uwf (2016) 24:127–140
DOI 10.1007/s00550-016-0425-4

SCHWERPUNKTTHEMA

# Hard soft law or soft hard law? A content analysis of CSR guidelines typologized along hybrid legal status

**Marta Cominetti**[1] · **Peter Seele**[1]

Published online: 2 December 2016


**Abstract** A CSR guideline is an instrument aimed at guiding companies towards the application of CSR to limit the impact that the company has on society. The main problem concerned with CSR guidelines is that their legal status is blurred and as a consequence, their level of enforceability is not clearly understandable. Therefore, this paper focuses on defining the legal status of CSR guidelines through a content analysis of a sample of 34 CSR guidelines.

Through the criteria-based development of a codebook, it has been possible to define the legal status of the guidelines and define the difference as hybrid forms leading to: *soft soft, hard soft, soft hard* and *hard hard legal status*. Every guideline was coded as belonging to one of the four hybrid legal status'. In fact, it is required to consider all the voluntary and all the mandatory guidelines as equivalent, as there is the necessity to further specify their legal status and their characteristics. The results obtained allowed not only to answer the research questions but also to arrive at further insights: even today, CSR should be considered a voluntary initiative, the government is playing an indirect role through voluntary CSR guidelines and increasing mandataory CSR regulations like in the EU (CSR reporting) or India (company act). Lastly, CSR guidelines need to be seen as interconnected in the co-evolution of CSR application.

Marta Cominetti
marta.cominetti@usi.ch

✉ Peter Seele
peter.seele@usi.ch

[1] Universita della Svizzera Italiana, Lugano, Switzerland

## 1 Introduction

Corporate Social Responsibility is a field that has gained high recognition in recent years, due to the increasing necessity of corporations to be responsible towards the society and the environment. One of the major debates characterizing CSR is its voluntary or mandatory nature. The debate rotates around two aspects of CSR: the first one is the mandatory, state regulated and legally enforced aspect, while the second one is the voluntary and non-enforceable aspect (Horrigan 2007).

The voluntary aspect of CSR is predominant in the literature, it implies that corporations may or may not apply CSR principles in their corporate activities and external forces, such as the government, cannot oblige them to comply with CSR standards. Due to the lack of enforceability of CSR standards, corporations have a high degree of flexibility and freedom in terms of ways and means through which they want to run their businesses and reach their target. Moreover, they take actions only according to what they consider to be the best for the corporation and its needs.

On the other hand, mandatory CSR aims at making CSR enforceable through guidelines that have not anymore the characteristics of soft law but that are mandatory and every organization is required to apply them. In order to make these guidelines mandatory and legally binding in their approach, there is a need to establish precise rules that corporations have to respect and also strong sanctions in case of noncompliance in order to encourage their application. In this way, the regulatee should follow a given prescription to avoid sanctions (Horrigan 2007). There are different opinions regarding the necessity of making CSR mandatory; some legal regulation reformers believe that law does not encourage companies to go beyond profits and they stress the importance of preserving CSR as a voluntary initiative

that promotes self-regulation as a substitute for governmental regulation. On the opposite side, there are those who argue that self-regulation is not anymore enough and they express the necessity of rules and direct regulations in order to make companies accountable (Adeyeye 2011). Moreover, others believe that it is important for the government to have a stake in the CSR argument to provide an answer to the public demand regarding the society, the environment, the labour and the market practices.

It is difficult to define which role the law should play in making companies more responsible towards the society and increase the community wellbeing, what is clear is that the government has the potential to advance CSR (Horrigan 2007).

Despite these opposing views of voluntary and mandatory CSR, it is relevant to underline the fact that CSR and the law are not completely separated, they are intertwined and the government is already playing a relevant role in it. This relationship can be demonstrated by the fact that there are many CSR standards focused on regulating corporate activities that are characterized by a certain level of legal enforceability and that cannot be considered completely voluntary (Amao 2011).

CSR is governed by an increasing number of universal standards and guidelines in different areas such as the environment, human rights, and anti-corruption that corporations voluntarily apply to regulate their activity and to be socially responsible. Every guideline is characterized by a different level of formalization as well as by different types of sanctions in case of noncompliance. There are some of them that are considered voluntary but that show some characteristics of mandatory laws. On the opposite side, there are some mandatory laws that are very weak in their approach and that cannot be considered as binding laws. For these reasons, it is not possible to classify the guidelines as voluntary or mandatory but there is a need to further specify their legal status by taking into consideration both their level of formalization and the type of sanctions that they imply in the case of noncompliance.

In this regard, this article is focused on analysing the voluntary and mandatory aspect of CSR and the existing, hybrid stages between the two.

The paper proceeds as follows: after a literature review that outlines CSR's voluntary nature as well as the relationship between CSR and the law, the method section provides details on sample selection, operationalization, and data analysis. The subsequent section reports the empirical results, which are discussed against the background of the existing literature. Finally, the conclusion presents the limitations of the study.

## 2 Literature review

### 2.1 CSR as a voluntary initiative

The concept of voluntarism is prevailing in the CSR literature and it implies that CSR is a voluntary principle beyond the rule of law. This means that every business activity concerning social responsibility is primarily guided by ethical values and it is a discretionary act independent from governmental regulation. Early contributions of Bowen, Friedman and Carrol already considered CSR as completely independent from governmental decision making. Carrol in 1979 recognised that socially responsible actions are both voluntary and mandatory in nature but the dominant understanding remains voluntarism. On the other hand, Henry Manne sustained that when a government is putting a certain level of pressure on companies to drive their conduct, the CSR action cannot be considered voluntary anymore. A similar understanding is presented by Friedman that sustained that social responsibility goes beyond legal requirements and so voluntarism in managerial actions is needed (Nikolay et al. 2014).

In 2001, the European Commission in its Green Paper on CSR stressed the voluntary nature of CSR. More precisely it underlined the fact that being socially responsible requires not only to satisfy legal requirements but also going beyond what is required by the law in order to invest in human capital through the satisfaction of societal and stakeholders' needs. This could be achieved through improved working conditions, enhanced relationships with employees and respect for the community. According to the European Commission, the government should facilitate CSR actions and promote CSR initiatives (Lozano et al. 2016).

Because CSR is mainly voluntary, there are no regulatory initiatives in the application of CSR, which also allows for greenwashing (Seele and Gatti 2015). At the contrary, a company can voluntarily decide to apply CSR guidelines through self-regulation to reach specific goals. As a matter of fact, CSR activities should be the result of a company's desire to create value for itself and its stakeholders and not the result of legal enforcement. An important factor that has contributed to the proliferation of CSR's self-regulating nature, is the lack of an international law aimed at solving environmental and social issues. Self-regulation is expressed through different codes, standards, and guidelines designed to regulate corporate behaviour in relation to human rights, the environment, and ethical business practices (Nasrullah and Rahim 2014).

