Closing the gap between CSR and Regulation

How can Corporate Social Responsibility fill the gaps in Environmental Governance in Australia?

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Contents

Acronyms

ACF	Australian Conservation Foundation
ASX	Australian Stock Exchange
BCSD	Business Council for Sustainable Development
CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
ESD	Ecologically Sustainable Development
GHG	Greenhouse Gases
ICC	International Chamber of Commerce
ISO	International Standards Organisation
NGO	Non-Governmental Organisation
SRI	Socially Responsible Investment

Abstract

Corporate Social Responsibility currently performs a valuable role in environmental governance in Australia. This paper focuses on the extractive industry sector and looks both at the different ways CSR is regarded and at what falls through the gap between regulation and CSR. Is CSR sufficient to address issues such as climate change? Can, and should, the government scale up CSR reporting to meet this and other environmental challenges? The general political background in Australia will be considered with reference to the possible advantage of some regulatory support for CSR. The paper concludes that the current systems for CSR reporting are not adequate to address these challenges and that while CSR should remain voluntary, being a responsible law abiding citizen is not.

1. Introduction

Australia is a large, wealthy economy. It has largely avoided the latest recession that plagues other world economies. Partly this is due an abundance of minerals and a close proximity to Asian markets. Corporate Social Responsibility (CSR) In Australia focuses primarily on environmental impacts as is to be expected when dealing with resource extraction. There are, however, issues such as climate change which are fully covered by either regulation or CSR. Australians are the highest per capita carbon emitters in the world due in large part to economic dependency on coal. The media reports climate sceptics as well as climate scientists and is aided in this by populist political leaders. Action is therefore slow. This paper looks at how the government and industry must move to address the issues that face them.

1.1 What is CSR? What is regulation?

Corporate Social Responsibility is defined by Hopkins[1] as the treatment of the stakeholders of a firm in an ethical or responsible manner. An important addition to this definition comes from Bendell and Kearins[2] that this behaviour is non-mandatory. The Commission of the European Union also adds the "on a voluntary basis" proviso[3]. As defining this term in effect sets boundaries for a corporation's responsibilities[4] and how these might interplay with government requirements it is useful for it to be broad in scope.

CSR is many things to many people. The Australian CSR review[5] found that although corporations see CSR as a source of strategic advantage (competitiveness)

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1 Hopkins, M., 2003. *The Planetary Bargain: Corporate Social Responsibility Matters.* London. Earthscan Publications Ltd.
2 Bendell, J and Kearins, K., 2005. *The Political Bottom Line: the emerging dimension to corporate responsibility to sustainable development*, *Bus. Strat. Env.* 14, pp. 372–383.
3 European Union Green Paper. 2001. *Promoting a European Framework for Corporate Social Responsibility.* [Online] Available at: http://ec.europa.eu/employment_social/soc-dial/csr/greenpaper.htm. [Accessed 6 June 2011].
4 Crane et al, 2008. The Corporate Social Responsibility Agenda. In: A. Crane et al. ed. *The Oxford Handbook of Corporate Social Responsibility*. Oxford: *Oxford University Press., Ch. 1.*
5 Wagg, O., 2011. *Australian Briefing Part 1: Overview - King coal rules*. [Internet] Ethical Corporation. Available at: http://www.ethicalcorp.com/communications-reporting/australian-briefing-part-1-overview-king-coal-rules [Accessed 8 June 2011].

the overriding motivations in its use were to reduce risks, to respond to stakeholder concerns and to manage regulatory impacts. There are other uses of CSR as outlined in Figure 1 below. The same review also found that environmental issues were prioritised over social impacts. As the Australian economy is essentially resourced based and a welfare state is generally promoted by government policies[6] we can assume this to be the logical result

CSR as risk management goes beyond the obvious reputational risk to brand, although reputational risk is of primary importance. By going beyond government standards organisations can be seen to be adopting the precautionary principle and shield themselves from potential law suits. They also reduce risk for insurance purposes and reduce pressure from investors about potential risks.

