveness strategy. The public policy framework with respect to corporate citizenship has been to:

- ensure coordination of CSR and corporate citizenship policies and activities across the whole of government

- raise the profile of CSR and corporate citizenship

- promote the link between corporate citizenship and productivity

- assist in the development of CSR and corporate citizenship skills through the provision of education and training

- assist smaller and medium sized firms apply corporate citizenship practices

- fund research into corporate citizenship

- create incentives for the development of the kind CSR clusters discussed earlier, and

- enact a range of 'soft' or 'enabling' legislation of relevance to corporate citizenship.[69]

It is in fact similar to what was described in Table 1 as 'Statutory Clusters'—or clusters where governments play a role in supporting, facilitating and mediating corporate citizenship initiatives.[70] The European Union is now also steering away from a 'hard' regulatory approach and towards a non-regulatory activist approach to corporate citizenship.[71] Interestingly, the British government's strong non-regulatory support for corporate citizenship has been a key factor in the failure of proposals for 'harder' regulation. In other words, non-regulatory activism can be a safeguard against forms of regulation that may lead to a 'compliance process' rather than a 'compliance culture'. The former, based on enforcement leads companies to adopt a 'letter of the law response'

whereas the latter encourages companies to adopt a 'spirit of the law' approach, more likely to lead to situations where business genuinely engages with its stakeholders.[72]

The closest initiative within this policy route in Australia was the establishment in 1999 of the Prime Minister's Community Business Partnership (PMCBP), an advisory group of prominent business and community representatives appointed by the Prime Minister. The PMCBP advises and assists the government with issues related to community and business collaboration, corporate social responsibility and philanthropy. Now located within the Department of Family and Community Services the Partnership's main role to date has been to encourage partnerships between the corporate and community sectors, and promoting these through the annual Prime Minister's Awards for Excellence in Community Business Partnerships.[73] It has also commissioned research and as was noted above is also developing social reporting guidelines for Australia.[74]

Best Practice Demonstration

The final policy route is for governments to act as demonstrators of best practice in corporate citizenship. Measures include government and quasi-government agencies adopting corporate citizenship practices and principles such as 'triple bottom line' reporting.[75] A good example in Australia has been the case of Sydney Water, which after a period of difficult government and community relations has embraced corporate citizenship as a means of providing greater transparency and accountability to its stakeholders. Indeed, as part of its operating license under the New South Wales *Sydney Water Act 1994,* the organisation must 'exhibit a sense of social responsibility by having regard to the interests of the community in which it operates'.[76] Its efforts were recently recognised, with its 2002 annual report being joint winner of the best environmental reporting award in the inaugural Association of Chartered and Certified Accountants (ACCA) Sustainability Reporting awards.[77]

Governments can also use procurement and tender policies as well increasing the use of public-private partnerships (PPPs)[78] to encourage companies that wish to do business with government to have demonstrable corporate citizenship strategies. National codes of practice that companies have to abide by in order to participate in government tenders exist, for example in the construction industry. Corporate citizenship codes of practice could also be developed for specific sectors in relation to government tenders. As a report on the British experience noted:

> Requiring all bidders for government contracts to demonstrate a commitment to sustainable development would have a significant impact, especially on smaller companies which are often not touched by other activity and are less exposed to consumer and investor pressure.[79]

17

Policy Options for Australia

A recent international study of the likely state of corporate citizenship in a decade's time concluded that the 'jury is out ... as to the role of government in advancing corporate social responsibility in the foreseeable future'.[80] Two main views were identified:

- those that believed that governments will increasingly legislate for mandatory disclosure regarding reporting on companies' social and environmental performance, although less likely to enforce particular corporate citizenship standards

- those that believed that some governments will embrace corporate citizenship as a source of competitive advantage for their national economies through supporting CSR clusters. This would be done primarily through a range of voluntary and at times 'experimental' frameworks to encourage the take-up of corporate citizenship among companies.

In Australia, apart from some ad hoc legislative and non-regulatory activities, public policy in the area of corporate citizenship is minimal despite the fact that several other countries and companies have recognised the micro and macro benefits of corporate citizenship. While the work of the Prime Minister's Community Business Partnership should be applauded, it lacks the resources, authority and profile to lift the understanding of corporate citizenship in Australia above its more narrow focus on corporate philanthropy. For instance, it recently called for submissions on new and innovative ways to encourage philanthropy in Australia.[81] Outside of a broader framework of corporate citizenship that has strong political leadership, the impact of such exercises is likely to be limited.