Therefore, self-regulation is characteristic for voluntary CSR opposed to public regulation. Self-regulation consists of a company specific regulatory system, which is based on the company values and aims at reaching the companies objectives. At the corporate level, self-regulation is expressed

through codes of conduct, multi-stakeholder initiatives or guidelines provided by other social or commercial organizations. The use of self-regulation is explained by the benefits that it can bring to companies, in fact, it decreases consumer risks, it increases public trust and eliminates negative public perceptions (Castro 2011). Likewise, self-regulation offers the opportunity to have greater access to the market, saving costs, innovate, increase productivity as well as social benefits (Mahmudur Rahim 2013).

Self-regulation has become an important mechanism with the aim of regulating the practices of companies in different sectors. Despite its relevance, it has both benefits and limitation. One of the main benefits of self-regulation is that it creates a more flexible regulatory environment different from the one provided by the government. The guidelines that corporations voluntarily decide to follow evolve continuously and they allow firms to operate in a more efficient way and reduce compliance costs. Self-regulation may also help businesses to adopt ethical behaviours and principles that result in better firm behaviour and voluntary acceptance of the rules that are not imposed by anyone (Castro 2011).

### 2.2 Benefits and limitation of voluntary CSR

After explaining voluntary CSR and its main characteristics, it is important to understand why corporations decide to deal with CSR even if it is not mandatory. There are many reasonable explanations to this question, and we can classify the reasons in two macro groups. The first one is concerned with the drivers that are pushing businesses towards CSR and the other one focuses on the company's benefits.

As far as the drivers are concerned, corporations cannot act anymore as isolated entities separated from the society, they are required to take into consideration the broader society, the environment, employees, the community, both now and in the future. A first reason that explains the commitment of companies with voluntary CSR is the decline in the role of the government. In fact, a decline in government resources together with a distrust in regulation led to the development of voluntary and non-regulatory initiatives that are considered necessary for the survival of the organization. Moreover, companies are more and more asked by stakeholders to provide greater disclosure. Another relevant reason is that consumers are interested in the ethical conduct of companies, which is a key influencer of their purchasing decisions. In fact, consumers tend to punish or reward companies according to their social performance (International Institute for Sustainable Development 2013). Also, investors make decisions based on the ethical behaviour of corporations instead of limiting their choices to financial data. A further key driver is employees that started looking beyond benefits. Employees are nowadays more interested in finding a corporation that resembles their own principles. Based on this reason, companies should apply CSR to improve the working conditions and retain a skilled labour force. Finally, companies are also interested in having partners that act in a socially responsible manner and this is achieved through the introduction of codes of conduct for their suppliers (International Institute for Sustainable Development 2013).The benefits that companies can obtain from voluntary CSR can be grouped into three different levels:

- At the company level, CSR can bring financial benefits, it can improve the financial performance, it can lower operating costs, it can increase sales and provide easier access to capital. Moreover, CSR can enhance the image and reputation of the corporations, it can attract and retain employees as well as increase customer loyalty;
- At the community level, CSR deal with charitable contributions, employee volunteer programmes, corporate involvement in community education, product safety, and quality;
- At the environmental level, CSR can help companies to increase the recyclability of material; products are more durable and functional; there is a greater use of renewable resources as well as the integration of environmental management tools into their business plan (International Institute for Sustainable Development 2013).

Voluntary CSR presents also some weaknesses that are very difficult to manage and overcome. The main problems are: free-riding, low competition, the impossibility of sanctioning transgressors and the credibility of CSR reports. The free rider problem occurs when a company obtains positive externalities from the actions of another company without paying for those benefits (O'Neill 2007). This, for example, happens when companies that pertain to a certain industry decide to act responsibly by following a voluntary code, without legal coercion, while other companies in the same industry continue to act in a poor and negligent way but take advantage from the industry's collective effort. Consequently, companies that are complying with a voluntary code have to sustain costs caused by the free-riders and they will, thus, face an economic disadvantage (UNEP 1998).

The impossibility of sanctioning is another relevant problem that characterizes the voluntary nature of CSR. Considering the fact that regulations have the aim of promoting remediation rather than sanctioning transgressors, it seems to be contradictory to be punitive with those who do not follow the guidelines. Obviously, this has negative consequences because companies do not feel obliged to follow the rules.

Another relevant weakness related to voluntary CSR is the credibility of CSR reports. Reports that represent a key tool in CSR, have received a lot of criticism for their lack of credibility, transparency and poor quality. Thanks to a research conducted by Lock and Seele it was possible to understand that the key elements that influence the credibility of CSR reports are understandability (even before truth), sincerity and appropriateness. In fact, in communication, clarity and understandability are necessary to make stakeholders understand. This deals with the avoidance of jargon, being clear, concise and objective. Governmental intervention could be a way to overcome this lack of credibility (Lock and Seele 2016).

### 2.3 CSR and the law

Legal enforceability is something that is lacking in CSR even if many consider laws to be necessary for providing a certain level of harmonization as well as a normative linkage. In fact, CSR has always been treated as a voluntary initiative and the government has never demonstrated an interest in making it mandatory.

Corporate Social Responsibility is considered as a voluntary initiative, which goes beyond compliance. This characteristic represents its main strength as a corporation can freely decide whether to apply CSR or not. Those who believe that CSR is completely voluntary, discourage the introduction of governmental regulations as they could have negative impacts as well as risky consequences. However, excluding the government from the CSR framework, can reduce the possibility of progress as well as the creation of a proper balance between the society, the business, and the government. Moreover, even if CSR and the law are completely separated, they are intertwined and the government already plays a role in it. This relationship can be demonstrated by the fact that in CSR there are many standards that regulate corporate activities, which are characterized by a certain level of legal enforceability and cannot be considered completely voluntary (Amao 2011). Likewise, CSR triggered the development of mandatory social and environmental reporting that forces corporations to report their activities and disclose them. Another relevant point is the fact that codes of conduct are in many cases incorporated in suppliers and employees' contracts, which makes codes of conduct enforceable. Finally, in many countries, there is already the obligation to comply with minimum legal standards as far as the environment, labour standards, and fair competition are concerned (Amao 2011). In this extent law in CSR could be a means that triggers possible legal changes to achieve the intended CSR objectives. The most relevant roles the government plays in the CSR context are considered in the following section:

- *Facilitating*: the government can facilitate CSR by advancing CSR policy initiatives using incentives and disincentives to endorse and mandate CSR, educational campaigns, disclosure obligations and others;
- *Legitimizing*: the government is extremely relevant for the legitimization of CSR, for its recognition in the public arena and for its business acceptance;
- *Modeling*: the government can encourage governmental organs to act as good corporate citizens to be an example for all society by applying CSR principles;
- *Enforcing*: establishing a statutory CSR framework with determined rewards and punishments, which reinforces corporate self-regulation (Horrigan 2007).