Stakeholders are of ever increasing importance to corporations. Shareholder activism is one branch of this but also NGOs play a role in pressuring corporations to behave responsibly. The growth of ethical investment funds highlights the increasing importance that investors have as stakeholders.

More cynically perhaps CSR can be used as a method of managing regulatory impact. Businesses prefer to operate in a free market. This involves the minimisation of tax and regulation. If governments and the community are convinced that businesses are already acting in an environmentally responsible way there is little need to introduce regulation which is the preferred state.

[6] Australian Institute of Family Studies, 2000. *Reforming the Australian Welfare State* [Internet] Edited by Peter Saunders**.** Available at: http://www.aifs.gov.au/institute/pubs/saunders4.html [Accessed on 20 June 2011].

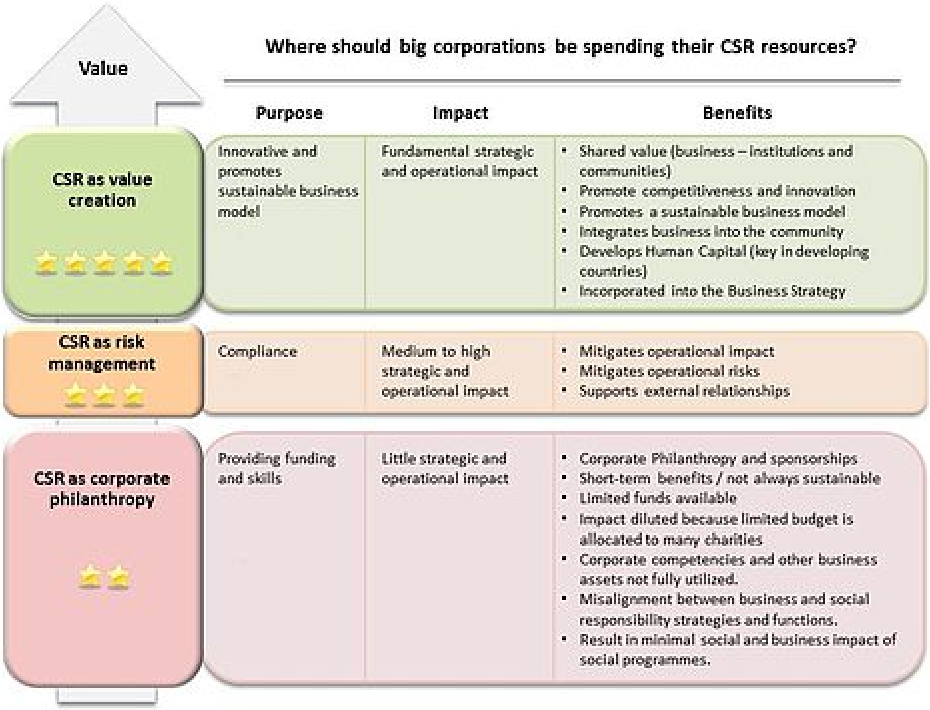

Figure 1: The value of CSR[7]

Regulation, on the other hand, is, at least for the purposes of this essay, order prescribed by law. There are numerous regulations concerning environmental governance in Australia. While these aim to reduce pollution and environmental degradation most balance this with the desire to grow the economy. An economy built on resource exploitation is generally, by its very nature, environmentally damaging. History shows, from the earliest civilizations to the present, that human-dominated ecological systems are characterised by the increased regional success of a particular group, followed by crises that were either resolved, producing sustainability, or not, leading to decline of that group's dominance.

Regulations set minimum standards, a level playing field as it were, for corporations to compete on. Above this, companies can do extra through the introduction of voluntary standards (part of CSR) and other measures. This self regulation takes several forms in environmental governance as discussed below.

