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The Missing Link

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Abstract

Recent years have witnessed a significant degree of administrative reform, in terms of the increasing number of major companies proclaiming their social responsibility credentials, and backing up their claims by producing substantial environmental, social and sustainability reports. The paper critically evaluates the degree of institutional reform, designed to empower stakeholders, and thereby enhance corporate accountability, accompanying these voluntary initiatives, together with that potentially ensuing from proposed regulations for mandatory publication of an Operating and Financial Review by UK quoted companies. It is concluded that both forms of disclosure offer little in the way of opportunity for facilitating action on the part of organizational stakeholders, and cannot therefore be viewed as exercises in accountability.

Key-words

Corporate Social Reporting, Stakeholder, Accounting

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Introduction

Recent years have witnessed a significant increase in the number of major companies in Europe, the USA and Australia proclaiming their social responsibility credentials, and backing up their claims by producing substantial paper, or web based, environmental, and more recently, social and sustainability reports (see, for example, KPMG 2002). Perhaps not surprisingly in view of the fall-out from Enron and similar affairs, reputation building appears to provide a primary motivating factor for companies going down the CSR path. Thus, for example, Business in the Community's (2003) 'business case' for CSR notes that it offers:

"…a means by which companies can manage and influence the attitudes and perceptions of their stakeholders, building their trust and enabling the benefits of positive relationships to deliver business advantage." (p.3)

The degree of administrative reform has certainly been substantial in terms of the production of new accountings which heighten levels of organisational transparency, potentially in the interests of improved accountability (Power, 1994). However, questions arise as to whether exclusive reliance on the 'business case' to encourage such initiatives is capable of promoting institutional reform sufficient to empower organisational stakeholders, so that this potential heightened accountability may be realised (Owen et al, 1997). Influential standards and guidelines which increasingly inform leading edge reporting practice, notably the Global Reporting Initiative (GRI) and

AccountAbility's AA1000, unequivocally suggest that it can. The former, for example, notes that:

" A primary goal of reporting is to contribute to an ongoing stakeholder dialogue. Reports alone provide little value if they fail to inform stakeholders or support a dialogue that influences the decisions and behaviour of both the reporting organisation and its stakeholders."(GRI, 2002, p.9)

For AA1000, a quality reporting process is quite simply governed by the principle of accountability, which is itself underpinned by the principle of inclusivity, i.e. accountability to all stakeholder groups.

"Inclusivity concerns the reflection at all stages of the…..reporting process over time of the aspirations and needs of all stakeholder groups- those groups who affect and/or are affected by the organisation and its activities. Stakeholder views are obtained through an engagement process that allows them to be expressed without fear or restriction." (AccountAbility, 1999, p.7)

AccountAbility's subsequently issued Assurance Standard further underlines the stakeholder accountability credentials of the reporting process in promulgating the principles of materiality, completeness and responsiveness. The materiality principle requires the assurance provider to state whether the reporting organisation has included in its report information required by stakeholders to enable them to make informed judgements, decisions and actions, whilst the completeness principle calls for an evaluation of the extent to which the organisation can identify and understand material aspects of performance. Finally, and most fundamentally, the responsiveness principle requires that,

"…the Assurance provider evaluate whether the reporting organisation has responded to stakeholder concerns, policies and relevant standards and adequately communicated these responses in its report." (AccountAbility, 2003, p.18)

Notwithstanding the democratising potential of corporate social reporting claimed by the GRI and AccountAbility, severe reservations have been expressed in the academic accounting literature as to the degree of participatory role played by stakeholders in the process. In particular, it has been suggested that prevailing stakeholder engagement practices have little to do with extending accountability and amount to nothing more than exercises in stakeholder management and corporate spin (see, for example, Gray, 2000; Owen et al, 2000; 2001; O'Dwyer, 2003; 2005).

Recent developments in the United Kingdom suggest that the time is now opportune to re-visit these claims and counter claims. Firstly, there has been a dramatic quickening of pace in terms of companies producing stand alone social and environmental reports, with KPMG's latest (2002) triennial survey of reporting practice indicating that 49% of the FTSE 100 produced such reports, whilst later (2004) figures from Corporate Register (www.CorporateRegister.com) suggest that the number now exceeds 80%. Secondly, the prospect of mandatory reporting has been raised by the Department of Trade and Industry's (DTI, May 2004) publication of draft regulations on the Operating and Financial Review (OFR), which it is envisaged will become a statutory requirement for all quoted companies. Under the provisions of these regulations a company would be required to provide information on policies 'towards its employees, customers and suppliers as well as its impact on the environment, social impacts and impacts on the wider community where that information is necessary for an

assessment of the company.' (DTI News Release ref. P/2004/177, 5 May, 2004).

My aim in the present paper is to undertake a critical evaluation of the extent of institutional reform accompanying current 'leading edge' reporting initiatives, together with that potentially ensuing from the proposed OFR regulations. To this end, for illustrative purposes I draw upon a number of reports short-listed for the Social and Sustainability categories of the 2003 ACCA UK Sustainability Reporting Awards Scheme[i], together with an analysis of the somewhat long drawn out processes which have led to the publication of the DTI's OFR draft regulations. In particular, I am concerned with assessing their potential for enhancing stakeholder accountability.