The commitment of the government to CSR has many positive consequences. As a matter of fact, it can raise awareness, it can give CSR a proper policy priority. Moreover, governmental commitment can facilitate the establishment of CSR indicators with both voluntary and mandatory initiatives to benefit the whole nation (Horrigan 2007). On the other hand, the main cons of making CSR mandatory are that businesses and people would apply CSR only because they are obliged and not because they care about the environment and society. Moreover, once laws are established, businesses will easily find a way for not complying with it.

#### *2.3.1 The law making process*

The law is the result of a long and difficult process of discussion between different parties, which aim at transforming an idea into a real law that should be respected by all citizens. This process is complex for two main reasons: the first one is linked to the fact that there are many interest groups that try to influence the government's decisions and the second one copes with the difficult role of the government to try to converge all the interests and organize different parties. Regarding government's influencers, companies represent the most relevant ones because they do not have the right to vote, it is very difficult for them to see their interests being represented by the government. In this context, public affairs play a relevant role because they represent an opportunity for corporations to participate in the political process and to communicate their interests. Companies can directly or indirectly try to affect the government's legislative actions through, for example, participation in public hearings, preparing reports to government's members regarding precise issues, through the media or by establishing a direct communication with the government. A corporation that engages in the political context wants to affect what the government does as it considers important the political activities in order to build and maintain relationships with representatives and policymakers. A corporation that

engages in the political context wants to influence the government and the political agenda (Lock et al. 2016), by building and maintaing relationships with representatives and policymakers.

Thus, corporations are considered as interest organizations with the focus on influencing public policies such as changing existing policy, keeping the status quo, reducing government actions or seeking government's recognition of a problem. Influencing the policy making process should not be mistaken as an illegal activity but as a key element that gives everyone in the society a voice. However, the influencing process requires a high level of transparency and accountability to avoid any form of corruption. There are both pros and cons related to corporations influencing the government; first, the main benefits are that corporations can improve policy-making through reliable and relevant information about precise issues and secondly, lobbying appears to be even more effective and stronger than corruption. On the opposite, the main disadvantages are concerned with bribery and corruption. In fact, if this influencing practice is not managed in the right way, it can lead to political corruption and illegal practices. Companies may operate based on the reciprocity principle by providing donations or other favours to politicians, policy makers, and representatives. Another important disadvantage is represented by conflict of interest. In conclusion, companies can have a voice in the law-making process and they have the possibility to see their interests being represented and taken into consideration by the government. This is necessary for a corporation to function properly and to realize its objectives.

### *2.3.2 Theoretical approaches*

The importance of introducing a legal regulatory framework in CSR has been discussed for many years and it is still under debate. Many argue that self-regulation is not sufficient anymore while others believe that the law has neither facilitated CSR nor encouraged companies to go beyond profits and adopt CSR standards and values (Mahmudur Rahim 2013).

In this complex situation, there are two main approaches aimed at reconceptualising the role of the law in CSR and how it can work effectively in the CSR context. The first one is the meta-regulation approach elaborated by Christine Parker and the second one is the reflexive law theory advanced by Gunther Teubner, Jurgen Habermas, and Philipp Selznich (Horrigan 2007).

**Parker's meta regulation approach** The concept of meta-regulation has been proposed for the first time by Peter Grabosky and it has been successively expanded by Christine Parker and John Braithwaite. They proposed this model as an intermediary step between state regulation and self-regulation this means that meta-regulation is an approach that is neither completely voluntary nor totally dependent on law. In fact, it is a completely new approach that is aimed at linking social values with economic incentives and disincentives to prompt corporations to include CSR principles in their company processes. This approach has an indirect influence on corporations and their decision to incorporate CSR principles or not (Mahmudur Rahim 2013).

The meta-regulation approach consists of three stages that establish a solid self-regulation process inside a company:

- The commitment to respond: the company has to become accountable and internalize the values that it considers to be relevant. Here the law can help the company defining strategies to be accountable but it cannot force the company to internalize certain values that are not relevant.
- Acquisition of specialised skills: the second stage consists in facilitating the internalisation process and here the law does not play a relevant role because everything depends on the company itself.
- Knowledge and the definition of the purpose: the last phase consists of the development of a strategy to reach the main goals and here the law may help the company in disclosing relevant information (Mahmudur Rahim 2013).

In order to make this approach effective, the company must set clear values and policy goals and ensure that they will be embedded in the structure of the company. The most important factor is that the company has to reach these goals through the application of the responsibility framework (Mahmudur Rahim 2013).

An example of a meta-regulatory approach is when the law requires companies to report about their environmental and social activities to measure the impact and their ethical performance. In order to achieve these requirements, companies have to create their own system that helps them to collect necessary information. Another meta-regulating strategy, as explained by Parker, is the one of making the developments of internal governance mechanism a precondition to the issue of licenses, authorization of permission so that those companies that develop a more severe internal mechanism are exempt from regulatory requirements (Scott 2008).

The main benefits provided by this approach are that it retains corporate commitment; it empowers firm's ability of self-regulation as well as it helps to overcome limitations of prescriptive rules. This approach "*helps individual companies to design their own compliance management systems according to their specific circumstances*" (Mahmudur Rahim 2013).

The idea that stands behind this approach is as follows. A corporation should be socially responsible not because it follows the predetermined law but because it directs its own actions towards a socially responsible behaviour. The approach is also criticised for its blurred nature. In the application of meta-regulation strategy, there would be a legal encouragement to self-regulation that would not have positive consequence in the improvement of accountability. Moreover, the meta-regulation approach seems to advance a concept that will empower the law itself. It may also create an uncertain governance scenario since the approach delegates power to make rules, to implement, and to enforce these rules to corporations (Amao 2011).

**Reflexive law theory approach** The reflexive law theory presents many similarities with the meta-regulation approach and it has been developed by different legal theorists including Gunther Teubner, Jurgen Habermas, and Phillipp Selznick. The theory involves the so-called reflexive or procedural law that is aimed at solving the existing problems between traditional law and self-regulation (Amao 2011). More precisely it has the potential to reduce the existing gap between CSR and the law using procedural norms apart from the law. We can attribute to this theory the role of offering guidance on the appropriate form of regulation and encouraging independence and autonomy instead of coercion (Barnard et al. 2004). Therefore, the theory focuses on procedural norms that are opposed to formalized rules with the aim of developing regulatory mechanisms that allow achieving the intended goals through self-regulatory decisions. In this way, the law oversees the processes of self-regulation without direct enforcement. The law plays a decisive role in this theory, it helps to find a balance between regulatory norms set by legislators, legal norms generated by the legal subsystem and the activities where the control is exercised. Thus, the reflexive theory allows regulations to benefit from the advantages provided by soft law that result in lower contracting costs, lower government costs and easier adaptation to uncertainty.

