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Corporate Social Responsibilities: Alternative Perspectives About the Need to Legislate

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Abstract This research involves a review of the submissions to a 2005/06 Australian Government *Inquiry into Corporate Social Responsibility*. The Inquiry was established to investigate whether corporate social responsibilities and accountabilities should be regulated, or left to be determined by market forces. Our results show that the business community overwhelming favour an anti-regulation approach whereby corporations should be left with the flexibility to determine their social responsibilities and associated accountabilities and 'enlightened self-interest' should be retained as the guiding mechanism for social responsibility initiatives. In stark contrast, the submissions from social and environmental organisations and individuals provided counter-arguments in favour of a pro-regulation view. Ultimately Government embraced the 'free market perspective' promoted by the business community and decided against the introduction of national legislation pertaining to corporate social responsibilities.

Keywords Corporate social responsibility · Government inquiry · Regulation · Enlightened self-interest · Free market perspective

Introduction

With mounting scientific evidence, there is growing acceptance (see Meadows et al. 2004, Millennium Ecosystem Assessment 2005, WWF 2005, Stern 2006 and Garnaut 2011) that the environment is in crisis and that actions must be taken to slow—and ideally stop and reverse—the damage that is being done to the planet.[1] Such actions also need to be coupled with strategies that consider the needs of various communities throughout the world. Poorer communities cannot be expected to be motivated to look after the environment when their immediate needs for food and shelter might only be met through activities that are environmentally deleterious. The increasing global calls for corporations to embrace 'sustainable development' are consistent with the above concerns.[2]

Whilst the support of governments is essential to achieving sustainable development, the activities of business organisations also contributes to the state of the environment as well as impacting the social well-being of various stakeholders (either positively or negatively).[3]

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[1] Whilst there does appear to be compelling evidence that the environment is in crisis with major concerns about the impending impacts of climate change, it is acknowledged that there are alternative perspectives. There are a number of well-respected scientists who question the evidence and suggest that climate change is either not created by humans or is not actually occurring. Some of the alternative opinions are that climate change has happened before and it is part of the 'normal cycle' of the planet, and/or the models predicting climate change are overly simplistic thereby providing questionable predictions. See Lonborg (2001) and Itoh and Watanabe (2007) for an overview of contrary perspectives.

[2] There are various definitions of sustainable development, but the one most commonly cited is 'development that meets the needs of the present world without compromising the ability of future generations to meet their own needs' (World Commission on Environment and Development 1987).

[3] As will be explained later in this article, 'stakeholders' can be defined as any identifiable group or individual who can affect the achievement of an organisation's objectives, or is affected by the achievement of an organisation's objectives (Freeman and Reed 1983).

Business organisations have under their control the necessary capital that could be used to address many social and environmental issues confronting communities worldwide. The active involvement of business is essential to any moves towards sustainable development and to addressing many of the social and environmental problems confronting people throughout the world (WWF 2005). Any quests towards reducing ongoing environmental damage and also reducing the number of people who are unable to satisfy their basic needs arguably requires more business organisations to embrace different business strategies than those that have been embraced in recent decades (Stern 2006). A key issue is whether any shifts in business strategies consistent with a quest towards sustainable development should be imposed by legislation, or left in the hands of corporate managers to be implemented through self-regulation.

If we are to accept that the environment is in 'crisis' (Stern 2006), and that actions need to be taken to support various disadvantaged peoples throughout the world (Meadows et al. 2004; WWF 2005), then before we can accept that business is likely (or unlikely) to embrace the challenges we need to gain an insight into the social responsibilities that business leaders believe they have. A useful avenue for gaining such an insight within the Australian context (one of the world's largest per capita producers of Greenhouse gases) is a 2005/06 Australian Government Inquiry into corporate social responsibility. In 2005, the Australian Government established through its Parliamentary Joint Committee on Corporations and Financial Services (PJCCFS) (under the auspices of the *Australian Securities and Investments Commission Act* 2001) an *Inquiry into Corporate Responsibility*. The Inquiry was established for a number of reasons inclusive of the view that: corporate social responsibility was emerging as a critically important issue for Australia's business community; by international standards Australia was potentially lagging behind many countries in the world with respect to implementing operating and reporting requirements pertaining to social responsibilities; and, because of high profile Australian corporate social responsibility-related controversies, such as those related to James Hardie [4] (PJCCFS 2006). As such, the purpose of the Inquiry was to consider the merit of introducing greater regulatory requirements in relation to corporate social responsibility and associated reporting. Public submissions were invited, with submissions being received through to early 2006. Specifically, the *Terms of Reference* of the Inquiry—and the issues upon which submissions were sought—were as stated in Table 1.

Table 1 Terms of Reference of the Australian Government Inquiry into corporate social responsibilities

The Committee will inquire into corporate responsibility and triple-bottom-line reporting, for incorporated entities in Australia, with particular reference to:
a. The extent to which organisational decision makers have an existing regard for the interests of stakeholders other than shareholders, and the broader community
b. The extent to which organisational decision makers should have regard for the interests of stakeholders other than shareholders, and the broader community
c. The extent to which the current legal framework governing directors' duties encourages or discourages them from having regard for the interests of stakeholders other than shareholders, and the broader community
d. Whether revisions to the legal framework, particularly to the Corporations Act, are required to enable or encourage incorporated entities or directors to have regard for the interests of stakeholders other than shareholders, and the broader community. In considering this matter, the Committee will also have regard to obligations that exist in laws other than the Corporations Act
e. Any alternative mechanisms, including voluntary measures that may enhance consideration of stakeholder interests by incorporated entities and/or their directors
f. The appropriateness of reporting requirements associated with these issues
g. Whether regulatory, legislative or other policy approaches in other countries could be adopted or adapted for Australia

The submissions to the Inquiry allow us to contrast the business leaders' perceptions of corporate responsibilities with those from other groups who made submissions to the Inquiry. The Inquiry received 202 submissions (closing early 2006) from various parties, such as business corporations, business associations, professional bodies, accounting firms, non-government organisations (NGOs), consumer associations, employee groups, government organisations and individuals. The number of submissions made to the Inquiry was the largest number of submissions to any PJCCFS inquiry across the previous decade. According to PJCCFS (2006), this relatively large number of submissions provided an indication of the importance that many people within the community placed on deliberations concerning whether corporate social responsibilities should be subject to the introduction of guiding legislation at a national level.

This article explores the opinions provided by various organisations and stakeholders about the social responsibilities of business organisations, and about whether corporate social responsibilities should be further mandated by the introduction of additional legislation.

[4] James Hardie Industries Ltd was involved in the manufacture, distribution and mining of asbestos and related products. Thousands of legal claims have been made against the company for health impacts (notably related to asbestosis and mesothelioma) and it has been widely questioned whether the company properly fulfilled its social responsibilities to people impacted by its operations and products.