As Sinclair (1995) points out, accountability is a somewhat multi-faceted and, indeed, 'murky' term that doesn't lend itself to precise definition. Not only does it have discipline specific meanings, but even within the accounting domain there is a distinct lack of consensus as to what being held accountable actually entails. Within the social and environmental accounting field, issues of accountability have centrally informed the work of Gray et al (1987; 1996). Here accountability is considered as 'the duty to provide an account (by no means necessarily a financial account) or reckoning of those actions for which one is held responsible' (
1996, p. 38). In Gray et al's analysis, a prerequisite of participative democracy is information, and reliance is thereby placed on the emancipatory potential of greater levels of corporate social and environmental disclosure in pointing the

way towards more democratic relationships between organisations and their stakeholders. Arguably, however, Gray et al fail to address the issue of effective utilization of information by recipients, and associated power differentials between accountor and accountee, that lie at the heart of any accountability, and associated accounting, relationship (Roberts and Scapens, 1985). The accountability focus of this paper is on the potential for new corporate environmental and social disclosure initiatives to enhance stakeholder accountability via *empowerment*, in terms of *facilitating action* on their part (see Stewart, 1984; Bailey et al, 2000). The standpoint adopted is, therefore, avowedly normative (Cooper and Sherer, 1984), with a key objective being to offer some contribution to public policy debate.

Extending Stakeholder Accountability via Corporate Governance Reform? The Evidence from 'Leading Edge' Reporters

As Owen et al (1997) note, in drawing upon the work of Power (1994), for enhanced levels of stakeholder accountability to be achieved administrative (reporting) reform has to be accompanied by institutional (corporate governance) reform that offers stakeholders a meaningful voice in the corporate decision-making arena. The central importance of corporate governance arrangements in terms of delivering on CSR commitments is, indeed, clearly highlighted in Scottish Power's Environmental and Social Impact Report (2002/03);

"Corporate governance provides the framework within which we observe and enhance our socially responsible behaviour. Corporate governance is our management ethos. It determines how authority is distributed and used, and to what purpose. It is the means by which we achieve our objectives, engender a culture of ethical behaviour and moral responsibility and link business success with the needs of our full range of stakeholders. Effective

corporate governance is built on accountability, integrity and transparency." (p.10)

Significantly, all 12 reports drawn upon for the purposes of this analysis, in addition to outlining the nature of the internal governance structures employed to embed CSR issues within the corporate decision making process, express a clear commitment to engage with their stakeholders so that concerns of the latter may be adequately addressed. Thus, for example, BAA (Gatwick) refer to working with stakeholders in developing a new sustainable development policy, National Grid Transco note that their 'framework for responsible business' was developed with the help of "4000 stakeholders…including employees, government, pressure groups, media, investors, customers and regulators", whilst in similar vein BAT draw attention to developing their new 'statement of business principles' on the basis of dialogue with external stakeholders. Additionally, a number of other reporters make reference to stakeholder consultation being employed in order to identify issues to be reported upon. Fairly typical here is Scottish Power’s statement that

they;

"...commissioned research to establish stakeholders views on the relevant issues to cover in this report. We also incorporated multi-stakeholder feedback from previous Scottish Power Environmental Sustainability and Community reports" (p.3).

A further notable feature of the reports analysed lies in the impression conveyed, explicitly or implicitly, that the relationship with stakeholders is one of accountability of the organisation to the latter. Most forthright in their commitment in this regard are the

following:

"We recognise the importance of accountability to stakeholders and are aiming for a higher level of engagement and interaction, particularly with the communities in which we operate."
(BHP Billiton Health, Safety, Environment and Community Summary Report 2003, p.5)

"Premier understands that it is accountable to a broad set of stakeholders and is guided by the multi-stakeholder approaches of the GRI in its disclosure of information about performance."
(Premier Oil Sustainability Performance Report 2002, p.69)

"Our goal is to make BNFL an increasingly transparent company-one that is accountable to a wide range of stakeholders including employees, unions, customers, suppliers, local communities, governments, regulators, media, NGOs and the general public."
(BNFL Corporate Social Responsibility Report 2003, p.14)

"We are accountable to eight stakeholder groups: Public, Employees, Retailers, Community, Suppliers, Pressure Groups, Environment and Shareholders."
(Camelot web based Social Report 2003, p.4)

Accompanying acknowledgement of an accountability relationship with identified stakeholder groups is a commitment to be responsive to stakeholder concerns and needs. Thus, for example, in ringing tones BAA (Stansted) proclaims a commitment to pursuing;

"…a stakeholder partnership approach to the decision-making process on new developments and other issues affecting the wider community, listening to and understanding the concerns of stakeholders, and developing practical programmes of action to address them."
(BAA Stansted Towards Sustainability Report 2002/03, p.7)

More generally, reporters describe within their reports a wide range of stakeholder dialogue and engagement processes employed, such as questionnaire surveys, telephone interviews focus groups, liaison panels and discussion forums, designed to elicit views on performance which, it is suggested, subsequently feed into decision making and reporting processes. Significantly, the overwhelming majority of assurance statements appended to

this sample of reports are based upon the AA 1000 Assurance Standard, and, in most cases (although not all), some evaluation is offered of the company's degree of responsiveness to stakeholder concerns. A particularly detailed evaluation of responsiveness appears in *ethics etc's* audit statement accompanying the Co-operative Bank's 2002 Partnership Report which notes, amongst other things, the bank's response to falling levels of customer satisfaction and staff concerns over pressure at work and career progression. However, more usually assurance providers' comments concerning responsiveness are couched in far more general terms. For example;

