

THE NEW BALANCE SHEET

**CORPORATE PROFITS
AND RESPONSIBILITY
IN THE 21ST CENTURY**

EXECUTIVE SUMMARY

*Canadian Democracy and Corporate Accountability Commission
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THE NEW BALANCE SHEET: CORPORATE PROFITS AND RESPONSIBILITY IN THE 21ST CENTURY

EXECUTIVE SUMMARY

Many Canadians, both within the business community and outside it, increasingly question the existing degree of responsibility corporations have to the societies within which they operate, beyond generating returns for their shareholders. The Canadian Democracy and Corporate Accountability Commission was convened a year ago to address this growing public concern. The five members of the commission – co-chairs Avie Bennett and Ed Broadbent, and commissioners Linda Crompton, Ken Georgetti and John LeBoutillier – explored ways in which Canadian corporations could operate in a socially-responsible manner while still remaining competitive at home and in the global economy.

The commission spent several months during 2001 travelling across Canada, engaging in discussions with hundreds of organizations, and individuals from every sector and all regions. Participants were asked to respond to the Commission's 50-page discussion paper (available at www.corporate-accountability.ca). Then in the fall of 2001 a public opinion poll on social responsibility issues was commissioned.

On one hand, we found those who believe that corporations, as long as they obey the general laws of the nation, are responsible only to maximize shareholders' profits. On the other, there is a body of critics who believe corporations' profit maximization objectives have been responsible for shaping domestic and international policy agendas, the results of which have had serious negative consequences for human rights, working conditions and the environment. Lying somewhere between the proponents of shareholder primacy and its most severe critics is a growing number of reformers committed to "corporate social responsibility." The majority of participants in the commission's consultation process – whether representing business, government, unions, the community, or academe – shared research, analysis, and solid experience that favoured more corporate accountability.

Commission presenters reflected the opinions of a large majority of Canadians (72%) who accept the legitimacy of corporations and their right to make profits but also want companies to accept a broader sense of accountability that extends beyond profit maximization. A somewhat higher proportion of shareholders – 74% – agree: "business executives have a responsibility to take into account the impact their decisions have on employees, local communities and the country as well as making profits," according to our national survey. Only 20% said that they should have "only one responsibility, to operate competitively and make profits."

While there is no fixed definition, we believe the term "corporate social responsibility" (CSR) is most usefully employed to describe instances where companies respond to interests in addition to those of their shareholders. For the commission, CSR refers to obligations that go beyond the shareholder primacy concept to include human rights and environmental concerns as well as the interests of employees, suppliers, customers and communities.

While an increasing number of companies, pension and mutual funds are taking social considerations into account, there are those who believe the fiduciary duty concept in corporate law does not permit them to consider non-shareholder interests in their decision making. Although shareholders can now more easily introduce proposals on issues including CSR, there are still concerns about fiduciary duty limitations, or limitations on shareholder actions.

We also heard significant evidence, including during private consultation with corporate executives, that a company is unlikely to develop a CSR culture if there is no commitment to it at the highest levels. And we heard from a number of professors at Canada's business schools that very few future business executives are exposed to CSR issues in the course of their studies.

Knowledge is important. Investors or customers cannot make informed decisions without it. Yet we heard how difficult accessing even the most basic information on the social-responsibility record of companies can be. Corporate law requires disclosure of information to shareholders on financial matters, in order to remain accountable to investors, but other information is disclosed only if it has a significant "material" effect on the bottom line – a serious environmental or social impact without financial cost may not be "material." An 80% majority of Canadians want CSR standards established and companies required to publish what they are doing to meet those standards so shareholders and customers can judge for themselves.

Many presenters talked of the failure of governments to enforce existing laws concerning environmental and workers rights and safety standards. Some advocated the introduction or enhancement of incentives by government to encourage compliance with an extended level of CSR. Canadians believe the federal government also has a significant role to play with respect to the international activities of Canadian corporations. We were told many times that the government and companies should not be seen as accepting a form of competitive advantage sustaining human rights abuses or environmental degradation. What we heard in meetings and hearings across Canada was mirrored by the opinions expressed in our poll. A full 75% of Canadians (78% of shareholders) think governments should not make purchases from companies with a bad record of social responsibility, and even more (84%) want the government to promote international agreements to "set minimum enforceable standards for socially responsible corporate behaviour in their overseas operations."