As we explain in our section on research method, we undertook our analysis by reading each of the submissions made to the Inquiry to identify the opinions provided by the respondents in relation to the various terms of reference. In summary, our results indicate that corporations, industry associations and accounting firms and accounting bodies tended to favour an anti-regulation ('free market') approach whereby corporations should be left to voluntarily determine their social responsibilities and associated accountabilities—the view being that markets will ultimately penalise organisations with poor social and environmental performance records. By contrast, social and environmental NGOs, consumer associations, employee groups and individuals tended to adopt a pro-regulation view whereby regulation needs to be put in place to protect the interests of various stakeholders and that when left to the 'invisible hand' of the market, corporations do not operate in the 'public interest' (other than perhaps when they are persuaded through 'enlightened self-interest'). Not unexpectedly, respondents from groups such as social and environmental organisations had broader perspectives of the 'stakeholders' of a business organisation, and broader perspectives of corporate social responsibilities relative to the respondents from the business community.

After considering the various submissions made to the Inquiry the PJCCFS adopted the same position as that promoted by the Australian business community, and found in favour of not supporting the introduction of legislation relating to corporate social responsibilities and related reporting. As PJCCFS (2006, p. 63) stated:

> The committee considers that an interpretation of the current legislation based on enlightened self-interest is the best way forward for Australian corporations. There is nothing in the current legislation which genuinely constrains directors who wish to contribute to the long term development of their corporations by taking account of the interests of stakeholders other than shareholders. An effective director will realise that the wellbeing of the corporation comes from strategic interaction with outside stakeholders in order to attract the advantages described earlier in this chapter.

It is interesting that the above conclusion from government is based upon a view about what is 'best' for 'Australian corporations'. As we will see in the remaining of this article, the conclusion of government coincides with the positions taken by the Australian business community, rather than with the views of various social and environmental groups and individuals. As we will also see, this position is similar to the perspective taken by other national governments.

The remaining of this article is organised as follows. "Existing requirements in Australia as they relate to corporate social responsibilities" section of this article briefly describes existing corporate legislation within Australia as it pertains to corporate social and environmental performance. "The corporate social responsibilities and regulation of business" section highlights our research questions and some of the contrasting views about the stakeholders and social responsibilities of corporations and provides some arguments from the literature that are *for* and *against* regulation (the 'free market' vs the 'pro-regulation positions'). "Research method" section provides an overview of the research methods used. "Results" section documents the results of the analysis of the submissions. "Consistencies in the position of the business community" section identifies the high level of consistency between the anti-regulation arguments espoused by the business sector in relation to the Inquiry under investigation relative to the arguments espoused in other government based reviews, both in Australia and internationally, and "Summary, concluding comments and suggestions for future research" section provides concluding comments to the study and some suggestions for future research.

Existing Requirements in Australia as They Relate to Corporate Social Responsibilities

As already indicated, this article investigates submissions made to an Australian Inquiry established to investigate community perceptions about the extent to which Australian corporate managers' responsibilities are, or should be, extended to stakeholders other than just shareholders. The Inquiry also sought to investigate whether legislation—in particular the *Corporations Act* 2001 (Cth)—should be amended to specifically require managers to consider a broader group of stakeholders.[5] With this in mind, it is useful to briefly consider existing legislation.

Within Australia, there are many sources of legislation—much of which are state-based—that relate to a variety of social responsibility-related issues. For example, there are various laws in relation to occupational health and safety, environmental performance, equal opportunity and discrimination, industrial relations, and so forth. The various sources of legislation—which typically apply to all organisations and not just corporations—show a great deal of variability from state to state and there is also a general lack of public disclosure requirements within the respective legal requirements (O'Neill et al. 2008). At a national level, the main source of legislation in place to govern

[5] The document accompanying the *Terms of Reference* did not specifically identify what was meant by the term 'stakeholder'.

corporate managers' actions and associated accountability is the *Corporations Act*. Within the terms of reference to the Inquiry the government specifically sought interested stakeholders' views on whether the *Corporations Act* should be amended to explicitly extend the social responsibilities of directors beyond shareholders to include other stakeholders and the broader community. Given this specific reference to the *Corporations Act* it is useful for us to identify existing requirements within the *Act* as they relate to corporate social responsibilities.

The *Corporations Act* incorporates many disclosure requirements, much of which are related to the financial position and performance of an organisation and therefore principally aimed at those individuals or organisations with a financial stake in the organisation (for example, shareholders). In relation to corporate social responsibilities, there is a general lack of disclosure requirements within the *Corporations Act*. Notable exceptions relate to the requirement that corporations provide details within the Directors' Report (which is included in the corporation's Annual Report) about their compliance with environmental laws (Section 299(1)(f) of the *Corporations Act*). Also, particular entities, such as investment funds must, in accordance with Section 1012 also provide information within their *Product Disclosure Statement* about how social and environmental issues are considered in their investment decisions.

Whilst the above (minimal) requirements relate to disclosure, the major guiding principal within the *Corporations Act* pertaining to the responsibility of corporate officers in terms of the strategies used to run a business is provided by Section 181(1). This section, which is often referred to as the 'good faith requirement,' requires:

A director or other officer of a corporation must exercise their powers and discharge their duties:

(a) in good faith in the best interests of the corporation and
(b) for a proper purpose.

At this point it is relevant to note that the submissions received from the business corporations overwhelmingly supported the view that the 'best interests of the corporation' necessarily required corporate officers to consider the needs of a broad group of stakeholders and the environment. That is, they believed that Section 181(1)—and a number of the submissions incorporated specific reference to the section—encouraged sound social and environmental behaviour and that this section alone is sufficient to encourage 'sound' corporate practices. The view was that a failure to be 'socially responsible' in a manner consistent with the expectations of the communities in which the organisation operates would have implications for shareholder value, and therefore would not be 'in the interests of the corporation'. Many other respondents—notably those from social and environmental groups and from individuals—rejected this view and believed that Section 181(1) actually discouraged companies from considering the needs of stakeholders (other than shareholders), and the needs of the environment. We will return to these views later in the article.

The Corporate Social Responsibilities and Regulation of Business

Submissions to the Inquiry will, in part, be driven by the submitting parties' perceptions about the social responsibilities of business. The submissions will also, somewhat obviously, be directed by the specific terms of reference that were developed by the PJCCFS (as previously shown in Table 1). A review of the terms of reference indicates that they can be broadly summarised as addressing two main issues, these being:

- The extent to which corporate managers *do*, or *shoul*d, accept responsibilities to stakeholders beyond shareholders and
- Whether particular corporate social responsibilities should be mandated within legislation (such as the *Corporations Act*), or left to the discretion of corporate managers.