The 'do nothing' policy option is not a feasible option given that the case against corporate citizenship is weak and based on naïve and incorrect assumptions, and it is unlikely that the kind of pressures and forces that have led companies to adopt some of its premises will disappear.[82] Australian governments therefore need to better understand the public policy case for corporate citizenship to ensure the debate here does not also fall into the 'legislation versus voluntarism' rut. Policy inactivity could well create increased pressure for legislation from the electorate that may inadvertently hinder the longer-term development of genuine 'values-led' corporate citizenship.[83]

As Australian Competition and Consumer Commission (ACCC) chairman Graeme Samuel has warned on several occasions, a 'business community that abjures social sensitivity [runs] a risk that governments would intervene to address the community's needs through regulatory requirements',[84] and 'where business declines to acknowledge a social responsibility, it can hardly complain if it is regulated for them'.[85] Similarly, as was noted in the introduction, Mark Latham's recent book argues for the imposition of 'higher levels of corporate social responsibility in this country'.[86] He states that corporate citizenship policies should be to companies what mutual obligation policies are to welfare recipients.

While there is a role for legislation, this paper has suggested that governments can do much more via supportive, coordinated and enabling policies and showing strong political leadership on the issue. Several policy options to consider are:

- appointing a Minister for Corporate Citizenship. The minister's key roles would be to promote corporate citizenship, provide political leadership on relevant key issues, ensure a whole of government approach is taken to corporate citizenship as well as coordinating corporate citizenship activities across all government agencies at Federal and State levels

- the minister's portfolio could be supported by creating a new 'corporate citizenship unit' within a department such as the Department of Industry, Tourism and Resources. This would link the internal and external focus of the unit more closely to issues of industry and competitiveness. The existing PMCBP could be moved from its present location within the Department of Family and Community Services to this Department and provide the initial resources and point of departure for a strengthened and renewed 'Corporate Citizenship unit'

- another key role of the unit would be to commission research into all aspects of corporate citizenship, including undertaking a major national survey of corporate citizenship practices and attitudes among companies in Australia. This survey would be similar in scope and function to the previously commissioned Australian Workplace Industrial Relations Surveys (AWIRS)[87] and provide an evidence base from which corporate citizenship policies could be developed in future[88]

- the unit's work should also include a focus on corporate citizenship developments in the Asian region and their implications for Australian business

- together with other relevant agencies the unit could review and suggest revisions to existing legislation on corporate behaviour and compliance to ensure it encompasses best practice developments and thinking on corporate citizenship.

Most emphasis should be placed on following what has been described as a model of 'non-regulatory activism'. The legislative route should be followed with caution and only after all other alternatives have been exhausted. If the non-regulatory activist approach is successful, it is less likely that legislative measures will be required. If business in Australia and the region is to play a positive role towards the societies in which it operates, then governments also need to provide the right framework with the appropriate incentives. Commenting on the challenges that lay ahead for government with respect to corporate citizenship, a long-term British commentator and participant in the corporate citizenship movement concluded:

> Government has a clear interest in helping to encourage notions of social responsibility among companies. It could kill the process through heavy-handed intervention. On the other hand, *supportive policies could help to nudge companies and investors in the right*

> *direction, to encourage the spread of best practices, and to provide a sound framework for social and environmental reporting* [emphasis added].[89]

The latter part of this statement provides an appropriate starting point for the work of the proposed Corporate Citizenship unit.

Conclusion

Corporate citizenship is about companies understanding and taking account of their wider influence on society and integrating social, ethical, environmental and economic values in their core decision-making. While the focus of the corporate citizenship debate over the last few years has been on the business case, more recently, the focus has shifted to the relationship between public policy and corporate citizenship. The growth of the corporate citizenship movement has led to increasing pressure on governments to regulate corporate social behaviour.

The paper outlined the public policy case for corporate citizenship with respect to its:

- contribution to increasing national competitiveness

- centrality to the new civil governance

- popularity with the electorate, and

- complementarity to the provision of good social policy.

Four public policy routes with respect to the role of government in corporate citizenship were then presented:

- doing nothing

- strengthening existing corporate regulation through introducing additional legislation in the area of corporate citizenship

- supporting and promoting corporate citizenship through 'non-regulatory activism', and

- acting as a best practice example through adopting corporate citizenship practices in government, quasi-government agencies and public-private partnerships as well as the use of procurement and tender policies.

It was argued that existing Australian public policy in the area of corporate citizenship is minimal. Policy inactivity may well create increased pressure for legislation from the electorate that may inadvertently hinder the longer-term development of genuine corporate citizenship. While there is a role for legislation, it was suggested that governments can do much more via supportive, coordinated and enabling policies and showing strong political

leadership on the issue. Some ideas for a non-regulatory activist approach for Australia were put forward.

Contemporary frameworks and thinking on corporate citizenship can trace their roots back at least half a century.[90] A key lesson from that experience is that voluntarism is the core of the corporate citizenship message. If corporate citizenship is to be genuine and successful, companies must recognise that it means going beyond compliance.[91] There is a danger that the voluntary component of the corporate citizenship message is being forgotten in the genuine attempts of some groups to focus solely on quasi-legal codes of conduct and standards, which are becoming the main concern of the corporate citizenship movement. There is no denying that codes and laws (soft and hard) have their place, but with the right policy framework and levers—what was described as 'non-regulatory activism', good corporate citizenship can also flourish.

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