Much has been made in CSR history of the distinction between CSR and regulation and whose responsibilities are whose.[8] At the turn of this century the balance was

[7] University of Geneva, 2011. *Module – Introduction to CSR.*[Class Notes] June 2011. Geneva. University of Geneva.

seen by some to be shifting into the "silent take-over of government by corporations and excessive dependency of governments on big business."[9]

In the current political climate of privatisation and reform, business is being increasingly called on to take on more of this role which will inevitably lead to further criticism from both right and left wing commentators.

Regulation is useful only in so far as it is enforced. Issues occur when transnational corporations are or seem to be beyond the power or interest of sovereign states and beyond the reach of enforceable regulation.

1.2 Environmental Governance

Clearly CSR can encompass many areas. If one looks at responsibilities to stakeholders one can see that CSR includes human rights, health and safety, labour rights, environmental responsibilities. This paper focuses on the environmental governance area. In this latter area in Australia there have been a number of legislative measures passed however these are compartmentalised and there is no holistic approach[10]. Existing legislation is outlined below.

Overland[11] states: "It is almost trite to say that corporations and corporate activity have an enormous impact on the natural environment…. For this reason, the activities and behaviours of corporations cannot be ignored or overlooked when considering appropriate measures to be taken in relation to environmental protection and sustainable development."

Brunton[12] notes that often decisions are made despite a lack of knowledge of the interactions between ecological systems and with a degree of uncertainty of how processes and thresholds are affected and reached. He concludes Australian

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[8] Friedman, M., 1970. The Social Responsibility of Business is to Increase its Profits. *The New York Times Magazine*, September 13.

[9] Moon, J. and Vogel, D., 2008. Corporate Social Responsibility , Government, and Civil Society. In: A. Crane et al. ed. *The Oxford Handbook of Corporate Social Responsibility*. Oxford: *Oxford University Press., Ch. 13.*

[10] Australian Government. 1996. *Australia: State of the Environment 1996*. [Online] http://www.environment.gov.au/soe/1996/publications/report/index.html [Accessed 8 June 2011].

[11] Overland, J., 2007. Corporate Social Responsibility in context: the case for compulsory sustainability disclosure for listed public companies in Australia? *MqJICEL .Vol 4, pp. 1-22.*

[12] Brunton, N., 1999. Environmental Regulation: The Challenge Ahead Government policy needs to adopt the 'strong sustainability' ecological principle [Online] *Alternative Law Journal.* Available at: http://www.austlii.edu.au/au/journals/AltLJ/1999/24.html [Accessed 10 June 2011].

government policy lacks a strong sustainability ecological principle. The focus would appear to be on business and investor confidence.

2. Balancing CSR and Regulation

In many ways businesses are keen to avoid government interference in their running. By undertaking self regulation (as outlined in part below) corporations can be seen to assisting the government so the government does not need to introduce legislation to enforce behaviour. Some commentators[13] feel that voluntary standards take companies beyond the minimum level of regulation and that these organisations can pull others up with them or even provide corporate policy examples, which can later become government policy.

There are several issues with this voluntary practice. By its voluntary nature it offers not only the what, how and when information choice, but also whether to report at all. The solution would seem relatively simple, to increase legislative regulation. Environmental issues are in some ways a moveable feast, as more knowledge is gained more needs to be taken into consideration. Therefore, the minimum needs to be constantly reviewed so that leaders can still go above and beyond, but so laggards are not left completely behind.

Conversely there are several issues with regulation. In Australia there are three levels of government: federal, state and local. Each of these has responsibility for differing environmental impacts. This makes managing environmental issues extremely complex both for government and corporations. In the mining sector many corporations operation globally and already have to deal with international variations in environmental governance, to add state and even local variance makes it difficult for corporations. Complicating this further is the realisation that regulation is not capable of anticipating environmental issues, which may arise in the future. It does not and can not cover all aspects of a corporation's operations

[13] Christine Carey, 2011. *Discussion on CSR.* [e-mail] (Personal communication, 6 June 2011).