The above main issues lead us to the broad research questions to be addressed in this study. These are:

RQ1 What opinions do different categories of respondents have with respect to the extent to which corporate managers accept, or should accept, responsibilities to stakeholders beyond shareholders?

RQ2 What level of support for the introduction of additional legislation pertaining to corporate social responsibilities exists within different stakeholder groups?

Linked to RQ2 above, a further research question is:

RQ2a From the perspective of the opponents of the introduction of legislation, what costs or disadvantages do they perceive as potentially likely to arise should legislation be implemented?

In answering the above research questions, we will also be able to provide insights about different respondents' views about who are the 'stakeholders', and what are the social responsibilities, of business organisations. As will be explained in the next section, these two issues are expected to be inextricably linked.

We will consider various issues pertaining to stakeholder identification (RQ1) and the introduction of legislation (RQ2 and RQ2a) below.

The Stakeholders and Responsibilities of an Organisation

The *Terms of Reference* to the Inquiry make specific mention of 'stakeholders' and 'corporate responsibility' so it is therefore useful to spend some time discussing the potential meanings of these terms. As we will shortly discuss, there are differences in opinion about the extent of corporate responsibilities ranging from what is often referred to as a 'shareholder primacy perspective' to a perspective where all stakeholders of a company deserve consideration in their own right. However, before we consider various theoretical perspectives pertaining to stakeholders and stakeholder identification, it is essential that we understand the meaning typically attributed to 'corporate social responsibility' given that this was central to the focus of the Inquiry.

Corporate social responsibility has been defined in a variety of ways. A widely accepted definition is provided by the Commission of European Communities (2001, p. 6). They define corporate social responsibility as:

> a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. Being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing "more" into human capital, the environment and the relations with stakeholders.

Such a definition, as provided above, does not put the pursuit of profits as the one, over-riding consideration of corporations. It also seems to suggest that various 'stakeholders' warrant consideration in their own right which seems to be inconsistent with the shareholder primacy perspective.[6]

How the managers of an organisation perceive their *corporate social responsibilities* is expected to be linked to how they define their *stakeholders*. The two concepts are inextricably related. For example, managers that consider that their key stakeholders comprise shareholders and other providers of financial capital will tend to see their responsibilities as being relatively more aligned to increasing the profitability and returns to investors, compared to an organisation that has a broader perspective of its stakeholders. By contrast, an organisation that considers that its key stakeholders comprise, for example, the employees of product suppliers operating in developing countries, will perhaps emphasise improvements in the working conditions of the employees in its supply chains as one of its main social responsibilities.

Whilst there are some very broad definitions of 'stakeholders' that are available, such as Freeman and Reed's (1983) definition (which defines a stakeholder as "any identifiable group or individual who can affect the achievement of an organisation's objectives, or is affected by the achievement of an organisation's objectives"), it is likely that different organisations will have different perceptions of *to whom* they owe a responsibility (that is, their stakeholders), and the *nature* and *extent* of this responsibility. This will in turn influence their perceptions of corporate social responsibilities. So whilst there are also some broad definitions of 'corporate social responsibilities' such as the one provided above from the Commission of European Communities (as there is with the definition of stakeholders), each organisation will have a different perspective of the extent of those social responsibilities. Furthermore, just as the managers of organisations will have different perceptions of 'stakeholders' and therefore of the 'corporate social responsibilities', people outside an organisation (stakeholders) will have different perceptions of corporate stakeholders and social responsibilities.

Therefore, although not forming part of the *Terms of Reference* of the Inquiry we also explore within this research whether, as part of the submissions, respondents provided definitions of 'stakeholders' and whether the respective definitions appeared to be linked with the perspectives of corporate social responsibilities they provide.

A discussion of stakeholders can usefully make reference to stakeholder theory. 'Stakeholder theory' provides insights into issues such as stakeholder identification, stakeholder rights, stakeholder management, and stakeholder power. 'Stakeholder theory', however, is an umbrella term for various theories with a focus on 'stakeholders' but each of which can incorporate different aims and assumptions. At a broad level, stakeholder theories have been divided into those that embrace an ethical (moral) or normative perspective, and those that embrace a positive (managerial) perspective (Deegan 2009).[7] Consistent with this, Donaldson and Preston (1995) divide stakeholder theories into those that are normative and based on various ethical propositions, and those that are empirical and/or instrumental (managerial) in nature.

[6] This view is also consistent with CPA Australia (2011, p. 5.15) which, in defining shareholder primacy, states: "An organisation that focuses primarily on the interests of shareholders is considered to be embracing a *shareholder primacy perspective*. To many people, the adoption of a shareholder primacy perspective and the notion of corporate social responsibilities are mutually exclusive. That is, an organisation that fixates on the interests of shareholders is not really embracing the spirit of CSR".

[7] Hence, the label 'stakeholder theory' can be a confusing term. As Hasnas (1998, p. 28) states, "stakeholder theory is somewhat of a troublesome label because it is used to refer to both an empirical theory of management and a normative theory of business ethics, often without clearly distinguishing between the two".

Researchers who are considered to be researching from the ethical branch of stakeholder theory will typically argue that stakeholders warrant consideration in their own right and their rights typically need to be enshrined in legislation. Such protection is required regardless of whether or not it has negative implications for the value of an organisation (Hasnas 1998). Within this perspective, a particular stakeholder (for example, a shareholder) is not considered to be any more important than other stakeholders with organisations having a fiduciary duty to all affected stakeholders.

Consistent with the 'ethical branch' of stakeholder theory, a number of submissions to the Inquiry from social and environmental organisations embraced a view that stakeholders have intrinsic rights (for example, to safe working conditions, fair pay, etc.), and these rights are inviolable. Pursuant to this view, each group of stakeholders merits consideration for its own sake and not merely because of its ability to further the interests of some other group, such as the shareholders (Donaldson and Preston 1995, p. 66). As Stoney and Winstanley (2001, p. 608) explain, fundamental to the ethical branch of stakeholder theory is a:

> concern for the ethical treatment of stakeholders which may require that the economic motive of organizations—to be profitable—be tempered to take account of the moral role of organizations and their enormous social effects on people's lives.

Researchers that embrace the 'ethical perspective' often project the view that because corporations as a whole are the custodians of massive amounts of resources then they should use such resources to solve social and environmental problems. Such a use of funds would, however, be in contrast to the expectations of many shareholders.