"The approach adopted to reporting through an ESIR, supported by internet based performance reports, and inclusion of marketplace and workplace data and information, comprise a successful response to stakeholder research."
(csr network's Verification Statement for Scottish Power's Environmental and Social Impact Report 2002/03)

"CIS has well-developed processes to respond to the views of its stakeholders identified in the stakeholder engagement process. The report is timely and freely accessible to CIS stakeholders."
(Assurance Report of KPMG Audit Plc for CIS's Social Accountability Report 2002)

" Camelot has demonstrated both the willingness and ability to respond to the concerns raised by its stakeholders in relation to key aspects of the company's social and environmental performance."
(Ashridge's Verification Statement for Camelot's Social Report 2003)

The level of generality with which the issue of responsiveness is dealt with in the above assurance report extracts is symptomatic of a more basic problem. Quite simply, it is not possible to ascertain from a reading of the reports how, if at all, stakeholder views influence key corporate strategic decision making. [ii] Even in the case of reports, most notably those from BAT, Camelot and BT, which devote significant space to describing the stakeholder dialogue processes that have taken place one is only able to gain an impression of how

such dialogue appears to have influenced policy frameworks and the broad range of issues addressed in the report itself. BT's web based Social and Environmental Report 2003 indeed acknowledges this fact, in simply noting in the section 'Influencing BT' that;

"It is difficult to make direct links between a specific consultation exercise and a particular company decision",

before going on to describe in broad terms how such exercises help to shape overall

policy and reporting practice. It is also of relevance to note here that in some cases doubt prevails as to how stakeholder dialogue informs reporting practice, in addition to courses of action decided upon. For example, csr network's assurance statement for Scottish Power offers the following comment;

"Commendably, formal dialogue is undertaken with selected stakeholder groups to understand the information they require. Future reports would benefit from an explanation of how this, and the constant dialogue that happens during the running of the business, informs the issues, actions and performance data included in the report."

The crucial question from a stakeholder accountability perspective has to be whether the engagement and dialogue processes they are invited to participate in do meaningfully influence specific aspects of corporate decision-making, and in particular can lead to situations where their interests prevail over those of shareholders in matters of distributional conflict. For most reporters this doesn't appear to be an issue as they happily subscribe to the business case 'win-win' scenario, whereby no conflict is seen between promoting shareholder interests whilst being responsive to the needs of other

stakeholders.. BAT's Social Report 2002/03 expresses this philosophy most succinctly;

"Corporate social responsibility is integral to our approach to the management of our business globally and to building long term shareholder value." (p.3)

Encouragingly, a couple of reporters do spell out in clear terms the likely prevalence of stakeholder (and shareholder) conflict. BT's report, under the heading 'Responsiveness', whilst stressing the importance of listening and responding to stakeholder views goes on to note;

"That's not to say that all our stakeholders always agree with each other on our priorities of resource allocation. In fact, far from it! And even single stakeholders can offer paradoxical and conflicting views…"

Even more intriguingly, Premier Oil's Sustainability Performance Report 2002 claims that;

"…the interests of shareholders will not necessarily take precedence over the interests of other stakeholder groups and our business strategy is designed to promote social justice in the workplace and in our external relationships in the countries where we operate." (p.3)

Unfortunately, no specific instances in which shareholder interests have taken second place, with the financial ramifications clearly spelt out, are subsequently offered to substantiate this particular claim. In the absence of such information one can perhaps be forgiven for being somewhat skeptical, and rather believing that, in situations of distributional conflict, the standard 'capitalist rules of the game' are more likely to apply.

Such scepticism is perhaps encouraged in the case of Camelot, whose Social Report 2003 features nine 'priorities' identified with the aid of stakeholder engagement and representing "issues and actions that we believe are critical if we are to build a growing and respected lottery" (p.28). Two of these

priorities are impact on employees, "we need to improve staff morale, satisfaction and performance management"(p.42) and investment in retail, "all our retailers are seen as critical partners in the ongoing success of The National Lottery" (p.44). Given these claims it is somewhat significant to note that during the year in question 8 per cent of staff were made redundant, whilst 328 retailers failed to reach increased sales targets introduced under a sales improvement programme and had their terminals removed. Of course it must be acknowledged that Camelot has been fully transparent on these matters, offered enhanced redundancy payments and job seeking support as well as softening the effect of the sales improvement programme by designating 821 retailers as community outlets, to whom its provisions do not apply. Nevertheless, it should also be borne in mind that, despite disappointing sales figures, Camelot has always declared healthy profits. Furthermore, it is a private company whose shares are held equally by five quoted companies, and thereby not subject to the usual stock market pressures for short term returns. It is perhaps significant to note here that for Camelot accountability to stakeholders is demonstrated by 'listening and learning from them in a variety of ways', and is highly circumscribed in that that these stakeholders;