### *2.3.3 Government indirect regulation*

The role that the government is playing in CSR is still at the indirect level, this means that there are no regulations aimed at enforcing corporations to apply CSR in their processes. This is also due to the fact that the government has always shown to be hesitant in the application of law even if it is playing a discrete role in encouraging the application of CSR. In this extent, the legislation requires companies to adopt CSR in their process through indirect regulation such as disclosures, socially responsible investments, and anti-corruption regulations. These legal pressures, even if indirect, are making CSR less voluntary but they still preserve the non-mandatory nature of CSR (McBarnet 2009). Many governments are dedicating several resources to introduce disclosure policies. Also, the European Union requires companies to provide CSR related information in their annual reports that includes data about non-financial performance, the environment, and employees. Once the obligation for disclosure is in place, corporations feel the pressure and the importance of disclosing a positive approach to CSR. The indirect intervention of the government with the introduction of disclosure initiatives forces companies to demonstrate a CSR risk control that is achieved through the adoption of CSR policies. The same happens with corruption, with the introduction of the Foreign Corrupt Practices Act, its effect on a company are mitigated if the company demonstrates to already have in place a code of conduct and a program for propagation and enforcement of the Corruption Act. Likewise, we can consider it as an indirect way for applying CSR (McBarnet, 2009).

### *2.3.4 Limitation of public policy*

For several years, there has been an increase in indirect legal interventions in the CSR framework to enforce CSR rather than encourage company's commitments. However, governmental interventions are not always seen in a positive way. Various limitations regarding the introduction of public policy in the CSR world can be identified. First, legislation is not as effective as one might believe, this is due to the absence of a global regulation aimed at regulating the business activities in all nation states. Some countries are highly regulated, others have a less demanding legal environment. Big corporations take advantage of these legal vacuums to increase their profit and work in a more accommodating regulatory environment (McBarnet 2009).

Another problem is represented by the fact that corporations, as explained before, can easily influence the government through lobbying, which can lead to compromises and a decrease in the level of control. Moreover, in many cases governmental penalties are not strong enough to be perceived as a signal to change corporate conduct; contrary, penalties become a business cost or a licence to be paid. The inappropriateness of the enforcement techniques fails to constrain those who do not comply with CSR and consequently, the government discontents those who are willing to comply voluntarily with CSR standards. Another limitation is concerned with the ability of corporations to bypass the law through the so-called "creative compliance" that consists of using the law in a creative way to avoid regulation. In this extent, the most known form of creative compliance is tax avoidance or accounting. But also other aspects, such as environmental legislations and human rights can be subject to corporate indifference (McBarnet 2009).

Considering all the above-mentioned limitations, the law should not be recognized as the main tool for corporate accountability because there is still the necessity for ethical, social and economic pressures that are at the core of CSR. The benefits of maintaining the three dimensions of CSR cope with the fact that in this way corporations will operate beyond the range of formal law and at the same time law seems to be more effective. In conclusion, the law is not just a tool used to control businesses but it is more focused on enforcing commitments of businesses to ethics, social responsibility, environmental responsibility and human rights (McBarnet 2009).

#### *2.3.5 The blurred legal status of CSR guidelines: categorizing stages between soft and hard law*

According to the previous analysis about voluntary CSR and the role that the law is playing in this context, it is noteworthy to see which stages between voluntarism and legal enforcement in terms of CSR guidelines exist. As already mentioned before, there is a large quantity of CSR guidelines aimed at guiding companies to greater transparency and accountability (Leipziger 2010). Concerning their legal aspect, these guidelines present a different level of enforceability; there are some of them that are completely voluntary while others are considered hard law. In between soft and hard law, there are different stages characterized by different degrees of obligation: soft soft law, soft hard law, hard soft law, hard hard law.

We can differentiate soft law from hard law based on three dimensions: obligations, precision, and delegation. As far as the obligation is concerned, hard law is characterized by a higher degree of legal obligation while soft law can have weak or no legal obligation. Hard law is more precise in a sense that it defines clearly what is permitted and what is forbidden while soft law tends to use a more general and abstract wording. Finally, regarding the delegation aspect, hard law tends to delegate the interpretation to a third party, which can be a court or a tribunal while the interpretation or enforcement of soft law is something that happens within the parties (Abbott and Snidal 2000). As mentioned before, between soft and hard law there are other stages of law and this is due to the fact that a law cannot only be hard or soft, on the contrary, it could be highly legalized in terms of obligations but the language used could be vague or imprecise and vice-versa. From that, we can understand the existence of different legal status of CSR guidelines (Abbott and Snidal 2000). Soft law initiatives despite hard law initiatives are non-binding in a sense that they are self-regulatory and there are no or weak sanctions in case a company does not comply with them. In this category, there are those codes, guidelines, and standards aimed at promoting an expected corporate behavior without enforcing their application. As we have seen in the voluntary section of the literature, there are many pros linked to the voluntary application of these guidelines, for example, companies are not obliged to adopt them, there is a lot of flexibility for companies and they are considered as tools that can improve corporate behavior (Adeyeye 2011).

**Soft soft law** The category of soft soft law includes those voluntary guidelines with a low level of formalization that result in weak or no sanctions in case of noncompliance. The UN Global Compact is an example of soft soft law, it is a corporate sustainability initiative that invites companies to align their strategies with universal principles in the areas of human rights, labour, the environment, and anti-corruption. The UN Global Compact is a soft soft law because companies can voluntarily decide to embrace, support and enact a set of core values in the above-mentioned areas. Companies are not forced to apply the ten principles. As far as the sanctions for noncompliance are concerned, members of the Global Compact initiative are required to communicate their progress on a yearly basis and if they do not respect this basic rule, they can be expelled from the initiative (United Nations Global Compact https://www.unglobalcompact.org/about/faq).

**Hard soft law** Hard soft law is a voluntary law with a high level of formalization and certification that results in weak sanctions in case of noncompliance. The Global Reporting Initiative is an example of hard soft law, it has been created by two non-profit organizations, Ceres and Tellus. The purpose of the GRI is to work towards a sustainable global economy by offering guidelines for CSR sustainability reporting. The GRI is characterized by a high level of formalization as it provides precise rules and procedures on how to create a CSR report; it is a very scientific and specific matrix, which makes the initiative hard in its approach. However, it is a soft law because it is not mandatory and corporations can try to have their report in line with what is required by the guidelines or they can simply use the guidelines informally. Moreover, the GRI does not verify whether the criteria have been met or not (Leipziger 2010).