Shifting our attention to the other 'branch' of stakeholder theory, researchers that embrace a positive or managerial perspective (for example, see Ullman 1985 and Roberts 1992) will identify stakeholders on the basis of the stakeholders' ability to influence the success of an organisation, and the greater the influence (power) of the stakeholder, the more likely it is that the stakeholder would be considered by the organisation. Mitchell et al. (1997) note that the likelihood that a stakeholder will have their expectations attended to will be based upon their respective power, legitimacy and urgency. Such research provides predictions (for example, that the demands of powerful stakeholders will be attended to in priority to others), and therefore can be empirically tested. In support of this perspective, Hamil (1999) reports that corporate social responsibility-related activities undertaken by corporations are nearly always based on managerial, or instrumental, reasoning. According to Hasnas (1998, p. 32), when viewed as an empirical theory of management designed to prescribe a method for improving a business's performance, stakeholder theory does not imply that business has any social responsibilities.

In terms of identifying and potentially prioritising stakeholders, stakeholders have also been classified as *primary* and *secondary* stakeholders. For example, Clarkson (1995, p. 106) defines primary stakeholders as "those without whose continued participation the organisation cannot survive as a going concern". Secondary stakeholders are defined by Clarkson (1995, p. 106) as "those who influence or affect, or are influenced or affected by the corporation, but they are not engaged in transactions with the corporation and are not essential for its survival". According to Clarkson, managers are more likely to attend to the demands and expectations of primary stakeholders. However, proponents of the ethical branch of stakeholder theory would argue in favour of the consideration of both primary and secondary stakeholders.

Applying some of the above discussion to this study, not all organisations will embrace the same perspective of corporate social responsibility. Nor will they have the same view about who are their 'stakeholders'. Therefore, even though the definition of corporate social responsibility provided above might be broadly accepted, there is much scope in applying the definition. As we will show in this article, the submissions by the majority of corporations indicated that they adopted a narrower perspective of corporate social responsibility and one which operated within the context that all activities must have as their basis the intended outcome that the actions will assist in maximising shareholder value. They therefore, and perhaps expectedly, are placing the interests of shareholders above the interests of other stakeholders.

Related to a corporation's views about its social and environmental responsibilities would be the perceptions it holds about its *accountability* to various stakeholders within the community. For example, different managers might have different views about whether they are accountable to shareholders alone or whether they have an accountability to a broader group of stakeholders which might also incorporate the environment. Another issue might be the differences of opinion between various corporate managers about whether the responsibility and associated accountability of business is restricted to current generations, or whether future generations should be factored into current management decisions. What is being emphasised here is that we can expect broadly ranging views about the breadth of responsibilities and accountabilities of business organisations, and such differences in views are expected to impact the nature of the respective submissions made to the Inquiry. Whether there is any marked differences between the views of various groups of stakeholders (for example, differences between the views

of corporate managers as opposed to representatives of social and environmental lobby groups) will be something that becomes apparent from our research.

In relation to the issue as to which stakeholders an organisation is mainly responsible to, one (fairly narrow) view about corporate responsibilities is provided by the famous economist Milton Friedman. According to Clarkson (1995, p. 103):

> Friedman…like so many neo-classical economists, separated business from society, which enabled him to maintain that "the business of business is business". By placing the two abstractions of business and society into separate compartments, Friedman was able to deny the necessity, or even the validity, of the concept of corporate social responsibility, decrying it as a fundamentally subversive doctrine.

In his widely cited book, *Capitalism and Freedom*, Friedman (1962) rejects the view that corporate managers have any responsibilities beyond maximising the profits they generate. In relation to the view that organisations have broader social responsibilities he notes (p. 133) that such a view:

> shows a fundamental misconception of the character and nature of a free economy. In such an economy, there is one and only one social responsibility of business, to use its resources and engage in activities designed to increase its profits as long as it stays within the rules of the game, which is to say, engages in open and free competition, without deception or fraud.[8]

Therefore, by restricting the identification of 'stakeholders' to shareholders, Friedman was able to provide a very narrow perspective of corporate social responsibility.

Bakan (2004) has suggested that corporate social responsibility can also usefully be classified as either 'sincere' or 'insincere'. Sincere corporate social responsibility would be consistent with the Commission of European Communities' definition of corporate social responsibility provided earlier and would relate to undertaking activities that benefit society or the environment without necessarily having any positive influence on corporate profitability—something that would not be tolerated by individuals that adopt the views of Friedman, but which would be agreed to by people who have a broader perspective of who comprise the stakeholders of an organisation. As Bakan (2004, p. 34) states:

> There is, however, one instance where corporate social responsibility can be tolerated, according to Friedman—and that's when it is 'insincere'. The executive who treats social and environmental values as means to maximise shareholder wealth—not as ends in themselves—commits no wrong.

This idea of 'insincere' corporate social responsibility would have much in common with the instrumental and managerial perspectives of stakeholder theory discussed earlier.

Parkinson (1994) also provides a useful classification system for corporate social responsibility, defining it in terms of whether it is 'relational responsibility' or 'social activism'. According to Parkinson, relational responsibility attempts to promote the welfare of groups such as employees, customers, or neighbours who are affected by, or who can affect, the company's mainstream business activities. By contrast, social activism refers to conduct which is putatively beneficial to society or particular interest groups, but which falls outside the scope of the company's ordinary commercial operations. Hence, using the two schema provided by Bakan (2004) and Parkinson (1994), respectively, we might argue that activities that are motivated purely by a desire to maximise shareholder value will tend to be 'insincere' and 'relational', whereas the other end of the spectrum might be represented by activities that are 'sincere' and of a nature akin to 'social activism'. As this article will demonstrate, the overwhelming majority of submissions from the Australian business community appear to be of an 'insincere' and 'relational' nature. By contrast, submissions from individuals and social and environmental groups adopted a perspective that there is a general need for organisations to move towards sincere social activism. As we will discuss in our "Results" section, from our review of submissions to the Inquiry it was apparent that many corporate managers appeared to embrace the views espoused by Friedman some decades earlier—the view that the pursuit of profits will—as a derivative effect—ultimately require managers to consider broader stakeholder interests. Indeed, in supporting their various arguments, a number of the submissions actually made specific reference to the works of Friedman indicating that 'Friedmanite economics' is still 'alive and well' in corporate Australia.

Managers who support Friedman's position believe that it is not an immoral position to adopt. Rather, they tend to argue that if the actions of all individuals (and businesses) are motivated solely by a self-interested desire to maximise personal wealth, then this will benefit all in society because

[8] Friedman (Friedman 1970) is also quoted as stating that the "Corporate executive has a responsibility to make as much money as possible (*maximise profits*), while conforming to the basic rules of society, both those embodied in law and those embodied in ethical custom". Whilst reference is made to 'ethical custom', Friedman's view of ethical custom was relatively limited and was construed as requiring an organisation to engage in open and free competition (no coercion) without deception or fraud.