3. What needs to be regulated?

3.1 Sector Specific Environmental Issues

Clearly the factors which most need to be regulated vary from sector to sector. In the extractive (mining) sector environmental issues are to the fore. Concern has been magnified by various environmental disasters and by the attention of NGOs. Jenkins and Yakovleva[14] cite the multiple NGO and community groups opposing the development of the Jabiluka uranium mine in Kakadu National Park in the Northern Territory and campaigns by larger NGOs such as Oxfam and Friends of the Earth on mining are examples of this. Similarly pressure from NGOs and community groups led to the abolition of sand mining on Fraser Island. Other pressure comes from the financial sector through SRI funds and the Equator Principles (outlined below).

Common environmental issues which need to be considered and dealt with in the mining sector can begin with deforestation and loss of biodiversity. There are also problems of water and groundwater contamination. Fairly stringent regulations exist in most of the world and certainly in Australia to attempt to deal with this.

Most recently interest has been focused on energy and water use and currently the debate concentrates on carbon emissions (leading to climate change). Mining is very energy and water intensive and produces large amount of GHG, so is the focus of much concern. CSR (and legislation) has to balance these concerns with the desire for profit (or in the case of government: job and tax) creation.

4. What happens now? A Myriad of Codes

4.1 Existing Regulation

Commentators such as Overland[15] have examined existing legislative requirements under disclosure and reporting obligations and suggest that blanket non-substantive statements appear to be sufficient to comply with Corporations Act and ASX requirements. Overland notes that the 2005 Parliamentary Joint Committee into CSR and “triple bottom line” reporting felt that there should be no move to mandatory

[14] Jenkins, H. and Yakovleva, N., 2006. Corporate social responsibility in the mining industry: Exploring trends in social and environmental disclosure. *Journal of Cleaner Production*, 14, pp. 271-284.

[15] Overland, J., 2007. Corporate Social Responsibility in context: the case for compulsory sustainability disclosure for listed public companies in Australia? *MqJICEL .Vol 4, pp. 1-22.*

sustainability reporting as there was nothing to be gained from this. The Parliamentary Joint Committee seems to have accepted the view that companies would implement reporting mechanisms voluntarily in order to avoid legislative requirements being introduced. She also noted that the Corporations and Market Advisory Inquiry of the same year found similarly. The ASX Corporate Governance Council in 2008 avoided making recommendations for future CSR and sustainability reporting due the perceived absence of a single solution[16]. Overland lists the main arguments of these committees against mandatory sustainability reporting as:

- "the cost of compliance by affected organisations, which are not insignificant, especially when staff and management time is taken into account, and
- the potential of creating a "tick-a-box" culture of compliance"

The National Greenhouse and Energy Reporting Act 2007 requires companies meeting a set emission threshold (50,000tCO2 in 2011) to report[17] on GHG production and mitigation measures.

4.2 Self Regulation

The mining industry has a high profile in terms of CSR and sustainability issues and the industry is responding to pressure from public opinion, pressure groups, financial sector risk management as well as regulatory pressures with CSR and related voluntary initiatives. Jenkins and Yakovleva[18] found that although there is a trend to report in a more complex way and on more complex issues that even within the 10 largest mining companies there is considerable difference in terms of reporting, policy and measurement so that it is still not possible to compare the environmental performance of different mining companies.

There is limited collaboration on a sector or industry standard, with only 4 of the largest 10 companies being members of the Global Mining Initiative (discussed

[16] Overland, J., 2007. Corporate Social Responsibility in context: the case for compulsory sustainability disclosure for listed public companies in Australia? *MqJICEL .Vol 4, pp. 1-22.*
[17] Black, L. 2011. *The state of CSR in Australia La Trobe GCCR Presentation.* [Internet] Available at: http://www.accsr.com.au/html/casestudies_presentations.html [Accessed 8 June].
[18] Jenkins, H. and Yakovleva, N., 2006. Corporate social responsibility in the mining industry: Exploring trends in social and environmental disclosure. *Journal of Cleaner Production*, 14, pp. 271-284.

below). Further to this, Viviers and Boudler[19] later reported that although volume of reports has increased an analysis of content and keywords showed that these had actually decreased (which can be taken to indicate more quantity but less substance)

4.3 ISO Standards

ISO refers to the International Organisation for Standardisation. The purpose of the non-governmental organisation is international standardisation.[20] Mining is governed by TC 82.[21] Under this are prescriptive measures on equipment to be used.