**Soft hard law** In the category of soft hard law, there are mandatory standards that are characterized by a low level of formalization that results in weak sanctions in case of noncompliance. The EU directive on mandatory reporting is an example of soft hard law, it is a law but very vague and soft in its approach. It has been published by the European Commission that is a legal authority and it requires publicly listed European companies to disclose non-financial information. For this mandatory law, reports are audited but not verified and there are no sanctions in place in case of

noncompliance. This is the characteristic that differentiates a soft hard law from a hard hard law.

**Hard hard law** The hard hard law is a mandatory law with a high level of formalization that results in strong sanctions in case of noncompliance. The Sarbanes Oxley act is an example of hard hard law. It is a mandatory law issued in 2002 by the U.S Government that regulates corporate governance and financial practices and all organizations have to comply with it.

In the case of noncompliance, there are strong sanctions such as civil and penal sanctions, removal from listings on public stock exchanges and invalidation of D&O insurance policies.

#### *2.3.6 Research questions*

The research questions that this paper is aimed at answering are the following:

RQ1 Do CSR guidelines differ regarding their level of enforceability?
RQ2 Which are the elements characterizing the shift from soft soft law to hard soft law?
RQ3 Which are the elements characterizing the soft hard law that are different from the ones of hard hard law?

## 3 Method

A qualitative content analysis (Lock and Seele 2015) from a sample of 34 guidelines was conducted in order to categorize them as soft soft law, hard soft law, soft hard law or hard hard law.

A purposive sampling was drawn from the multitude of CSR guidelines. The aim was to select those guidelines that are not specific to a sector but that can be applied by any company in any sector. This choice can be explained by the fact that this analysis is not focused on the specificities of a sector but more on the general application of the CSR guidelines. Another criterion taken into consideration was the selection of guidelines that ranged from completely voluntary such as the UN Global Compact to those that are more bounded by law such as the Sarbanes-Oxley Act.

The codebook is composed of eight variables among which four are formal variables and four are content variables. The four formal variables are aimed at defining the generalities of the guidelines such as name, place of publication, year of publication, issuing institution, while the content variables define the legal status of the guidelines. With respect to the content variables, the coding methods used is the dummy coding. This specific type of coding determined the membership of the guideline to one of the four content variables using dummy variables that took the values 0 and 1. The measurement techniques chosen are mutually exclusive this means that every guideline cannot be coded as having more than one of the features listed. The codebook includes 34 guidelines as the unit of analysis.

**Table 1** Results of the Intercoder Reliability Test

| Test | Method | Results |
|---|---|---|
| Coder 1-Coder 2 | Cohen's K | 0,855 |
| Coder 1-Researcher | Cohen's K | 1 |
| Coder 2-Researcher | Cohen's K | 0,855 |
| Coder 1-Coder 2-Researcher | Crombah Alpha | 0,999 |

The coders' objectivity and reliability were checked regularly by two intercoder reliability tests (see Table 1). Cohen's K and Cronbach Alpha showed respectively a positive and acceptable reliability value.

## 4 Results

This chapter presents the empirical findings regarding the research questions and other findings deducted from the content analysis.

### 4.1 Descriptive statistics of the sample

The data collected in the codebook was processed in SPSS to calculate the frequency of distribution. The results show that the majority of the guidelines are soft soft law, with a total percentage of 67,6% while the other relevant percentage, 20,6%, is represented by the guidelines with a hard soft legal status. The most interesting result is that there are few hard hard law guidelines, in fact, they represent only 8,8% of the total, while only 2,9% of the guidelines are characterized by a soft hard legal status. This distribution is not completely surprising as the literature showed that the government is not playing a relevant role in the CSR framework; these results confirm the initial impressions.

Certainly, a positive result is represented by the relevant percentage of hard soft law guidelines that despite the soft soft ones, they are more binding in terms of obligations and sanctions. On the other hand, the guidelines with a soft soft law approach are dominating the CSR framework.

Through the data gathered it was possible to answer the three research questions (according to RQ 1, 2 and 3 see Fig. 1, 2 and 3).

The content analysis performed by using the codebook allowed to answer positively to the research question: CSR guidelines differ regarding their level of enforceability and their legal status; they are characterized by different degrees of requirements, obligations, sanctions, and rewards. The

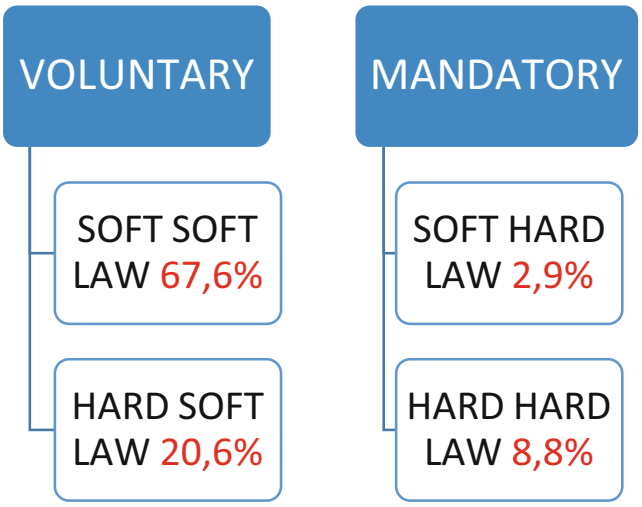


**Fig. 1** Results first research question

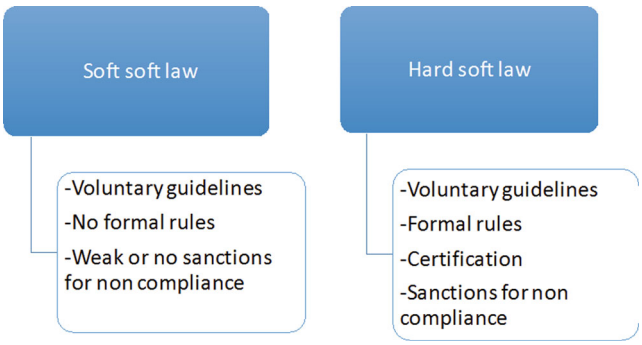


**Fig. 2** Results second research question

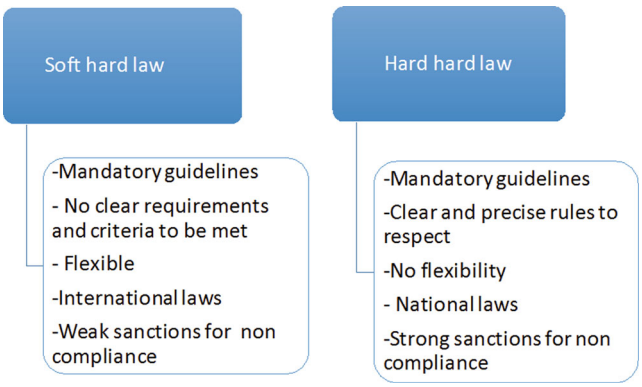


**Fig. 3** Results third research question

affirmative answer to the research question is supported by statistical data that shows the concrete existence of different legal status between soft and hard law. Regarding the soft approach, 67,6% of the guidelines that have been analysed showed a soft soft legal status while 20,6% reflect a hard soft legal status. On the other hand, as far as the mandatory approach is concerned, 8,8% of the guidelines showed a hard hard approach and 2,9% a soft hard approach.