(through the resulting economic growth) the wealth generated by the successful parties will 'trickle down' to others. In this way, they argue, the conditions of all in society will be improved if all people in society actively pursue their own self-interest, with this being a morally desirable position. This 'trickle down' belief is commonly repeated as a key moral justification for the capitalist system. But reflecting the disparity of opinions, critics argue that a problem with this moral justification for a narrow and exclusive focus on maximising shareholder wealth (or shareholder value) is that there is little, if any, evidence to show that it benefits others. As Gray (2005a, pp. 6–7) states:

> It is disturbing…to discover that there is no direct evidence to support this precarious construction. The view relies, for its empirical support, on the generalised argument that, for example, we are all better off than we have ever been; that we are all getting better off all the time; and that this increase in well-being has coincided with the triumph of international capitalism. Such arguments are, at best, contestable. Whilst for many in the West this statement has a superficial veracity, it ignores the growing gap between rich and poor…and it entirely ignores the increasingly parlous state of the environment.

A focus on maximising profits also means that greater reliance is placed on market mechanisms. That is, corporations will respond to the demands of consumers, and if consumers demand that products have particular attributes (for example, that they are certified as not being produced in 'sweat shops'), then corporations will need to act, else lose the support of consumers (this would be an instance of enlightened self-interest in action). From such a perspective it is market participants (for example, consumers), who are ultimately responsible for ensuring that organisations produce goods and services that are socially and environmentally acceptable.[9]

Having briefly considered the range of possible opinions about corporate responsibilities to various stakeholder groups we can now turn out attention to related arguments for and against introducing legislation in relation to corporate social responsibilities.

Pro- and Anti-regulation Arguments

Reflective of many of the submissions from the business sector, the Business Council of Australia's submission to the Inquiry identified a number of 'existing drivers towards greater corporate social responsibility'.[10,11] These drivers—which can also be referred to as 'the business case' for corporate social responsibility—were identified as:

- employee recruitment, motivation and retention;
- learning and innovation;
- reputation management;
- risk profile and risk management;
- competitiveness and market positioning;
- operational efficiency;
- investor relations and access to capital and
- license to operate.

If we consider the 'drivers' identified above by the Business Council of Australia—which they argued were sufficient to motivate companies to do the 'right thing', thereby meaning that no regulatory intervention was deemed necessary—we can see that they are all tied to maximising the *value of business*, rather than necessarily doing the 'right thing' by the stakeholders with whom they interact (that is, the motivations are tied to *managerial reasoning* rather than broader *ethical* considerations). It is quite common to see various industry bodies promote the adoption of various social responsibility-related activities on the basis of the benefits this would generate for the associated businesses. But such a perspective embraces the view that unless shareholder value is enhanced then it is difficult to justify activities that might otherwise advance the interests of other stakeholders. Indeed, throughout their submission, the Business Council of Australia continually refers to the imperative to maximise shareholder value (they would appear to be supporters of the 'trickle down effect' discussed earlier). They stated in their submission to the Inquiry that:

> The litmus test for any activity or responsibility is whether the performance of that activity or responsibility can reasonably be seen to be contributing to the growth of shareholder value.

What is being emphasised here is that the view that business will do the 'right thing' because of 'enlightened self-interest' necessarily needs stakeholders—with financial power—to financially penalise the organisation if the

[9] We will return to this point later in the article when we consider the role of personal social responsibility (PSR) and corporate stakeholder responsibility.

[10] According to its website, the Business Council of Australia is an association of chief executives of leading Australian corporations with a combined national work force of almost 1 million people. It was established in 1983 to provide a forum for Australian business leadership to contribute directly to public policy debates in order to build a better and more prosperous Australian society.

[11] Similar drivers have also been identified in documents released by other Australian business organisations. For example similar benefits were identified in a report released in 2003 by the Group of 100 (a body made up of the Chief Executive Officers of Australia's largest corporations). The report was entitled *Sustainability: A Guide to Triple Bottom Line Reporting*.

organisation deviates from what those stakeholders consider to be appropriate behaviour.[12] Such stakeholders would include consumers.

Within some of the submissions there was also a view that freely operating market mechanisms, and not regulation, are more efficient in providing safeguards to various parties. This coincided with the views provided by Friedman many decades ago. Friedman (1962, p. 82) stated:

> The central feature of the market organisation of economic activity is that it prevents one person from interfering with another in respect of most of its activities. The consumer is protected from coercion by the seller because of the presence of other sellers with whom he can deal. The seller is protected from coercion by the consumer because of other consumers to whom he can sell.

Such views are based on a belief that all individual actions are motivated by self-interest, and that self-interest left to operate unhindered can actually be in the 'public interest'. Proponents of a 'free market' approach also often rely upon a perspective that markets are efficient, and that efficiently operating markets will ensure that, on average, managers will do the right things in terms of shareholders (which is in turn considered to lead to trickle down effects throughout the society).

In support of the argument that regulation is not necessary, a number of submissions made reference to the disciplining effects of sub-sections of the broader 'market'. For example, reference was made to the 'market for managers' and the 'market for corporate takeovers'. As noted in Deegan (2009), the 'market for managers' argument (see Fama 1980) relies upon the assumption of an efficiently operating market for managers. Managers' previous performance is predicted to impact how much remuneration (payment for services) they command in future periods, either from their current employer or elsewhere. Adopting this perspective, it is assumed that, even in the absence of regulations controlling management behaviour and in the absence of other contractual requirements, managers will be encouraged to adopt strategies to maximise the value of their organisation (and which provides a favourable view of their own performance). However, arguments such as this are based on assumptions that the managerial labour market operates efficiently, and that information about past managerial performance will not only be known by other prospective employers but will also be fully impounded in future salaries. It also assumes that the capital market is efficient when determining the value of an organisation and effective managerial strategies will be reflected in positive share price movements (that is, poor management decisions will lead to reductions in the value of the firm). In reality, these assumptions will clearly not always be met. Markets will not always be efficient (Kothari 2001; Lee 2001). The arguments can also break down if the managers involved are approaching retirement, in which case future market prices for their services in the 'market for managers' may be irrelevant (Cheng 2004).

The 'market for corporate takeovers' argument assumes that an under-performing organisation will be taken over by another organisation that will thereafter replace the existing management team (Fama 1980; Deegan 2009). With such a perceived threat, managers are motivated to maximise firm value to thereby minimise the probability that outsiders could take control of the organisation at low cost. To the extent that securing a 'license to operate' (a term used in a number of the submissions) requires a firm to demonstrate sound social and environmental performance, a firm that does not properly maintain satisfactory levels of performance—as expected by its key stakeholders—will drive its own share price down thereby making it a potential target for a takeover. Taken together, the 'market for corporate takeovers' and the 'market for managers' arguments provide the basis for opposition to the introduction of legislation because of the assumption that without legislation appropriate corporate strategies will be adopted and information will be produced to minimise the organisation's cost of capital thereby increasing the value of the organisation.