"…have no formal hold over Camelot (with the exception of shareholders) but rather, are groups with whom the company needs to develop its closest relationships in delivering its vision as the operator of The National Lottery." (p.12)

It is precisely the lack of any formal hold being possessed over corporate management by non- capital provider stakeholder groups that ensures an overall lack of accountability, in terms of action facilitation. Clearly, corporate

governance mechanisms have not evolved in such a way that stakeholder accountability, as opposed to (enlightened?) stakeholder management may be established. As noted earlier, at least amongst the sample of (admittedly leading edge in reporting terms) companies utilised for the purposes of this analysis, internal corporate governance mechanisms have been established to incorporate the CSR dimension. Generally this has been achieved by setting up a CSR Steering (or similar such) Committee, comprising of senior executives and reporting to the main board. In a number of cases (for example, National grid Transco's Risk and Responsibility Committee and Premier Oil's CSR Advisory Committee) a small number of external advisors are co-opted in order to bring in additional specialist skills. BHP Billiton's sixteen strong Forum on Corporate Responsibility (FCR), which brings together representatives of senior management, leaders of several key NGOs and community opinion leaders, appears to represent a more ambitious project in this context, although the company is at pains to point out that;

"The Company is not bound by the advice of the FCR, and the FCR does not necessarily endorse the Company's decisions."
(BHP Billiton Health, Safety, Environment and Community report 2003, p.19)

Most highly developed in terms of incorporating an external dimension into CSR internal governance procedures are Camelot and BT. The former utilises an Advisory Panel for Social Responsibility, chaired by a non-executive director and comprising individuals 'with professional expertise in stakeholder concerns' each of whom focuses on the concerns of a particular stakeholder group. The Panel reports to the main board and both reviews and signs off the annual social report, in addition to advising on strategies for continuous

improvement. BT operates an even more elaborate structure via a fifteen member (including twelve external members) Stakeholder Advisory Panel, together with a separate Independent Advisory Panel comprising of four external members. The former group 'meets twice a year to share insights into societal trends and expectations' which help shape corporate policies and practices, with BT representatives reporting back at each meeting on progress made against the Panel's recommendations. The latter group's responsibility is to act as independent advisors in the development of the company's external reporting procedures and produce a substantial statement on their activities in the annual BT Social and Environmental Report.

Whilst the bringing in of an expert external dimension into CSR governance procedures, with a direct line established to main board level decision-making, is certainly a step forward in transparency terms, it is debatable as to how much such initiatives achieve in terms of empowering stakeholders and thereby democratising the whole CSR process. The crucial point here is that the external participants (as far as may be ascertained) are appointed by corporate management, rather than being elected by those they purport to represent. Quite bluntly, these individuals represent no-one but themselves and are therefore directly accountable to no-one but themselves. Significantly, forums at which stakeholder groups (predominantly employee and local community groups) are directly represented are confined to consultative committee type structures, completely separated from the key strategic decision making arena, which more enlightened organisations have operated

for many years-certainly before the new wave of CSR practices achieved their current level of popularity.

The lack of any real external stakeholder presence within internal corporate governance mechanisms is further exemplified in the way the assurance process, which all twelve reporting organisations have submitted themselves to, operates.[iii] Overwhelmingly (in 75% of cases) assurance providers make specific reference to carrying out their work with reference to the AA1000 Assurance Standard which, as noted earlier, has a profound stakeholder orientation. Strange, therefore, that only in three cases (Co-operative Bank, BAA and Scottish Power) is the assurance provider's obligation to stakeholders specifically referred to. More significantly, and in clear contrast to the financial audit report addressed specifically to shareholders, the assurance statement is not addressed to the organisation's stakeholders. In nine cases the report has no addressee, whilst in the other three (BAT, Shell and CIS) the company itself is acknowledged as the principal in the assurance exercise. Basically here, we have a situation where the assurance provider is appointed by corporate management and, if they report to anyone, report to the same constituency. Most damning in the context of the assurance exercise in any way acting as a mechanism to empower stakeholder groups is KPMG's assurance work (carried out in accordance with the AA1000 Standard) for CIS's Social Accountability Report 2002, where the engagement is referred to in the following terms;

"This assurance report is made solely for CIS in accordance with the terms of our engagement. Our work has been undertaken so that we might state to CIS those matters we have been engaged to state in this report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume

responsibility to anyone other than CIS for our work, for this report or for the conclusions we have formed." ((p.75)

Extending Stakeholder Accountability via Civil Regulation? The Operating and Financial Review

The above analysis suggests strongly that, even amongst leading edge reporters, administrative reform has not been accompanied by any meaningful institutional (or corporate governance) reform designed to extend stakeholder accountability in the sense of facilitating action on the part of the latter. In the absence of government regulation, which is clearly not on the agenda in the prevailing voluntaristic climate dominating matters of CSR policy, not just in the UK but Europe more generally (see Commission of the European Communities, 2002), this situation is highly unlikely to change. An alternative means of introducing a greater measure of social control over business behaviour, it has been suggested, lies in civil regulation. As Parkinson (2003) explains, control here is enforced chiefly by markets, rather than the law, and relies on public pressure to bring about more socially responsible corporate behaviour. The practical advantages of going down this route are that;