These results demonstrate that it is not accurate to classify the guidelines has hard or soft because both legal statuses can be further specified. In fact, not every guideline that is soft in its approach has the same characteristics; there are some of them that are more binding than others (hard soft law) and some that are more voluntary than others (soft soft). The same observation can be made for the hard legal statuses, there are some mandatory guidelines that are weaker in their approach (soft hard law) and that cannot be considered as strong as the hard hard laws.

During the coding, it has been interesting to see concretely which are the characteristics differentiating the soft soft legal status and the hard soft legal status?. First of all, the guidelines characterized by a soft soft law approach are completely voluntary and they are characterized by a low level of formalization and weak or no sanctions. A low level of formalization means that the guidelines do not provide standards and strict regulations that have to be met by the companies that apply them. Regarding the sanctions in case of noncompliance, most of the guidelines that showed a soft soft law approach did not include any sanction. This demonstrates that guidelines exist, which are completely voluntary and thus companies can use them without undergoing controls or progress checks. As a result, free riding behaviour is incentivized.

On the other hand, the hard soft legal status characterizes those voluntary guidelines that require companies, to comply with strict obligations and standards. The hard soft approach is a step further compared to the soft soft one because of the presence of certification. Certification is a very important tool for a company as it recognizes the commitment of the company with respect to a certain CSR standard. In fact, it has been defined by the ISO organization as "*the provision by an independent body of written assurance (a certificate) that the product service or system in question meets specific requirements*" (ISO.org http://www.iso.org/iso/home/standards/certification.htm). Certification allows differentiating between companies that are acting responsibly and those that are acting in a way, which does not comply with the certification standard. Noncompliance can lead to the loss of membership or the removal of the certification.

Nevertheless, the hard soft law guidelines are based on a careful and timely control of corporate activities and processes that have to be in line with the requirements of the guideline. Moreover, sanctions are applied in case of noncompliance. Even if these sanctions are weak, they encourage the company to apply proper guidelines. In fact, the majority of the hard soft guidelines in case of noncompliance, terminate the relationship with the company or require corrective actions. At this point, it seems interesting to see the differences between a soft soft guideline and a hard soft

one. The Equator Principles is an example of soft soft law and it provides the following principles:

- Principle 1: Review & categorization,
- Principle 2: social & environmental assessment,
- Principle 3: Applicable Social & environmental Standards,
- Principle 4: Action Plan & Management System,
- Principle 5: Consultation & Disclosure,
- Principle 6: Grievance Mechanism,
- Principle 7: Independent Review,
- Principle 8: Covenants,
- Principle 9: Independent Monitoring & Reporting,
- Principle 10: EPFI reporting (www.equator-principles.com).

As we can see, these are very general principles that are not characterized by formal rules but are only suggestions on how to modify the company's processes. Moreover, they do not define clearly which actions companies are expected to take. On the other hand, the hard soft guidelines are highly formalized and companies are expected to follow the rules. For example, the SA 8000 is highly formalized in a sense that it defines clear criteria that have to be met in the different areas such as: child labor, forced and compulsory labor, health and safety and so on. All these criteria need to be met if the company wants to be SA 8000 certified.

In conclusion, the hard soft approach seems to be more effective than the soft soft one because it provides both rewards and sanctions for companies. Moreover, as companies know that they will be recognized as a user of a certain standard, they are more motivated in upholding it. As mentioned before, companies' reputation ameliorates if it meets certain CSR standards and is dedicated to their adherence.

Even if the line between the soft hard and hard hard guidelines could appear very blurred, it has been possible to clearly identify which are the elements that determine the shift from the soft hard to the hard hard approach. Soft hard guidelines are issued by governmental institutions. They are mandatory law and thus, must be complied with. However, they have a low level of formalization that results in undefined standards and obligations that companies have to meet. Also, sanctions are very weak and in many cases, there are no sanctions in place as can be observed in the case of the EU directive.

Considering the EU directive on non-financial reporting, it is a soft hard law that is made up of principles that show many weaknesses that do not allow to consider it as a hard hard law:

1. The standards that the company has to meet in order to comply with the directive are not well defined: the principles reported in the directive do not provide any instructions on how to report risks and corporate CSR impacts.
2. Requirements as well as criteria are very general and not sufficiently specified. For example, the directive states that regarding the reporting of risks related to the supply chain, the company has to report only those facts that are relevant and proportionate without providing any specification and clarification of what they consider to be relevant and proportionate.
3. Flexibility: the directive is very flexible in a sense that it gives companies the possibility to choose what the most appropriate solution is for them. They can choose which type of international standards to follow and report. They can decide which type of approach to follow and whether they comply or explain. If the company decides not to follow the policies in a given area, it simply has to provide an explanation of the underlying reasons.
4. For the auditing, it is up to the Member States whether to apply more rigorous verification methods or not. Moreover, the verification and enforcement are left to the Member States (Chaplier and Gregor 2014).

The hard hard legal status is to all intents and purposes a law. Hard hard guidelines are characterized by a high level of formalization that results in precise rules and requirements that companies have to meet in order to avoid legal sanctions. There are obviously coercions, restrictions, and prohibitions that companies have to respect. Sanctions can be substantial ranging from fines to imprisonment up to twenty years and they are created and enforced by the government. Most importantly the verification of the law is carried out by the government itself and without delegation.

Another element that differentiates soft hard law from hard hard law is that the hard hard laws are valid only at the national level while the soft hard laws are internationally applied.

### 4.2 Key findings

The data gathered allowed not only to answer the research questions but also to obtain other interesting results.

The findings have been captured during the content analysis of the guidelines as well as by comparing the guidelines of the sample.

**Legal status of the guidelines during years** According to the sample analysed there has not been a relevant increase in the number of binding guidelines that show a legal status different from the soft soft one during years.

One of the formal variables in the codebook was the one that defined the guidelines' year of publication. The data gathered allowed to analyse whether during years there has been an increase in the number of binding guidelines. The results show that there has not been a huge increase in the number of binding guidelines in the period taken into

consideration. In the first sixty years, only six guidelines out of seventeen showed a legal status that is more binding than the soft soft one. The majority of the guidelines created in this first part of the timeline are soft soft. The same situation can be observed in the second part of the timeline, starting from the year 2000. In fact, from the 21st century, seventeen of the guidelines analysed have been issued and only six showed a legal status that is more binding or that at least requires companies a certain type of obligations than the soft soft one.