Mining practice is also governed by the environmental management standard ISO 14001. The benefits of this are a demonstration of meeting internationally accepted and measureable standards of quality as well as a benchmark to measure progress and position against.

ISO 9001 is also used for project management procedures. Risk Management standards ISO 31000 are also relevant. The newly developed ISO 26000 provides non-binding CSR guidelines.[22]

4.4 OECD Guidelines

The OECD Guidelines on Multinational Enterprises provide voluntary principles and standards[23]. They are legally non-binding. The Guidelines cover business ethics and include human rights and environment. Australia is an adhering country. The OECD focus is now on assisting governments with growth and on "economic and social well-being".[24]

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[19] Viviers, S and Boudler, J-M. Verslaggewing oor volhoubaarheid in die mynbousektor: die identifisering van kritieke aan geleenthede. *Tydskr. geesteswet.* 50 (1), pp. 66-86.

[20] Wikipedia. 2011. International Organization for Standardization. [Internet] Available at: http://en.wikipedia.org/wiki/International_Organization_for_Standardization [Accessed 12 June 2011].

[21] International Organization for Standardization. 2011. TC 82 mining. [Internet] Available at: http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_tc_browse.htm?commid=50164 [Accessed 9 June 2011].

[22] University of Geneva, 2011. *Module - CSR standards and measurements.*[Class Notes] June 2011. Geneva. University of Geneva.

[23] University of Geneva, 2011. *Module - CSR standards and measurements.*[Class Notes] June 2011. Geneva. University of Geneva.

[24] OECD. 2011. *About the Organisation for Economic Co-operation and Development* [Internet] Available at: http://www.oecd.org/pages/0,3417,en_36734052_36734103_1_1_1_1_1,00.html [Accessed 9 June 2011].

4.5 Equator Principles

The Equator Principles are a voluntary set of standards to assess project risk in terms of social and environmental issues for project financing. These are the de-facto standards worldwide[25]. Three of the four largest banks in Australia have adopted the Equator Principles. These principles are modelled on the environmental standards of the World Bank.

4.6 UN Global Compact

Three of the 10 UN Global Compact Principles[24] concern the environment:

- Principle 7: businesses should follow a precautionary approach
- Principle 8: businesses should undertake initiatives which promote environmental responsibility; and
- Principle 9: businesses should encourage the development and diffusion of environmentally friendly technologies.

These are non-binding and have no sanctions for those who do not hold to them. The UN Global Compact can be accused as "bluewashing"[26]: a UN tick or approval through perceived partnership but without any real accountability. On the other hand one of its two objectives[27] is to

"Mainstream the ten principles in business activities around the world"

and with 8700 participants from 130 countries this is clearly a valuable contribution to such a goal.

4.7 The Global Mining Initiative

Many of the worlds' largest extractive sector players[28] joined to create a body which would focus on sustainable development and analysis of industry issues. This was a follow up to the 1992 Rio Earth Summit where it was proposed that a Draft Code of

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[25] University of Geneva, 2011. *Module - CSR standards and measurements.*[Class Notes] June 2011. Geneva. University of Geneva.
[26] University of Geneva, 2011. *Module - CSR standards and measurements.* [Class Notes] June 2011. Geneva. University of Geneva.
[27] United Nations. 2011. *Overview of the UN Global Compact* [Internet] Available at: http://www.unglobalcompact.org/AboutTheGC/index.html. [Accessed 8 June 2011].
[28] Jenkins, H. and Yakovleva, N., 2006. Corporate social responsibility in the mining industry:Exploring trends in social and environmental disclosure. *Journal of Cleaner Production*, 14, pp. 271-284.