"It does not depend on altruism, nor does it require problematic governance reform. Rather it works with the grain of the profit motive, by penalising companies for socially disapproved, and rewarding them for exemplary, conduct." (Parkinson, 2003, p.25)

Parkinson goes on to point out that effective civil regulation can only be brought about in situations where an adequate disclosure regime operates, one which, he argues, in common with social accounting researchers such as Gray (see, for example, Gray, 2001), is unlikely to evolve voluntarily as far as social disclosure practice is concerned. As noted earlier, the prospect of mandatory reporting in the UK has recently been raised by the publication of

draft regulations on the Operating and Financial Review by the DTI (May, 2004). Significantly, for Parkinson;

"The effects of the requirements regarding disclosure of policies and performance with respect to workforce, environmental and social and community issues are potentially far reaching." (p.37)

However, how far reaching these effects might be is crucially dependent on the availability of channels being available whereby non-capital providing stakeholders may be empowered to effectively utilize the information provided.

Provision for mandatory publication of an OFR first appeared in the July 2002 White Paper, 'Modernising Company Law' (cm 5553), which itself represented the outcome of an exhaustive three year review of company law by the government appointed Company Law Review Steering Group. Whereas it was initially envisaged that the OFR proposals would form part of a new Companies Bill, a decision was subsequently taken to 'fast track' its introduction by means of secondary legislation under existing company law.

Two elements of the provisions relating to the OFR proposals contained within the White Paper are of particular significance. Firstly, the stated objective of publishing an OFR is to provide;

"…such information as will permit *the members of the company* …to make an informed assessment of-
[a] the company's operations;
[b] its financial position; and
[c] its future business prospects" (paragraph 73.3, emphasis added)

Secondly, proposed OFR content consisted of two elements- 'compulsory' and 'duty to consider'. The former comprises a statement of the company's business, a fair review of performance and financial position and a fair

projection of future prospects and events which will, or are likely to, substantially affect the business. The latter consists of additional information necessary to achieve the above review objective. Amongst matters specified under this heading are policies and performance data concerning employment, environmental, social and community issues. The determination of whether 'duty to consider' items should appear in the OFR rests on a decision as to their 'materiality' in the context of enabling an informed assessment of the business to be made. The White Paper stresses that it will "…of course be for directors to decide precisely what information is material to their particular business" (paragraph 4.33). However, the White Paper went on to note the Government's intention to establish, " …an independent group of experts to help in the process of providing guidance on how directors can assess whether an item is material to their company and hence must be included in an OFR" (paragraph 4.34).

An independent group of experts, 'The Operating and Financial Review Working Group on Materiality', was duly appointed and produced a consultation document on 27 June 2003.[iv] This addressed "…the concept of materiality; the principles to be applied in arriving at a judgement on materiality; and the process directors should go through, as part of the total process of good governance, in deciding what should be included in their OFR" (p.6). Significantly, in considering the concept of materiality the Working Group, whilst accepting that, per the approach of the Company Law Review (CLR) and subsequent White Paper, shareholders provide the primary

audience for the OFR, went on to state their belief in the importance of thinking about other various classes of potential users.

The following extended quote encapsulates the thinking of the Working Group in this regard, whilst also highlighting unexplored tensions in reconciling how the interests of shareholders and other stakeholder groups, together with how the differing goals of accountability and financial return, may be reconciled .

"…The philosophy of the CLR and the White Paper rests on the proposition that companies are managed for the benefit of their members and thus it follows that the primary audience of the OFR must be the members, albeit that the information provided in it *will clearly, and rightly, be of direct benefit to other users who may have an interest in the company's affairs*. But the CLR and the White Paper also recognise that it is vital for directors to take a broad view of the *factors determining the success of their business* and, in particular this means recognising the role that all the company's relationships play in its success. Issues that are of significant interest to customers, to employees, to suppliers and to society more widely are, or will very likely become, matters of concern for shareholders too. If there is the potential, for example, for the way the company manages a particular environmental challenge to affect directly or indirectly, significant numbers of people and thus affect its reputation, this is clearly relevant to shareholders because of the likely consequential effect on *profitability* and hence on *shareholder returns*. A key objective of the OFR is to strengthen accountability, *including accountability for the way in which such issues are managed.* So the key question in deciding whether or not an item is material…should be: "Does this item matter to the members, either directly, or indirectly, as a result of its significance to other stakeholders and thus to the company." (paragraph 20 iv pp.15-16, emphasis added).

Whilst the above extract from the Working Group's consultation document doesn't, of course, directly challenge the primacy of shareholder interests (note particularly the implicitly narrow interpretation of the word 'success') it does muddy the waters somewhat in mentioning the possibility of stakeholders obtaining 'direct benefit' from information provided within the OFR, and positing as a key objective of that document the strengthening of

'accountability'. In the latter context it is apposite to recall that the White Paper more narrowly interpreted the role of the OFR as being merely one of enabling an informed assessment of the business to be made. Later suggestions made in the consultation document, when discussing principles and processes to be followed by directors in resolving materiality considerations also hint at a desire on the part of the Working Group to establish somewhat more ambitious objectives. There is, for example, reference made to exploring and understanding the agendas of a range of different stakeholder groups, and to the benefits of consulting with key stakeholders as to the material that should properly appear within the OFR. Furthermore, it is suggested that various guidelines and standards used in the context of 'stand alone' environmental and social reporting (whilst not recommending that such reports should not continue to be separately produced) may prove helpful in reaching decisions on materiality questions.

