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Corporations are moving towards more voluntary reporting of social, economic and environmental information. In the long run, will this trend turn out to be merely a form of greenwashing, or will it be a part of a deeper shift in which corporations genuinely take responsibility for their social, economic and environmental impacts? This article discusses the development of legal and institutional frameworks for corporate transparency and accountability.

History of Corporate Regulation

In the U.S., before the Civil War, the states exercised firm control over corporate behavior. Corporations generally were chartered for a specific public purpose, e.g., to build a road or a canal, and were disbanded when the purpose was accomplished. However, by the 1870s

> "major corporate interests had pressed the federal and state governments to treat them in ways that allowed essentially uncontrolled accumulation of wealth with minimal liability for harm to workers or the public at large. Another watershed came in 1886, when the Supreme Court ruled that a corporation was a 'natural' person subject to all the protections of the Constitution. This decision effectively reversed hundreds of state laws governing the wages, working conditions, ownership, and tenure of U.S. corporations. It also heralded a period of more than 40 years during which governments and corporations showed little inclination towards transparency. Burgeoning corporate power was accompanied by secrecy; greater accountability would have to wait several decades, one world war, and the collapse of the stock market." (33)

Regulations that emerged in the first quarter of the twentieth century focused on maintaining competition and breaking up monopolies. After the collapse of the U.S. stock market in 1929, the Securities and Exchange Commission (SEC) was established with a broad mandate, "to reinstate some kind of social control over corporate behavior through the instrument of public disclosure." (34) However, disclosure was defined primarily as financial information relevant to an investor. The SEC charged the Financial Accounting Standards Board with the development of generally accepted accounting practices to ensure that all companies would report financial information in a standardized format to create consistent and comparable information across companies. When, in the 1970s, the Natural Resources Defense Council tried to enlarge the scope of disclosure required by the SEC, the courts maintained that the requirements were limited to disclosure of only such information as would be directly relevant to the decisions of a prudent investor. The courts in effect reaffirmed that relevance was confined to traditional financial information.

In 1986, after the catastrophic release of air toxics at Union Carbide's plant in Bhopal, India, Congress enacted the Superfund Amendments and Reauthorization Act which

> "fundamentally redefined the reporting landscape by creating the Toxics Release Inventory (TRI). Thousands of medium and large facilities were now required to annually report all of their releases to all media – air, water, and land – a provision that would enable interested stakeholders to obtain a complete profile of a facility's performance without having to assemble regulatory compliance information piece by piece." (35)

TRI dramatically raised the level of corporate disclosure. Soon thereafter similar initiatives were established in Canada and selected OECD countries. Today, Australia, Ireland, the Netherlands and the United Kingdom have operating Pollutant Release and Transfer Registries.

Mandatory vs. Voluntary Reporting

TRI is a facility-based disclosure system. However, for many stakeholders, such as securities analysts, investors and human rights groups, corporate-level performance is equally or more useful. It is extremely difficult to piece together a comprehensive picture of company-wide impacts from information on individual facilities. And even an NGO with the ability to do this would still lack information on a company's environmental management systems, wage equity, gender equality, stakeholder engagement processes, or policies on plant shutdowns and community reinvestment.

Another problem with "compliance reporting" is that it is generally limited to "lagging indicators" – that is, data describing past releases, energy use, water use and other retrospective information. Judging a corporation's prospects in relation to sustainability requires qualitative and forward looking information absent from mandatory compliance reporting. Thus far, governments have shown little inclination to mandate such leading indicators, even those with well-developed programs.

In contrast to government mandates, voluntary corporate environmental reports (CERs) which began to appear around 1990. A decade later the total number of CERs produced annually probably exceeds 1,000 (including both stand-alone reports and the environmental portions of financial reports); firms from the United States, Canada, Japan, Germany, the United Kingdom and other OECD countries, as well as a smattering of other nations, are represented in the burgeoning number of such reports.

Even broader than corporate environmental reports is an emerging genre known as sustainability reporting. An example was the 1998 annual report of Freeport-McMoran Copper and Gold, Inc., a New Orleans-based multinational that operates, among other places, in the fragile social and physical environment of Irian Java, Indonesia. In addition to the usual kinds of financial information, the report included information on the three dimensions of sustainability: the corporation's economic, social and environmental impact. Details included taxes, royalties and dividends paid to Indonesia, as well as information about the corporation's medical and educational facilities, and its impacts on patterns of migration, ethnic conflicts, and alleged human rights abuses. It also described its environmental commitments, management, monitoring and auditing.