However, once we start questioning assumptions about market efficiencies then perhaps the need to legislate becomes more apparent. Furthermore, in relation to the supply of information—which would include the supply of social and environmental performance information—there is a view that market forces alone will not lead to appropriate levels of supply. This is because the 'free' or 'public good' attributes of information creates market failure when it comes to the supply of information about an organisation (Cooper and Keim 1983; Demski and Feltham 1976). Information about an organisation's performance is generally a 'public good'—once available, people can use it without paying ('free-riders') and can pass it on to others. In the presence of 'free-riders' market mechanisms fail to operate efficiently (Cooper and Keim 1983), thereby necessitating the requirement for regulatory intervention.

Whilst proponents of the 'ethical branch' of stakeholder theory might argue that regulation is necessary to ensure the ethical treatment of various stakeholders, it should also be acknowledged that there can be 'non-market failure' (or as it is also called, 'government failure'). Calls for the intervention of government in issues associated with

[12] Enlightened self-interest is deemed to be in operation (CPA 2011, p 5.18) "when an organisation responds to community concerns (as if to appear to be 'caring') in those situations where doing so also fulfils the goal of maximising the value of the organisation, and therefore, the wealth of the owners".

corporate social responsibilities seem to implicitly assume that people in government always work in the 'public interest', and are well informed about the implications of particular legislation. However, government officials may allow self-interest to dictate their actions and they might introduce legislation to garner support from particular constituents or benefactors (Stigler 1971). Also, across time, governments can be captured by vested interests who then are able to shape legislation in the best interests of a limited subset of society (Mitnick 1980). As Andersson (1991) states in relation to legislating to improve environmental performance:

> Governments may respond to political pressure rather than maximize social welfare. Because pollution tends to hurt large unorganized groups, future generations, and those who are uninformed, there is likely to be a 'government failure' resulting in too little protection of the environment.

From the above brief discussion, we can see that there are many arguments for and against regulation. Some arguments are based on economic reasoning and the shifting of responsibilities onto market participants (for example, consumers), whilst others are based on ethical reasoning and associated calls for legislation. The above discussion has also discussed views about how markets function and has provided insights into both 'market' and 'non-market' failure. Further discussion of such issues of market and non-market efficiencies and inefficiencies is beyond the scope of this article, but such arguments should nevertheless be kept in mind when considering the various submissions which either call for market-based, or legislation-based, solutions.

Having discussed alternative perspectives about the responsibilities of corporations, as well as alternative views about the need for legislation, we will now discuss the process we undertook to review the submissions to the Inquiry.

Research Method

As explained earlier, the data used in this article was obtained as a result of reading the individual submissions made to the Government Inquiry. All submissions were made publicly available by the committee in charge of the Inquiry. Content analysis (Krippendorff 1980) was employed to analyse the submissions. Content analysis 'involves codifying qualitative and quantitative information into predefined categories in order to derive patterns in the presentation and reporting of information' (Guthrie et al. 2004; Guthrie and Abeysekera 2006). Certain technical requirements have to be met for content analysis to be effective (Guthrie et al. 2004; Guthrie and Abeysekera 2006). In particular, the unit of analysis and the basis of classification must be clearly defined.

In terms of the unit of analysis, it was the actual submissions made to the Inquiry that were read with the intent of finding where, if at all, within the submission they addressed the *Terms of Reference*. For most submissions this was relatively easy as the respective *Terms of Reference* were identified by way of a heading with the respective position and opinion being presented thereunder. However, regardless of whether clear headings were provided, the entire submissions were read. In terms of how the responses were classified, one of the authors coded all the submissions in terms of whether the respective submissions noted agreement or opposition (or no position) in respect to particular propositions included with the *Terms of Reference*. The summary of this analysis is provided in Tables 3, 4, 5, 6, 7, 8, 9. Reducing the views provided within the submissions to a summarised position (for example, that they either agreed or disagreed with a particular position) does obviously lead to a reduction in the 'richness' of the data. With this in mind, where an interesting issue was raised by a respondent, or where a particular submission seemed to reflect the views of a number of the submitting parties, then quotes from the respective submission are provided.

Summarising submissions numerically for inclusion in tables relies upon the judgement of the researcher. Subjectivity is therefore unavoidable, which could lead to possible bias in the results. Even though one of the authors was responsible for all of the coding (thereby providing a level of internal consistency, see Krippendorff 1980), as a simple test of the accuracy of coding, a random sample of 15 submissions was also reviewed by the other author and in all cases the coding provided by both authors was identical.

We classified the organisations making submissions into six categories. The categories and respective number of submissions reviewed for the purpose of this study are presented in Table 2. In terms of the organisations classified as social and environmental organisations and consultants/professional advisors these classification were made on the basis of information provided within the submission of the organisation, or from the organisation's website (generally under the 'about us' section). Organisations such as the Australian Centre for Corporate Social Responsibility and the Australian Institute for Social and Ethical Accountability, that on the surface may be considered lobby or social groups, were classified as consultants and professional advisors given that they provide 'advisory, auditing, consulting and research services in corporate social responsibility to a wide range of clients in the public, private and government sectors'.[13] The category 'social and environmental organisations' included social

[13] See http://www.accsr.com.au/.

Table 2 Submissions reviewed in this study

Classification of submitting party	Total number of submissions
Business corporations	25
Industry bodies	15
Social and environmental organisations	30
Accounting bodies and accounting firms	6
Consultants/professional advisors	20
Government	5
Individuals	36
Total	137

and environmental lobby groups (NGOs), as well as employee and consumer lobby groups and were merged into one group. These organisations were seen to have a mission to protect the environment, or parts thereof, or to advance the interests of particular segments of the community, other than the business community. They have a broader perspective of stakeholders, and therefore of corporate social responsibilities. Table 10 in "Appendix" of this article provides the names of the organisations making up the respective groups. In relation to the submissions from 'individuals' shown in Table 2, approximately 50 % came from the academic community.

Apart from the submissions represented in Table 2, approximately another 50 % of total submissions (from individuals) were received in the form of a signed one-page standard letter. This letter voiced concern over the current actions of the Australian business community and made calls for legislation to be introduced to specifically require corporations to act in a positive social and environmental manner—something that they were believed not to be currently doing. The letter also made a call for mandatory reporting requirements to be introduced. Because these submissions were more of a 'petition' nature and did not represent significant efforts to make a submission to the Inquiry—other than by the party that initiated the letter—these individual positions have not been included in the analysis undertaken in the article. The effect of eliminating these submissions acts to understate the calls for government intervention in the area of Australian corporate social responsibilities.

Within our analysis, we provide data on the number of organisations agreeing or disagreeing with a particular proposition. To provide further insight into the positions of the respective parties we also provide a number of quotes which have been extracted from the respective submissions. In the process of reproducing the quotes, and as already noted above, we have selected those quotes that represent the 'typical' views of the particular group classification to which the submitting party belongs.