Certainly, the response of business organisations, and some individual companies, to the consultation document suggested a great deal of unease at the direction the working group were moving. [v]

"There must be clarity that the OFR forms part of the current system of company law in this country, and that proposed in the Company Law Review and the White Paper. We do not have, nor should we move towards, a stakeholder model. Director's duties are and will continue to be owed to the members as a whole. The views of, and the impact of the activities of the company on, others ('stakeholders') may well be of relevance in certain circumstances, but the tenor of the Consultation Document is an insidious creep in the direction of the stakeholder model and at odds with the White Paper."
(Institute of Directors, pp.2-3)

"For the moment, the best that we can say is that CBI members do take some comfort from your consultation on Materiality, and the key premise you put forward that materiality is a matter for the judgement of each individual board,

and is not a benchmark set by some separate criteria, independent third party or reasonableness test. However there is ambiguity over whether the board should regard the interests of shareholders as paramount, and users of accounts or have equal regard for other stakeholders. We are very strongly of the opinion that it should be the former."
(CBI, pp.-2)

"The guidance as phrased by the Working Group could lead to unwarranted prominence of matters included for their significance to other stakeholders."
(The Hundred Group of Finance Directors, p.2)

" It is in shareholders best interests for companies to have regard to the interests and concerns of other stakeholders…However, the OFR should not be written to address these other stakeholder groups specifically"
"…we do not support the involvement of external parties in the determination by the board of material matters for disclosure in the OFR."
(BT Group plc, p.1 and p.4)

"We…share the CBI's concern that it needs to be made clear that a board's statutory or legal obligations regarding the OFR are limited to shareholders and do not extend to all potential users of the OFR."
(Scottish Power plc, p.2)

The vehemence of the above responses is of some significance, not just in the light of today's ubiquitous claims on the part of leading companies of subscribing to notions of corporate citizenship and responsiveness to stakeholder interests, but also in view of the fact that the OFR Working Group's report offers no challenge whatsoever to directors exercising their own discretion in deciding upon OFR content, or indeed to the doctrine of 'enlightened shareholder value' adopted in the White Paper. The latter indicates that:

"…the basic goal for directors should be the success of the company in the collective best interests of shareholders, but that directors should also recognise, *as the circumstances require*, the company's need to foster relationships with its employees, customers and suppliers, its need to maintain its business reputation, and its need to consider the company's impact on the community and working environment."
(paragraph 3.3, emphasis added).

Should there be any doubt as to what this process entails in practice, the DTI draft regulations, which are designed to implement the White Paper proposals with very minor modifications, [vi] make things only too clear. For example, it is noted that, "…the OFR is addressed, as with other company reporting, to the 'members' or shareholders" (paragraph 3.7); that the objective is to "...allow shareholders to assess the company's strategies and their potential to succeed"(para3.5); and that it is "…through shareholders exercising informed influence over companies that their expectations and those of the wider community will best be met " (paragraph 2.3). Furthermore, it is emphasised that the OFR "…must reflect the *directors'* view of the business" (paragraph 3.32, emphasis in original). To the extent that it is appropriate to consider social and environmental factors this is apparently only necessary when financial loss may ensue through ignoring them. Thus, in considering environmental and health and safety issues the concern is that a poor record "…could adversely affect a company's standing and business prospects" (paragraph 3.33). Helpfully, the draft regulations go on to point out that, "The financial loss to the company from poorly managing these issues could be direct…indirect…or from costs associated with missed opportunities" (paragraph 3.34). Similarly, employment issues may be of concern solely because "…the way a company manages and utilises its workforce can have a significant impact on the performance of the company" (paragraph 3.35).

The subordination of the social and environmental dimensions of performance to that of the financial as far as OFR reporting is concerned is made

particularly clear in paragraph 2.5 of the draft regulations, which states the government's belief that the OFR will lead to;

"…directors deciding in good faith what would be most likely to promote the success of the company, taking account of a wide range of factors, within and outside the company, which are relevant to achieving its objectives and to an assessment of its business. These factors *may well include* the company's impact on the environment and on the wider community, and its relationships with employees, customers and suppliers" (emphasis added).

Rather strangely, in view of the above, it is claimed in the draft regulations that the OFR proposals are designed to improve corporate governance via "…improved transparency and accountability, with improvements to the quality, timeliness and accessibility of information available for shareholders and *others*" (paragraph 2.2, emphasis added). It is further suggested that, whilst prepared for shareholders, the OFR will be relevant to "…other stakeholders (including employees) and the wider public, who have a variety of relationships with the business" (paragraph 2.4).

Notwithstanding a reference in the draft regulations to the Government considering a requirement for directors to state the fact where they have concluded that there is nothing relevant to report in respect of social and environmental issues, and the Materiality Working Group in their final report (May, 2004) continuing to encourage directors to 'take a broad view' in exploring and understanding a wider stakeholder agenda, it is hard to see the current OFR proposals leading to much in the way of transparency or meeting stakeholder needs. The absolute primacy given to shareholder interests, together with the suggestion that social and environmental issues are only of relevance when there are financial implications for the company, are hardly encouraging in this context. Furthermore, the responses of business

organisations and individual companies to the OFR Working Group's consultation document give a rather clear hint as to how the discretion allowed to directors over disclosure decisions is likely to be exercised.

