

the first law of CSR

Adrian Henriques asks whether the honeymoon for voluntary, self-regulation may be drawing to a close.

Should CSR be regulated by law? The current situation in the UK is a celebration of diversity. There are laws or regulations covering things such as the minimum wage, Health & Safety and disclosure to investors, but none covering overall disclosure of environmental impact, little covering supplier relationships and almost nothing on community impact. Opinion in the CSR world is just as diverse, some favouring a legal framework for CSR and others fearing it would destroy everything.

The most common reason given for why new legislation would set CSR back is the lowest common denominator argument. This suggests that if there were legislation around CSR, then companies will deliver what the law requires, but never more. At the moment, voluntary CSR is experiencing a hundred flowers in bloom. But legislation, the argument goes, would wither ethical motivation to its roots.

Strangely, the EC Green Paper even suggests that CSR be *defined* as that which is not legally mandatory. This is a very odd position. In many parts of the world where legal norms are not well embedded, ethical performance is centrally concerned with whether or not the laws which do exist are actually observed in practice. And in the UK, if you want to know the ethical performance of the catering trade, in which many people are paid around the minimum wage, it is crucial to have disclosure on exactly how tips are distributed.

In reality minimum wage legislation has not meant that we are all suddenly paid only that minimum. Environmental legislation has not capped car manufacturers' efforts to produce cleaner cars. Why should CSR, as a whole, be any different? If there is a business case for CSR, then it will still be there after legislation. Legislation on performance functions as a floor. It would remove the long tail of under-performers, not the headroom for high achievers.

But is legislation also going to raise the ceiling? There is a big difference between legislation on actual performance, say on emissions or wages, and legislation on disclosure. Legislation or regulation of performance, although it is what many stakeholders expect, may sometimes have perverse effects (for example the firing of child workers in supply chains). Legislation on disclosure will not. Legislation on disclosure works by generating trust and catalysing change through the development of policies, management systems and commitment.

This year the government is likely to introduce to parliament a new Companies Bill. This will require some level of reporting on social,

environmental and economic performance. It will require only that companies report on what they do, not tell them what that should be. So perhaps the first real law of CSR will be “Disclose”. Will that be supported by the corporate CSR community?

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