The small but growing movement towards sustainability reporting is fueled by both external stakeholders and internal management drivers. The former include social investors, NGOs and human rights groups, as well as groups that stand to gain form broadened reporting requirements: accountants, auditors and verifiers. At the same time, companies themselves are interested in stronger management information systems to support internal decision-making as well as comparisons of their own company’s practices with others in their industry.

In the future, voluntary reporting will have an especially important role to play in developing nations, where information technology will make voluntary disclosure at least as powerful as governmental regulation as an instrument to advance responsible corporate practices.

Challenges, and a response

If the progress in corporate accountability is to be achieved in the long-term, two challenges will have to be overcome. First is the disjuncture between a social view of the corporate purpose versus the traditional corporate balance sheet, which tracks performance primarily to serve shareholder interests. Revitalizing the early social purpose of corporations will require a gradual process of both legal reform (e.g. revisiting corporate charters laws) as well as broadening disclosure law to embrace social and environmental information.

Second, on the voluntary side, a troubling paradox is emerging. The rapid growth and proliferation of voluntary environmental and sustainability reports "has led to an enormous volume of inconsistent and unverified information. If the information of interest to stakeholders is not presented in a coherent, uniform framework, the resulting confusion and frustration may well stall the momentum toward greater disclosure." (34) Is a generally applicable framework feasible? To be sure, different business sectors should, to some degree, disclosure different social, environmental and economic indicators. At the same time, a generic framework might cover 75 percent of the sustainability information applicable to all companies, while the remainder is tailored to the particular circumstances based on sector, size, and location. But if report users are to make comparisons across nations and companies, it is essential to achieve such a generic framework, analogous financial reporting.

The leading response to the need for standardized sustainability reporting is the Global Reporting Initiative (GRI) launched by the U.S. NGO CERES (acronym for Coalition for Environmentally Responsible Economies), and implemented in partnership with UNEP in collaboration with a wide range of business, accounting, labor, human rights, investor and environmental organizations. Relative to dozens of reporting initiatives worldwide, GRI has several unique strengths. Its steering committee represents all major stakeholders. Its report framework encompasses traditional environmental health and safety issues within a broader sustainability framework that also includes social and economic aspects of corporate performance. Further, GRI is firmly grounded in the vision of comparable, consistent and verifiable information in which financial reporting has evolved during the last 60 years.

With the release of Exposure Draft Guidelines in March, 1999, GRI is working to develop the reporting guidelines that give equal weight to past and future corporate performance. It is committed to generating information on "the degree to which management is forward-looking, resilient, poised to innovate, and capable of exercising leadership in the face of rising expectations for environmental, social and economic performance. This aspect of company performance is especially valued by securities analysts, who seek barometers of management quality." (39)

The 1999 Exposure Draft Guidelines of the GRI asked pilot test corporations (including some Fortune 500 firms such as General Motors, Proctor and Gamble, Bristol-Myers Squibb) to provide social and economic indicators in five areas: "corporate principles (e.g., freedom of association and workforce diversity); local and global community relations (e.g., community involvement and skills transfer); relations with suppliers (e.g., procurement standards); and relations with customers (e.g., labeling and advertising standards)." (40) However, in this early version, GRI did not feel ready to specify quantitative metrics for these aspects of corporate performance.

While corporate environmental reporting has a 10-plus year history, the measurement – even the definition – of the social and the broader economic impacts of corporations remain elusive. Ongoing, intensive stakeholder consultation, coupled with voluminous feedback from the pilot program will help achieve a cleaner articulation of social and economic indicators.

GRI seeks to strike a balance between generic, generally-applicable measures of corporate performance and cultural differences that cross nations and regions on such matters as gender equality and minimum wages. Further, GRI must seek to design a reporting framework that generates information which adds value to managers, so that accountability is viewed as a benefit, and not merely a cost. Fortunately, the information revolution creates globally well-informed consumers and investors whose good will corporations must cultivate. To the extent that these stakeholders demand to know if and how corporations are contributing to sustainability, social, economic and environmental information will become as essential to managers as financial data already are.