Significantly, responses to the consultation document by the Association of Chartered Certified Accountants (ACCA), the Corporate Responsibility Coalition (CORE) [vii] and the fair trade organisation Traidcraft similarly draw clear attention to the weaknesses of the proposed OFR in terms of promoting civil regulation. The ACCA response, for example, notes that it will be;

"…difficult to avoid the impression in the minds of preparers especially of the lesser significance attached to those OFR subjects marked as 'only when material', as compared to compulsory items." (p.2)

It is also pointed out that whereas items such as carbon emissions or health and safety related performance may not be judged material to users narrowly defined as investors or members they may be considered significant for the wider community. The CORE response, indeed, develops this point further in arguing that;

"As the guidance is currently drafted it is not clear why adverse impacts would ever be disclosed, if this is not in fact significant for shareholders. We believe that placing an emphasis on the duty of a director to operate in the interest of the company members only perpetuates a system where the more serious an impact is on stakeholders, the less likely it is to be disclosed, as any disclosure would create a negative financial impact on the company and ultimately its members." (p.10).

For CORE, the major problem with the Working Group's recommendations is that they exhibit a clear bias towards companies and preserving the status quo in allowing far too much discretion to directors and failing to specify adequate compliance mechanisms and penalties. They go on to stress the need to;

"…ensure companies are made legally accountable for their social, environmental and economic impacts by placing a duty on directors to consider these matters; requiring mandatory reporting and independent auditing of social, environmental and economic matters." (p.2)

Additionally, attention is drawn to the necessity for considering some form of formal complaint mechanism whereby stakeholders are enabled to bring forward grievances based on the contents, or relevant exclusions, of a particular OFR. Traidcraft's response similarly highlights the need to introduce effective compliance and complaint mechanisms whilst also calling for stakeholders to be involved in the assurance process so that they may evaluate the reliability of the information the directors are assessing;

"It is only stakeholders, which are affected by the company, that can assess whether the information collected…by the board is accurate." (p.10)

Concluding Comments

The above analysis suggests that mandatory reporting of social and environmental information via the OFR proposals is likely to be as ineffective as voluntary disclosure of such information in a special purpose report in terms of facilitating action on the part of organisational stakeholders. The common feature of both approaches lies in the fact that administrative (reporting) reform is viewed in isolation from any necessary institutional reform which may provide the means for stakeholders to hold company directors accountable for actions affecting their vital interests. As Williamson (1997) argues;

"Disclosure of information can only have limited effect…because the likelihood of it leading to action depends on the ability of others to use information in forums in which they have a legitimate voice." (p.160)

Whilst the corporate lobby apparently espouses a commitment to stakeholder responsiveness, and even accountability, their claims are pitched at the level of mere rhetoric which ignores key issues such the establishment of rights and transfer of power to stakeholder groups. The notion of emancipation without losers that is peddled, of course, conveniently avoids confronting the structural reality of redistributive conflict (Froud et al, 1996). As Stoney and Middleton (2001) point out, the very ambiguity and indeterminacy with which the concept of stakeholding has been imbued explains a great deal of its appeal. Indeed, it is not without significance that the equally slippery concept of 'sustainability' has been embraced with similar enthusiasm by companies (Tinker and Gray, 2003).

Notwithstanding corporate rhetoric, exemplified in particular in current social and environmental reporting initiatives, it is quite impossible to envisage stakeholder accountability being established in a situation where company directors acknowledge enforceable duties only to shareholders and , at least in Anglo- Saxon capitalism, pursue a pre-occupation with maximising shareholder value (see Collison, 2003; Bakan, 2004). For stakeholder accountability to be established and associated reporting exercises to be meaningful in empowerment terms, a far more pluralistic form of corporate governance must be instituted. In sum, there has to be a clear recognition that there are other normatively legitimate stakeholders than simply equity shareholders alone (Phillips et al, 2003). Other groups after all, particularly employees, make firm specific investments and incur risks in the way in which shareholders do. To deny them representation in the governance of the

company therefore appears somewhat difficult to justify on moral grounds (see, for example, Gamble and Kelly, 2001).

What has to be recognised is that despite the claims of writers such as Sternberg (2004), for whom stakeholder theory is 'a deeply dangerous doctrine', the corporation is not coextensive with the shareholders. As Phillips et al note;

"It is an entity unto itself. It may enter into contracts and own property…It has standing in a court of law. Limited liability assures that shareowners are not, in general, personally liable for the debts of the organisation…Top managers are agents for the corporation and this is not merely a shorthand way of saying that they are agents for the shareholders. The corporation is meaningfully distinct." (p. 483).

Kay (1997) similarly rebuts the notion that shareholders in any real sense 'own' the company, as opposed to having particular and specific claims upon it, and points out that the 'organic' model of corporate behaviour (whereby the corporation has a life independent from its shareholders) describes the behaviour of large companies and their managers somewhat better than does the prevalent principal-agent perspective. However, in Bakan's (2004) analysis, the fact that the corporation as an entity is distinct from its shareholders has not prevented management from privileging shareholder interests above all others, rather than adopting a wider stakeholder model which encompasses multiple objectives.

