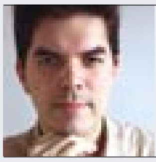
Social Corporate Responsibility



David Webb is the founder of Webb-site.com, a non-profit site established in 1998 for the promotion of better corporate and economic governance in Hong Kong. He argues that, in a democratic society, it is up to us to hold corporations to account.

BY DAVID WEBB (1983, MATHEMATICS)

Do you remember being told to "put the tiger in your tank"? Vroom! Your car will go faster. Now advertisements are all about ecologists working for Shell or how much BP is investing in solar power. Companies want you to feel all warm inside when you think about their brand. This is "green-washing", and it is perfectly logical behaviour on their part. But should we really hold fossil-fuel companies responsible for global warming? Apart from the carbon costs they incur through extraction and refining, oil companies don't consume oil: people do. And power companies don't consume electricity made from burning coal or gas: people do.

The term "Corporate Social Responsibility" is upside down. Directly or indirectly, every company is owned entirely by or for people, and the laws which determine the limits of corporate behaviour, whether in pollution, labour conditions or taxation, are made by governments, which are representatives of us all. Really, we should be talking about "Social Responsibility for Corporations", or "Social Corporate Responsibility".

Corporations are associations of members who pool their capital, behind a shield of limited liability, in pursuit of profit. The stewards of that capital have a fiduciary duty to maximise shareholder value, in competition with their peers. Any other interests, of customers, suppliers, staff, or of the directors themselves, are irrelevant unless satisfying them is in the interests of the shareholders as a whole, which it often is.

"The law does not say that there are to be no cakes and ale, but there are to be no cakes and ale except such as are required for the benefit of the Company" (Lord Bowen, Hutton v West Cork Railway Co., 1883). In essence, company directors and officers can take into account how their decisions will affect employees, customers, suppliers and the general public, but only to the extent that it benefits shareholders.

More than a century later, this still applies. In 1995, after a public outcry began damaging business, Shell Oil decided to dismantle and recycle the Brent Spar oil rig at a cost of £43m rather than sink it at £4.5m. The decision cost them an extra £38.5m, but saved them far more in lost business or averted law suits.

> "Corporations … will not voluntarily make the world a better place if it means making themselves uncompetitive."

Another example of this enlightened self-interest is that of shoe companies. They encounter negative publicity if the contractors who make their trainers in Asia do not conform to labour standards. For a shoe brand, it is better to pay a little more to a factory which satisfies those standards, than to have shoes made in sub-standard conditions, and suffer negative media coverage. Society at large sets the standards for acceptable corporate behaviour, if not by law, then by media and consumer pressure.

What about corporate charity? That shouts "breach of fiduciary duties", because "charity" implies giving money for purely altruistic reasons, not for business purposes. Charity is a personal choice (please support your College), but for a company and its board, it should be out of bounds except when it can be justified in terms of shareholder value. When shareholders invest in a company, they expect the company to maximise returns, not to give it away. If there is no benefit to the company, commensurate with the expenditure, then giving money to charity is taking it from shareholders.

Charities themselves are often shareholders with substantial endowments. The Bill & Melinda Gates Foundation Trust, for example, had over $39 billion of investments at the end of 2007. Colleges, churches, and other long-term non-profit institutions also have substantial portfolios. They expect the best possible return from investments: as much money as possible to spend on their charitable causes, employ their staff or educate their students. They don't expect the companies they invest in to give money away on their behalf.

Unless it benefits the company, the board has no more right to give shareholders' money to charity than it does to give creditors' money to charity. Imagine the outcry if your bank wrote to you and said, "Thousands are dying from famine in Africa, so we decided to give part of your deposits to Oxfam and have debited your account accordingly".

Now, I did say "unless it benefits the company". This is the key because then it matters not whether the recipient of the expenditure is a charity, and we call it a donation, or whether the recipient is a for-profit business, and we call it an operating expense. It makes sense for Standard Chartered to sponsor a charity marathon, because of the huge local publicity they get – just as it made sense for HSBC to sponsor a Formula 1 racing team, which is for-profit. Corporations can and do get good marketing value out of working with charities in their local communities, where their goods and services are sold.

But shouldn't companies give something back to society? Indeed they should: that is what taxes are for. They help pay for social welfare, education and healthcare amongst other things. It may seem odd that the companies which make the biggest song and dance about being good corporate citizens will still go all the way to the highest court in the land to challenge a tax bill, but they have a fiduciary duty to shareholders to maximise returns by legally minimising taxes. It is up to societies to set fair tax laws to finance social expenditure. It is not up to companies voluntarily to subsidise that expenditure by paying more than their fair share of taxes.

People (in democracies, at least) elect governments, and governments make the laws which determine corporate behaviour. Corporations will comply with laws, pay their taxes, and respond to consumer and media pressure, but will not voluntarily make the world a better place if it means making themselves uncompetitive, because if they do, then they won't survive long. So the next time you wish companies would behave differently, remember, it's your responsibility to make that happen. Society is responsible for corporations, not the other way around.