Results

For the purposes of considering the submissions made to the Inquiry, and as will be seen below, related *Terms of Reference* were grouped.[14] Also in terms of the corporations that made submissions to the Inquiry, it needs to be appreciated that apart from four companies, the submitting companies were either large multi-national companies listed on foreign exchanges or were amongst the top 100 Australian companies by market capitalisation at 30 June 2006. Hence, the views being presented by the organisations are coming from significantly sized organisations.

Terms of Reference Parts A and B

> The extent to which organisational decision-makers have an existing regard, or should have regard, for the interests of stakeholders other than shareholders, and the broader community.[15]

Table 3 provides a summary of the responses on the first item in the *Terms of Reference*. As can be seen there was general consensus that organisations do tend to have regard for a broader group of stakeholders. Responses from the social and environmental organisations provided some support for this position—although they tended to question the amount of support, and whether the support went to all stakeholder groups that they considered should be supported. A number of submissions from the social and environmental groups, however, disagreed with the view and provided a perspective that despite the rhetoric of business entities, they principally only have real regard for shareholders. Such views were also embraced, on average, in the submissions from individuals.

When reviewing the submissions it was interesting to see the degree to which the business entities relied upon a 'business case' to explain why they *would* consider other stakeholders when making business decisions. That is, a 'proper' consideration of other stakeholders was justified on the basis that it should lead to positive improvements in shareholder value. Reflective of the positions taken by the majority of the business corporations were the following responses:

> ANZ Bank: There are already social and market forces in place…which make it an imperative for companies to consider the interests of all of their

[14] It needs to be emphasised that submitting parties frequently only addressed a sub-set of the *Terms of Reference*, hence the tables in the article will show that a number of submissions did not address the issue in question.

[15] Again, Table 1 provided earlier gives a full list of the Inquiry's *Terms of Reference*.

Table 3 Summary of submissions to Terms of Reference Part A

Classification of submitting party	Total number of submissions	Organisation decision makers have a current regard for other stakeholders		
		Other stakeholders are considered	Other stakeholders are not considered	Issue not addressed in submission
Business corporations	25	16	0	9
Industry bodies	15	10	1	4
Social and environmental organisations	30	13	6	11
Accounting bodies and accounting firms	6	5	0	1
Consultants/professional advisors	20	6	3	11
Government	5	0	0	5
Individuals	36	8	9	19

stakeholders in order for their business to remain sustainable over the longer term.

Origin Energy: Successful companies can obtain competitive advantage by being considerate of wider "duties" that may not be the subject of specific legislation. Companies that ignore these wider duties may suffer disadvantage in their product or investment markets and may suffer loss of value through damage to their reputation.

If we consider the above quotes, which are representative of the positions taken by all the respondents from the business community, we see that there is a view that it is the concern for shareholders which in turn drives a 'concern' for a broader group of stakeholders—that is, it is a *derivative concern* leaving us with a view that if the concern for the interests of other stakeholders was not ultimately in the interests of the shareholders, then no concern would be due. Taking this position even further, a number of the submissions from business corporations and associated business associations referred to the works of Milton Friedman (and specifically cited his works) as justification for their reasoning that quests to maximise shareholder value must dominate corporate decision making. For example, relying upon the works of Friedman (which was referred to throughout their submission), the Chamber of Commerce and Industry of Western Australia stated (this is a lengthy quote, but it does tend to sum up the views of the submissions being made from other members of the business sector):

Regulating…beyond this [the requirement of Section 181(1)] is not the role of business…Although stakeholder views of the firm are usually presented as eminently reasonable…[in relation to] the unwanted side effects of business activity, it's more radical interpretations are underpinned by social ideologies about…accountability and the operation of the economy. Such policies are flawed and potentially costly for businesses and the economy.

…A fundamental problem with the concept of corporate social responsibility: it assumes that triple bottom line accounting, ethical investment, stakeholder entitlement and similar theories will yield better outcomes (for some parties, at least) than an economy in which firms are primarily engaged in maximising long-term value for their shareholders within a framework of laws. This reflects the widely-held view that good outcomes can only arise from good intentions and that the profit motive is intrinsically distasteful.

Above all, it is indicative of a lack of faith in the capacity of the 'invisible hand' of the free market to deliver a better economic, environmental and social outcome than the good intentions of business leaders, suitably stiffened by laws, incentives and stakeholder responsibilities…But those who doubt the efficacy of markets have never yet been able to point to an economy or society where a 'visible hand' has done better, whether that hand is guided by the state, a plurality of stakeholders, or well-intentioned business leaders.

…The advocates of mandated corporate social responsibility and stakeholder entitlements would impede the business sector's capacity to make this valuable contribution to the economy and society.

Whilst the perspectives provided above by the Chamber of Commerce and Industry of Western Australia might seem fairly 'economics-driven' in orientation and accepting of the virtues of 'efficient markets', the views generally reflect the views espoused in the majority of the

Table 4 Summary of submissions to Terms of Reference Part B

Classification of submitting party	Total number of submissions	The extent to which corporate decision makers should have regard for other stakeholders			
		Agree		Disagree	Not addressed
		Business case	Ethical case		
Business corporations	25	15	1	0	9
Industry bodies	15	10	1	0	4
Social and environmental organisations	30	9	14	0	7
Accounting bodies and firms	6	6	0	0	0
Consultants/professional advisors	20	9	3	0	8
Government	5	0	0	0	5
Individuals	36	4	13	2	17

submissions made by business corporations and industry associations—hence its inclusion. Whilst Friedman was referred to in a number of submissions from companies and business associations, the concept of the 'invisible hand of the market', which originates from the works of Adam Smith was also referred to in some submissions (as was the case with the above quote).[16]

The issue of to what extent organisational decision makers *should have* regard for the interests of stakeholders is of a normative nature. As Table 4 demonstrates, there was widespread acceptance of the fact that organisations should consider the interests of a broad group of stakeholders. Consistent with this:

> Brotherhood of St Laurence: …The broader obligations and responsibilities of directors and management should include promoting responsible social and environmental practices that minimise any adverse impact on the natural environment, local communities and employees. …Decision makers and directors should ensure the development of internal programs, guidance and management systems that underpin a corporate culture that is committed to good corporate citizenship, ethical procurement and good business and employee conduct.
>
> Total Environment Centre: …Organizational decision-makers should be able to have full regard for stakeholder interests, even when not in the best interests of the shareholder or the corporation, nor act at the expense of stakeholders, society or the environment and act in accordance with the precautionary principle, which requires decision makers to rigorously rule out negative consequences…

But apart from the submissions from individuals and from the social and environmental organisations, it was the 'business case' that was overwhelmingly considered to provide the justification for considering other stakeholders. This is possibly somewhat predictable, given the responses already reported above.