Criticisms of the organic, stakeholder, model of the organisation traditionally focus upon problems in pursuing multiple objectives and balancing benefits for all stakeholders thereby establishing an accountability that is so diffuse as to be ineffective (see, in particular, Sternberg, 2004). However, as Phillips et al

argue, the stakeholder model does not advocate that managers serve the interests of multiple masters, but rather the interests of one-the organisation. They go on to point out that maximisation of shareholder wealth in itself is an indeterminate objective, given the innumerable ways in which it may be pursued. Furthermore, the diffuse accountability argument can readily be countered by establishing a stakeholder statute prescribing corporate objectives and responsibilities towards specified stakeholder groups (see Kay, 1997). In order to adequately enforce such a statute, a legal mechanism would need to be put in place to ensure that the composition of boards of directors is reflective of stakeholder concerns, an issue specifically raised in Traidcraft's response to the OFR Working Group's consultation document. A widely touted mechanism here is that of a two tier-executive and supervisory - board system, with stakeholder groups having a central role in nominating and selecting members of the latter (see, for example, Parkinson, 1997).

Stoney and Winstanley (2001) point out that it is quite fallacious to imagine that "…stakeholding can change the corporate balance of power without the support of wider societal reform."(p.613). As I have argued in this paper, it is equally fallacious to imagine that accountability to stakeholders can be established by reporting reform alone. Significantly, the Company Law Review Steering Group, whose deliberations resulted in the 2002 White Paper, considered, and roundly rejected, the adoption of a pluralist approach towards defining directors' duties (DTI, 2000). Under such an approach company directors would have owed an *enforceable accountability* to a wider range of stakeholders than merely capital providers. For one influential commentator

(Cowe, 2000) its rejection simply ensured that stakeholder rights are no longer on the agenda, and Victorian age company law is set to stay. Certainly, the OFR proposals produced under the aegis of the preferred ‘enlightened shareholder’, or ‘inclusive’, model (DTI, 2000) do little to enhance corporate transparency and, even more fundamentally, it is quite impossible to envisage how stakeholders could effectively utilise the information provided anyway. The latter point can equally be made about the, admittedly copious, information contained in stand alone social and environmental reports. Whilst sometimes not explicitly acknowledged, the same enlightened shareholder perspective underpins these latter initiatives, albeit going under the banner of ‘the business case’ in this instance. It is indeed salutary to recall that some thirty years ago reporting reform was advocated on the grounds of establishing ‘public accountability’ (Accounting Standards Steering Committee, 1975). Despite the level of administrative reform experienced since that time we have clearly gone backwards as far as moves to establish a wider corporate accountability is concerned. Such a situation cannot change unless the nettle of institutional reform is firmly grasped.

[i] Fifteen reports were short-listed under these two categories. For the purposes of this analysis the three SME reports short-listed have been excluded. Those utilised are:
Sustainability Reporting Category:
BAA
BHP Billiton
BT Group
National Grid Transco
Premier Oil
Scottish Power
Shell International
The Co-operative Bank
Social Reporting Category:
BAT
BNFL Engineering
Camelot Group
CIS

[ii] One notable exception here is the clear description in the Co-operative Bank's report of how consultation with customers has influenced the review of the bank's ethical lending policy, an issue drawn attention to in the assurance provider's statement.

[iii] For a fuller discussion of issues raised here see Owen and O'Dwyer (2004).

[iv] Members of the Working Group were:
Rosemary Radcliffe CBE, Chair (Economist and business consultant; Independent Complaints Commissioner for the Financial Services Authority; Member of the Company Law Review Steering Group)
Gerry Archer CBE LVO (Chairman, Company Reporting Working Party, Advisory Committee for Business and the Environment)
Deborah Doane (Head, Corporate Accountability Programme, New Economics Foundation)
Mark Goyder (Director, Tomorrow's Company)
Phil Hodkinson (Chief Executive, Insurance 7 Investment Division, HSBOS plc)
Mary Keegan (Chair, Accounting Standards Board)
Rob Lake (Head of SRI Engagement and Corporate Governance, Henderson Global investors)
John Parkinson (Professor of Law, University of Bristol; Member of the Company Law Review Steering Group)
Graham Ward (Senior Partner, Global Energy & Utilities Group, PricewaterhouseCoopers)

[v] A total of 79 companies and other organisations responded to the consultation document. Responses were accessed via the DTI website (www.dti.gov.uk/cld/financialreview)

[vi] Modifications entailed minor changes to the compulsory disclosure elements; replacement of the 'materiality' criterion by one of 'to the extent necessary' (this is to bring terminology into line with that of the June 2003 EU Accounts Modernisation

Directive, whilst the underlying concept remains unchanged); and a provision for the mandatory OFR to apply to all quoted companies, rather than to public and private limited companies over a specified size threshold

[vii] The Corporate Responsibility Coalition comprises 50 national organisations, led by a Steering Group which includes Amnesty International (UK), Christian Aid, Friends of the Earth, New Economics Foundation and Traidcraft. Their stated vision is, 'to ensure companies are more transparent and held accountable to a wider community of stakeholders through changes to UK company law'

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