Conduct for Transnational Organisations be implemented. This was opposed by the Business Council for Sustainable Development (BCSD) and the International Chamber of Commerce (ICC) who argued for self-regulation. As a result of this the International Council on Mining and Metals was formed in 2001. This group has its own 10 principles with which members should comply. The goal of these is

"continual improvement in our performance and contribution to sustainable development".

There are 5 concerned primarily with environmental governance:

- "Integrate sustainable development considerations within the corporate decision-making process.
- Implement risk management strategies based on valid data and sound science.
- Seek continual improvement of our environmental performance.
- Contribute to conservation of biodiversity and integrated approaches to land use planning.
- Facilitate and encourage responsible product design, use, re-use, recycling and disposal of our products."

Membership of this initiative and international council does not necessarily confer any advance in standing on the Dow Jones Sustainability Index or any improvement of environmental record (members include AngloGold Ashanti, recent winner of the "Most Irresponsible Company"[29] at the Public Eye Awards 2011). As with most voluntary standards the difference between the top performers and the non-performers can be large.

4.8 Global Reporting Initiative (GRI G3 2006)

With the explosion of standards, codes, guidelines and initiative which has occurred mainly since the early 1990s it is difficult for organisations to follow all as well as for observers to compare performance results. The GRI reporting framework attempts to standardise these codes. This framework provides a set of indicators which can

[29] Wikipedia. 2011. *Public Eye Awards.* [Internet] Available at: http://en.wikipedia.org/wiki/Public_Eye_Awards [Accessed 9 June 2011].

be used to report on performance. Organisations can chose which indicators they report against. The GRI guidelines concerned with the environment are EN1 to EN30. Again the issue exists as to how to compare when not all organisations are taking part and those which are may use different indicators.

4.9 The Carbon Disclosure Project

The Carbon Disclosure Project is more specific climate change project. It publishes emissions data on “over 3000 organisations in some 60 countries”.[30] The CDP works with both shareholders and investors and represents “551 institutional investors, holding US$71 trillion in assets under management”.[31] The Australian Government contributes funding to CDP. This project seeks to overcome national self-interest, whereby governments are disinclined to raise taxes or introduce carbon control measures, by focusing on individual organisations. The CDP also endeavours to overcome organisational self-interest (which can be a limitation of other CSR measures) by working with investors.

4.10 The Extractive Industries Transparency Initiative

Whilst not aimed primarily at environmental issues the Extractive Industries Transparency Initiative (EITI)[32] performs a valuable role in governance by providing transparency.

- “An effort to make natural resources benefit all
- A coalition of governments, companies and civil society
- A standard for companies to publish what they pay and for governments to disclose what they receive” (although it is interesting to note not what they spend it on).

It is worthy of note that Australia is a supporting country and by this provides an endorsement of the EITC. The largest mining company BHP Billiton is a signatory but several other Australian owned and based companies are not.

[30] The Carbon Disclosure Project. 2011. *Overview – what we do.* [Internet] Available at: https://www.cdproject.net/en-US/WhatWeDo/Pages/overview.aspx [Accessed 8 June 2011].
[31] The Carbon Disclosure Project. 2011. *Overview – what we do.* [Internet] Available at: https://www.cdproject.net/en-US/WhatWeDo/Pages/overview.aspx [Accessed 8 June 2011].
[32] Extractive Industries Transparency Initiative. 2011. *What is the EITI ?* [Internet] Available at: http://eiti.org/eiti [Accessed June 29 2011].