Moreover, it can be observed that the number of hard hard law guidelines is increasing since 2000. In the period before 2000, only one hard hard law guideline was issued, whereas in the period after the year 2000 three hard hard law guidelines have been issued. On the other hand, the creation of soft soft instruments is constant for years and it is always prevailing on the other legal status.

These results show that there is the willingness to make CSR more bounded by law through the creation of CSR instruments that are more enforceable than the soft soft guidelines. However, the quantity of guidelines with a legal status different from "soft soft" are rare. CSR is far away from being considered mandatory and this is also supported by the below timeline that shows that for several years there has not been an evolution in the characteristics of the guidelines regarding their level of enforceability. The majority tends to have a low level of formalization and no sanctions in case of noncompliance.

**Voluntary CSR** CSR has to be considered voluntary in its application; there are few instruments created in order to make it mandatory.

As already discussed in the literature review, there is the tendency to consider CSR as a voluntary initiative rather than a mandatory. This tendency has been confirmed by the definitions of CSR that have been analyzed in the initial part of the article as well as by the core characteristics of CSR that certainly underline the voluntariness of this discipline. In addition to this, the content analysis of the guidelines reinforced this initial idea. In fact, there is a huge quantity of guidelines, among the sample analyzed, that are voluntary in their application. More, the results show that 88% of guidelines are voluntary while the remaining part is mandatory (12%). The percentage of voluntary guidelines highly exceeds the mandatory instruments and thus, it can be said that CSR is voluntary in its application. Every year a large quantity of new soft instruments is created by nonprofit organizations and due to their vague characteristics, it is very easy for an organization to apply them and appear as a sustainable company. At the same time, the main problem arising from this large quantity of soft instruments is clarity. For a company that decides to commit to CSR, it is very difficult to survey the large number of guidelines in existence and the differences between them. The guidelines tend to address approximately the same issues and suggest similar solutions. Another problem is green washing. Considering that some of these soft instruments do not require any obligation in terms of reporting on progress and results, it is very easy for an organization to create a positive image of itself linked to sustainability thanks to the adherence to a CSR initiative.

**Government indirect regulation through voluntary CSR guidelines** The government is exercising an indirect regulation of corporate activities through voluntary CSR guidelines.

As it has been possible to state in the literature, the government is not playing a relevant direct role in the CSR framework through the creation of hard laws aimed at binding corporate's activities. However, the content analysis of the guidelines showed that the government is not completely absent, on the contrary, it is in a certain way binding corporation when they decide to apply the guidelines. In fact, some of the voluntary guidelines require to comply with and to respect international and national laws. The hard soft guidelines, that represent 23% of the voluntary guidelines analyzed, showed a linkage with the law. In particular, there are four of them that require companies not only to comply with the guidelines that they voluntary decided to apply but also to comply with all applicable laws of the country. For example, in the EMAS standard, the government plays a relevant indirect role. The EMAS standard includes government supervision of the environmental verifiers and it requires a full legal compliance with environmental legislation. It is more than a voluntary standard and thanks to its transparent reporting it contributes to determining legal compliance. The EMAS also provides a high quantity of benefits to the government, such as reduced environmental impacts and consequently reduced costs and it saves time and resources of enforcement agencies and increases awareness.

Another example of hard soft law where the government is indirectly influencing the activity of the company is the Fair Labor Association. Companies that decide to adopt the Workplace Code of Conduct are required to comply with all applicable laws of the country. The obligation to comply with local laws is also extended to suppliers, licensees, and contractors (Leipziger 2010).

Likewise, the ISO 14001 imposes the obligation to comply with all applicable environmental laws and regulations. Moreover, it cooperates with national, local, provincial and state law that the company is expected to respect. Also, the Social Accountability 8000 requires companies to comply with national and all the applicable laws as well as the industry standards.

On the other hand, there are also some soft soft guidelines that explicitly require complying with international and national laws. In particular, the ISO 26000 requires the respect for the rule of law and the respect for international norms of behaviour and human rights (Leipziger 2010). Similarly, the OECD convention on combating bribery of foreign public officials in international business transactions demands that members who decide to sign the convention, also accept the Recommendation of the Council of combating bribery and the recommendation on the Tax deductibility of Bribes of Foreign Public Officials (Leipziger 2010).

More in detail, thirteen soft soft law guidelines do not require companies to comply with international and national laws while in the implementation of the other eight guidelines, it is necessary the respect national and international laws (Leipziger 2010).

In conclusion, the majority of the guidelines with a hard soft legal status showed a linkage with the law and the government. This is not the same for the soft soft guidelines where the majority do not show a linkage with the law, they are more focused on providing a framework or suggestions for best practices.

These results are very significant as they demonstrate that the government is influencing – even if in an indirect way – the application of CSR. Companies can freely decide to apply CSR through the guidelines but, there are legal requirements that companies need to meet. In this way, there is no direct governmental enforcement, contrary the company that applies a certain guideline decides also to voluntarily commit to laws and requirements. This represents a first – yet a small – step towards CSR enforcement and it testifies the existing cooperation between the government and nonprofit organization aimed at promoting CSR. Moreover, these results support what has been presented in the literature review as indirect regulation of the government.

**Guidelines interconnection** In many cases, the application of a certain guideline comes with a precondition, the application and the respect of another guideline.

A condition for the membership in some guidelines is the certification for a certain standard or the application of certain codes of conduct or principles. This is an interesting result that demonstrates the existing collaboration between the different guidelines and how the activities of a corporation are indirectly regulated. There are two cases that are particularly interesting, the EMAS and the SA 8000. The EMAS standard is closely related to ISO 14001 and both are in a certain way collaborating in the application and development of CSR. In fact, the ISO 14001 standard is part of the EMAS audit scheme and it allows many ISO certified organizations to step up to EMAS through easier processes. In this way, the corporation that has already obtained an ISO 14001 certification and that wants to apply EMAS, is facilitated. Actually, a company does not have to conduct a formal environmental review when implementing EMAS as it has already been certified by the ISO 14001 standard. This seems to be an effective indirect way for committing a company with other standard and improving its sustainability.

Likewise, the SA 8000 is another standard that is well linked to international CSR instruments such as the ILO convention, ILO code of practice on HIV/AIDS and the World of Work, to the Universal Declaration and the United Nations Convention. This means that companies are required to respect the principles established by these guidelines in addition to the one established by the SA 8000. Furthermore, this result shows that those guidelines that are considered completely voluntary or soft in their approach, are in reality starting to bind corporate activities in a very bland way by requiring companies to commit with other guidelines.