Finally, corporations are not citizens and do not vote, yet because they are repositories of significant wealth, corporations can have or be seen to have significant and disproportionate political influence. The majority of Canadians agree that donations coming from collective entities such as corporations and unions are undesirable. Nationally, 56% would ban union contributions to candidates and parties while 54% would do so for corporations. Beyond direct political donations, there was also concern among participants about influence over policy making through corporate funding of significant government events, such as the summit meeting in Quebec City.

We want to emphasize that we found common ground among our participants and across the issues: A majority of spokespersons from each sector presented proposals that were mutually acceptable to many business executives and social justice activists. When matched with the results of our national poll it is clear that a national consensus on corporate accountability is possible. But, creating a strong culture of corporate social responsibility will require resolute leadership from all sectors. Corporations, stock exchanges and business schools all have a role to play. And governments must exercise political leadership. We endorse the strongly held view of most Canadians that

governments, as custodians of the public good, must establish rules of conduct that curb business behaviour that drops below certain basic standards. The need for such steps is most urgent in the international marketplace.

We make 24 practical recommendations that are outlined below. Their implementation would create a climate in which corporations can be financially successful in a way consistent with important Canadian values.

Recommendations:

Making Social Responsibility Considerations Part of Business

We believe that clarifying fiduciary concepts by codifying the 1973 decision of the BC Supreme Court in *Teck v. Millar*, would alleviate some directors' and managers' concerns that CSR could expose them to liability (Recommendation 12). Similar clarification should be provided for pension trustees (Recommendation 13). In other jurisdictions where the law has been made more explicitly permissive, the concerns of critics that changes would lead to confusion over whose interests should be prioritized or to directors and managers being less accountable for monies spent have proved unfounded.

Corporate Governance

We call on companies to develop governance structures to facilitate a corporate culture supportive of corporate social responsibility. This includes establishing a CSR board committee and appointing a senior executive CSR ombudsperson (Recommendation 21).

We recommend all business schools develop mandatory courses focusing on corporate social responsibility with a practical, vocational perspective (Recommendation 22).

Information is the Currency of Democracy

We believe disclosure should take two forms: corporations should be obliged to disclose any CSR policies and practices they may have (Recommendations 1, 2, and 4), and large companies should provide "social audit" information on their implementation (Recommendation 8).

The principle of disclosure should include pension funds (Recommendation 3). 51% of Canadians responding to our poll want their plans to invest in companies with a good record on social responsibility, even if this means "somewhat lower benefits" for themselves. Disclosure would permit them to make appropriate decisions about where their pension funds are invested.

The textile labelling systems created by the federal *Textile Labelling Act* should be changed to require inclusion of the factory origins of textile products sold in Canadian stores (Recommendation 7). We recommend companies provide public information about any serious criminal or regulatory convictions (Recommendations 5, 6, and 9). And we propose new laws to protect employees against adverse employment action taken against them for "whistle blowing" on corporate non-compliance with laws (Recommendation 10).

Encouraging Responsible Behaviour at Home and Abroad

We call on Canadian governments to ensure that all existing laws and regulations pertaining to the environment, the health and safety of workers, and communities, be properly enforced (Recommendation 14).

We recommend the Canadian government apply CSR criteria in purchasing and export promotion decisions. To engage in certain kinds of business or activities with governments, companies should be required to certify their adherence to core CSR standards (Recommendation 15). Firms would be free to choose to respond to such inducements or not, but if not, then they would be denied the benefit of any government business, or promotional or financial assistance in their overseas operations.

In making investment decisions, the Canada Pension Plan's managers should be free to take CSR matters into account (Recommendation 16).

We believe the rights of corporations in their investments abroad should be balanced with obligations. We recommend that the Canadian government promote multilaterally the inclusion of a clause in trade agreements and a convention to outlaw violations of basic human rights, workers and environmental standards. If there is no success within three years, unilaterally the government should at least require Canadian companies to adhere to a core set of human rights standards in their overseas operations (Recommendations 17 to 20).

Electoral Democracy

In keeping with the approach adopted in Quebec and Manitoba, Canadian governments should pass laws barring corporate and union donations to political parties, candidates and leadership campaigns. Greater public financing should be provided to ensure adequate financing of the political process in Canada (Recommendation 23).

Canadian governments should also review their guidelines on government ethics, lobbying and the participation of company and industry groups at domestic and international meetings and negotiations to guard against both the appearance and existence of improper influence (Recommendation 24).

Conclusion:

We conclude by emphasizing that our hearings and public opinion polls indicate that these recommendations would have the strong support of the people of Canada. If they are acted upon, we could become leaders in creating what many Canadians desire: internationally-successful companies that incorporate key values of our democratic society.