5. Scaling up Action. Possible Government Response.

So, to return to the definition of CSR. The EU Commission[33] stated that CSR should be voluntary and this was where the origins of CSR can be found[34]. More recently has been replaced with the idea of Corporate Citizenship (an idea Bendell expands in his Barricades and Boardrooms piece[35]). In this thinking CSR is still to some degree voluntary, but as corporations are regarded as members of civil society in law then they should have the same responsibilities as other citizens. The issue exists with who will enforce those responsibilities.

Regulation is expensive for government and for the country. This was part of the Australian Government argument for not initially ratifying the Kyoto Protocol. On the other hand a traditional criticism of CSR is that taxes are paid so that the government looks after the environment and society and this is not the job of corporations. The arguments for and against continue but ultimately the government is responsible for setting the framework within which business operates.

The Australian Government has announced it will impose a carbon tax in 2012.[36] Conversely in March[37] the Australian Conservation Foundation (ACF) released a study which they stated showed the government spent A$10.6billion on subsidies, which the ACF branded as encouraging fossil fuel use.[38] This makes the creation of a level playing field for corporations very difficult to achieve.

The mining industry in Australia is very powerful as evidenced by the government back down and change of leader over a proposed “Super Profits Tax”[39]. Legislative

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[33] European Union Green Paper. 2001. *Promoting a European Framework for Corporate Social Responsibility.* [Online] Available at: http://ec.europa.eu/employment_social/soc- dial/csr/greenpaper.htm. [Accessed 6 June 2011].

[34] Frederick, W.C., 2008. Corporate Social Responsibility:Deep Roots, Flourishing Growth, Promising Future. In: A. Crane et al. ed. *The Oxford Handbook of Corporate Social Responsibility*. Oxford: *Oxford University Press., Ch. 23.*

[35] Bendell, J. and Kearins, K., 2005. The Political Bottom Line: the Emerging Dimension to Corporate Responsibility for Sustainable Development. *Business Strategy and the Environment.* 14, pp. 372–383.

[36] Bloomberg. 2011. Australia to Set Carbon Tax Next Year Ahead of Trading Plan. [Internet] Available at: http://www.bloomberg.com/news/2011-02-24/australia-to-set-tax-on-carbon-emissions-starting-july-2012-gillard-says.html [Accessed 8 June].

[37] Australian Conservation Foundation. 2011. Australia spends $11 billion more encouraging pollution than cleaning it up. [Internet] Available at: http://www.acfonline.org.au/articles/news.asp?news_id=3308&eid=10177 [Accessed 8 June 2011].

[38] Australian Broadcasting Commission. 2011. It should be easy being green. [Internet] Available at: http://www.abc.net.au/unleashed/43868.html [Accessed 9 June 2011].

[39] The Telegraph. 2011. Australian PM Gillard strikes a tax deal with the mining giants. [Internet]

action is not always straightforward. This makes the development of CSR more difficult.[40] Corporations are not clear on the message which government is sending and how firmly this will be enforced. The same Ethical Corporation briefing listing the top challenges and risks for CSR in Australia as:

- "Lack of carbon price,
- lack of government leadership on climate change and
- illustrating the value of sustainability."

Additionally CSR can be difficult for corporations to engage in for internal reasons. There is much debate about business case for CSR and this argument can prove an obstacle to corporate buy in. It can also be difficult to integrate organisational values and vision with a CSR strategy.

Even if these obstacles are overcome, much criticism exists of voluntary measures in environmental governance. Brunton[41] states "one approach that ought to be rejected is increasing voluntary and non-regulatory measures. Such measures have not been very successful." He cites the experience of Landcare as examined in the 1996 Australian State of the Environment Report as evidence of their failure.

Newell's[42] criticism of voluntary CSR is more basic. He is not concerned with whether attempts at environmental governance fail or succeed, but more that there are no requirements for all businesses to take part. He concedes that some organisations go "beyond compliance", but there is no watch dog for those who do not even take part.

Young and Marais[43] look at the case for regulation of CSR reporting. This is clearly not the only aspect of CSR but as the old adage goes "you can't manage what you

Available at: http://www.telegraph.co.uk/finance/newsbysector/industry/mining/7867111/Australian-PM-Gillard-strikes-a-tax-deal-with-the-mining-giants.html [Accessed10 June 2011].