## 5 Conclusions and limitations

This study has provided a complete overview about voluntary and mandatory CSR and it clarified which role the government is playing in the CSR framework. Moreover, through the codebook, it has been possible to clearly define the legal status of the guidelines and concretely define the difference between the soft soft, hard soft, soft hard and hard hard legal status. Every guideline showed a precise legal status with precise characteristics that cannot be generalized as voluntary or mandatory. In fact, it is a mistake to consider all the voluntary and all the mandatory guidelines equivalent. It is necessary to further specify their legal status and their characteristics.

To conclude, this study was characterized by some limitations.

Due to the sampling criteria and the purpose of the research, only a limited number of 34 guidelines have been analysed. Thus, the results are not completely representative regarding the evolution of the legal status of the guidelines that there has been during years. A bigger sample could have contributed to a more precise overview about the increase or decrease in the number of binding CSR instruments.

Another limitation is concerned with the measures used to collect the data that did not allow the researcher to conduct a more precise and detailed analysis of the results. The variables taken into consideration in the codebook were very general, primarily aimed at understanding the legal status of the guidelines. However, during the coding, it has been possible to see that there is more interesting data

that could have been gathered and analysed to have a more comprehensive overview.

Another limitation of the study is concerned with the data that is self-reported and that could be biased. Finally, this qualitative study is completely based on the personal interpretation of the researcher that had to determine legal statuses according to the characteristics of the guidelines. For the above-mentioned reasons, this study could have been influenced by subjectivity, although intercoder reliabilit was controlled for.

## Appendix

### Sample (see Leipziger 2010)

- CERES Principles
- The Natural Step Principles
- OECD: convention on combating bribery of foreign public officials in international business transactions
- OECD principles of Corporate Governance
- Principle for Responsible Investment
- Voluntary Principles on Security and Human Rights
- Business Principles for Countering Bribery
- Commonwealth Corporate Governance Principles
- Global Sullivan Principles
- Caux Round Table Principles for Business
- Amnesty International Human Rights Principles for Companies
- Equator principles
- ILO: Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
- Ethical Trading Initiative: base code
- UN Global Compact
- Universal Declaration of Human Rights (foundation initiative)
- IFC Performance Standard on environmental and social sustainability
- Greenhouse Gas Protocol Corporate Standard
- ISO 14001
- ISO 26000
- ISO 9001
- SA 8000
- The impact Reporting and Investments Standard
- AA1000 Assurance standard
- SGE 21
- GRI
- EMAS eco-management and audit scheme
- Fair Labor Association: workplace code of conduct
- ILO Code of Practice on HIV/AIDS and the World of Work
- Sarbanes-Oxley Act
- Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights
- EU Directive on Non-Financial Reporting
- Securities Act
- Bribery Act

## References


Abbott KW, Snidal D (2000) Hard and soft law in international governance. Int Organ 54:421–456 (https://clg.portalxm.com/library/keytext.cfm?keytext_id=66)

Adeyeye A (2011) Universal standards in CSR: are we prepared? Corporate Governance. Int J Bus Soc 11(1):107–119

Amao O (2011) Corporate social responsibility, human rights and the law. Routledge Tylor & Francis, London New York

Barnard C, Deakin S, Hobbs R (2004) Reflexive law, corporate social responsibility and the evolution of labour standards: the case of working time. University of Cambridge Working Paper No. 294. ESRC Centre for Business Research, Cambridge (http://www.cbr.cam.ac.uk/fileadmin/user_upload/centre-for-business-research/downloads/working-papers/wp294.pdf)

Castro D (2011) Benefits and limitations of industry self-regulation for online behavioural advertising. ITIF, the information technology & innovation foundation. http://www.itif.org/files/2011-self-regulation-online-behavioral-advertising.pdf. Accessed 12 Feb 2016

Chaplier J, Gregor F (2014) Assessment of the EU directive on the disclosure of non-financial information by certain large companies. European Coalition for Corporate Justice. https://business-humanrights.org/sites/default/files/media/documents/eccj-assessment-eu-non-financial-reporting-may-2104.pdf. Accessed 12 Feb 2016

Dentchev N, van Balen M, Haezendonck E (2014) On voluntarism and the role of governments in CSR: towards a contingency approach. Bus Ethics A Eur Rev 24(4):378–397

Horrigan B (2007) 21st century corporate social responsibility trends – an emerging comparative body of law and regulation on corporate responsibility, governance, and sustainability in Corporate Social Responsibility in the 21st Century. Debates, Models and practices Across Government Law and Business, vol. 4. Edward Elgar Publishing, Cheltham, pp 85–122

Leipziger D (2010) The corporate responsibility code book, revised second edition. Greenleaf Publishing, Shipley

Lock I, Seele P (2015) Quantitative content analysis: A method for business ethics research? Business Ethics: European Review 24:24–40. doi:10.1111/beer.12095

Lock I, Seele P (2016) The credibility of CSR (corporate social responsibility) reports in Europe. Evidence from a quantitative content analysis in 11 countries. J Clean Prod. doi:10.1016/j.jclepro.2016.02.060

Lock I, Heath R, Seele P (2016) Where grass has no roots: The concept of 'shared strategic communication' as an answer to unethical astroturf lobbying. International Journal of Strategic Communication 10(2):87–100. doi:10.1080/1553118X.2015.1116002

Lozano J, Albareda L, Ysa T, Roscher H, Marcuccio M (2016) Governments and corporate social responsibility: public policies beyond regulation and voluntary compliance. Palgrave Macmillan, Basingstoke

Mahmudur Rahim M (2013) Legal regulation of corporate social responsibility. A meta-regulation approach of law for raising CSR in a weak economy. Springer, Heidelberg

McBarnet D (2009) Corporate social responsibility beyond law, through law, for law. University of Edinburgh School of Law Working Papers, vol. 2009/03. doi:10.2139/ssrn.1369305

Nasrullah NM, Rahim MM (2014) Understanding of CSR and its standards. In CSR in private enterprises in developing countries, CSR, sustainability, ethics & governance. Springer, Cham, pp 11–40

O' Neill B (2007) Solving the "problem" of free riding. From mises institute, Austrian economics freedom and peace webpage. https://mises.org/library/solving-problem-free-riding. Accessed 12 Feb 2016

Scott C (2008) Reflexive governance, meta-regulation and corporate social responsibility: the Heineken effect. In: Boeger N, Murray R, Villiers C (eds) Perspectives on corporate social responsibility: corporations, globalisation and the law series. Edward Elgar, Cheltenham, pp 1–19

Seele P, Gatti L (2015) Greenwashing Revisited: In Search for a Typology and Accusation-based Definition Incorporating Legitimacy Strategies. Business Strategy and the Environment. doi:10.1002/bse.1912

United Nations Environment Programme Industry and Environment (1998) Voluntary industry codes of conduct for the environment. Technical report No. 40. United Nations Publication, Herndon, p 8