[40] Wagg, O., 2011. *Australian Briefing Parts 1-4: Overview -King coal rules.* [Internet] Ethical Corporation. Available at: http://www.ethicalcorp.com/communications-reporting/australian-briefing-part-1- overview-king-coal-rules [Accessed 8 June 2011].

[41] Brunton, N., 1999. Environmental Regulation: The Challenge Ahead Government policy needs to adopt the 'strong sustainability' ecological principle [Online] *Alternative Law Journal.* Available at: http://www.austlii.edu.au/au/journals/AltLJ/1999/24.html [Accessed 10 June 2011].

[42] Newell, P., 2005. Citizenship, accountability and community: the limits of the CSR agenda. *International Affairs* 81 (3), pp. 541-557.

[43] Young, S. and Marais, M., 2011. CSR reporting: an institutional perspective. In: *Proceeding of the 2nd Finance and Governance Conference*, hosted by La Trobe University, held in Melbourne April

can't measure" it clearly has an important role. They found that CSR regulation governs the result but gives corporations leeway on how they will arrive at such a result. In a comparison with France they found that in France where systems are more regulated "CSR reporting is stronger, broader and deeper and CSR practices more transparent". Alternatively they did note the "potential ... to create standards and innovative models of CSR reporting and practices without reporting necessarily being regulated by law.

One could look at the plethora of actions available and the inaction by government and argue that industry indeed is taking the lead. Unfortunately this makes it incredibly difficult for interested observers to judge the sincerity and effectiveness of their actions. The government could greatly assist by choosing a measure that organisations must report on or by choosing a reporting mechanism which must be followed. This type of regulation has thus far been resisted by businesses, but as long as it is not seen to be too great a blow to competiveness in foreign markets some form of guidance should be possible. Things appear to be improving in terms of industry CSR implementation over time however in terms of action to address environmental issues such as climate change the pace is too slow for it to be left to industry alone.

Currently much of the interest is CSR in the Australian mining industry is reactionary. Managing regulatory impact, risk reduction and stakeholder response are all protectionist rather than competitive. This hinders the development of truly innovative strategies as reactive strategies don't allow for more than stimulus and response.

The use of CSR as a competitive advantage creates a more positive driver for change and strategic development. Once a more level playing field of regulation is introduced, organisations can use this to develop CSR strategy not just to meet regulation and avoid further but to create a competitive advantage.

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6. Conclusion

The vast variation in CSR reporting mechanisms and indeed in whether any CSR reporting occurs in an organisation makes it extremely difficult to determine whether current levels of environmental governance are sufficient to meet the environmental challenges of today and the future. Certainly emissions data which does exist for Australia would suggest that, at least in the case of climate change, the current system is not adequate. Much is being done and that is to be applauded. The current direction is promising.

However as Winston Churchill put it “It is not enough to say we are doing our best, we must do all that it is necessary to do”. It is the responsibility of government and industry to work together to raise the bar higher so that leaders can continue to move ahead but laggards are not left behind but are dragged up to meet new challenges as they arise.

By nominating a certain standard which must be adhered to government still gives industry the freedom to meet it (or not) as they will but also gives greater transparency and accountability. CSR occupies the territory between voluntary action for some aspects and mandatory for others. Governments can help the development of CSR by implementing some measures of control or framework while still allowing others to be voluntary. In this way environmental problems and issues can be addressed, not left in “the gap”.

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[6] Australian Institute of Family Studies, 2000. *Reforming the Australian Welfare State* [Internet] Edited by Peter Saunders**.** Available at: http://www.aifs.gov.au/institute/pubs/saunders4.html [Accessed on 20 June 2011].

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[8] Friedman, M., 1970. The Social Responsibility of Business is to Increase its Profits. *The New York Times Magazine*, September 13.

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