In considering the position of the industry bodies, the comments made by the Business Council of Australia, one of the main bodies representing Australian business—were reflective of the position held by industry. They state:

> Business Council of Australia: A company's paramount obligation is to its shareholders. This obligation is not mutually exclusive from CSR. It is in the interests of shareholders to have their company flourish and grow. This is only possible in a sustainable way when the corporation takes into account the interests of other stakeholders, and the broader community, to the extent that these interests are relevant to the corporation. There are limits to the extent that corporations can and should have regard to interests other than those of shareholders.

Consistent with the views of the major organisations representing Australian business, individual companies espoused the business case for embracing corporate social responsibilities. With limited exception (for example, Westpac) there was very little discussion directed to the ethical responsibilities of business. Westpac provided a view that taking into account the needs of stakeholder other than shareholders is simply 'doing the right thing'. Westpac also stated that a company can be put at risk if the 'shareholder primacy principle' is interpreted narrowly and the company does not behave responsibly and ethically towards all key stakeholders. Westpac argued that it is their responsibility to manage the direct and indirect social and environmental impacts of business activities and to behave

[16] Adam Smith's most cited work is *An Inquiry into the Nature and Causes of the Wealth of Nations* (WN), as published in 1776. It was republished in 1937 as Smith (1937).

in a responsible, ethical and trustworthy manner. It would appear from the majority of the corporations' submissions that from the corporations' perspective it is not society's approval that is paramount, but rather shareholder approval. Social and environmental groups such as Amnesty recognise and acknowledge that some companies like Westpac are delivering a level of corporate behaviour that is acceptable to stakeholders including shareholders, customers, employees and local communities. Amnesty also believes that market leaders in the area of corporate social responsibility, such as Westpac, will tend to set the standard to which its peers aspire.

Having considered the responses to *Terms of Reference* A and B we are now in a position to answer RQ1. It appears to be clear that business organisations and related industry bodies in general embrace the view that corporate practices, including those relating to social responsibilities, can be justified if they can be linked to increasing shareholder value. That is, particular actions will be undertaken if a business case can justify them but in the absence of the business case, then prima facie, an organisation should not be expected to accept broader responsibilities to other stakeholders. This perspective seems to be consistent with the views espoused by Friedman approximately four decades earlier and effectively appoints the 'market' as arbiter of corporate social responsibility. By contrast, respondents from NGOs and individual respondents believed that business organisations should embrace broader responsibilities beyond the 'business case'.

As expected given the *Terms of Reference* to the Inquiry, the submissions made reference to 'stakeholders'. However, despite the use of the term within the submissions, and the potential ambiguity associated with the term, few submissions defined how they interpreted the term for the purposes of their submission. Indeed, only six submissions defined 'stakeholder' with three of the definitions coming from business corporations and industry bodies, two from social or environmental groups, and one from a professional advisory organisation. All definitions provided were consistent with the definition provided by Freeman and Reed (1983) as reproduced earlier in this article, and which included organisations or individuals that are either *affected by*, or are *able to affect*, an organisation. For example, British American Tobacco (Australia) stated:

> We define stakeholders broadly as any group, company, or individual who influences our business or who can be affected by our business activities.

However, this definition of stakeholders is very broad and does not 'drill down' to what types of 'influences' or 'affects' are in focus. Therefore, it is not overly helpful in identifying the range of stakeholders that are being considered by particular organisations. It was also interesting to see that a number of submissions (6) from the business community, whilst not defining 'stakeholders', specifically referred to the difficulties associated with defining stakeholders, and used this as a basis for suggesting that introducing legislation to protect the interests of 'stakeholders' would be unwise. For example Origin Energy stated:

> The uncertainty about what is meant by 'stakeholder' makes it almost impossible to legislate and would cause confusion as to how corporate duties would be discharged.

A limited number of respondents (12) also provided definitions of corporate social responsibility as part of their submissions. Unlike the definitions of stakeholders, there were differences in the definitions provided by business corporations and industry bodies compared to those provided by social and environmental organisations. The definitions provided by the business corporations and industry bodies tended to incorporate some reference to long-term business benefits, and the sustainability of business when defining corporate social responsibility. By contrast, for those social and environmental organisations that defined corporate social responsibility, no reference was made to the business imperatives of corporate social responsibility. Therefore, for those (few) respondents from the business community that defined corporate social responsibility, they tended to do it in an organisation-centric manner whereas others, such as social and environmental organisations, defined corporate social responsibility in a manner which did not put the interests of the organisation or shareholders above others. Whilst this perhaps is not surprising, it does emphasise that there appears to be fundamental differences in how different stakeholder groups envisage corporate social responsibility.

Furthermore, and as with the definition of 'stakeholders', a number of respondents from the business community highlighted the ambiguity associated with the term 'corporate social responsibility', and used this as a rationale for rejecting the need for legislation. For example, the Australian Institute of Company Directors stated:

> More than most phrases, "corporate social responsibility" means different things to different people. This threshold difficulty of a clear definition makes it inappropriate for mandated behaviour.

Similarly, the Business Council of Australia stated:

> Defining 'corporate social responsibility' is problematic. Too narrow a definition excludes many activities that are legitimately part of CSR. It also fixes our understanding of CSR at a particular point in time. Too narrow a definition therefore stifles innovation and evolution in CSR and encourages

companies to adopt a strict compliance approach to CSR.

The above views were also echoed by GlaxoSmithKline which stated:

CSR is a notoriously slippery concept, which has come to mean very different things for companies of different sizes, in different sectors, operating in different places. It has also accrued a range of meanings in government and non-government sectors. Adopting a strict definition, acceptable to all parties, is therefore likely to be impossible.

Terms of Reference Part C

The extent to which the current legal framework governing directors' duties encourages or discourages them from having regard for the interests of stakeholders other than shareholders, and the broader community

As with the other two issues previously considered, apart from the individuals and the social and environmental organisations, there was a view that the current legislative arrangements do not discourage organisations from considering the interests of a broad group of stakeholders. Table 5 provides a summary of the submissions on Part C.

Many of the submissions made reference to Section 181(1) of the *Corporations Act*. As we previously discussed, Section 181(1) requires that a director or other officer of a corporation must exercise their powers and discharge their duties in 'good faith' in the 'best interests' of the corporation.

The submissions received from the business corporations uniformly indicated that the consideration of a broader group of stakeholders was in the 'best interests' of the company as there were financial benefits from doing so. The consideration of the environment and a broader group of stakeholder was generally considered to be beneficial in maximising shareholder value. According to the business organisations and business associations, there was therefore no need to make any changes to the legislation as the general requirements currently in place were sufficient to encourage socially responsible activities. We can consider the following quote which is reflective of the position of the submissions from the business community:

Shell Australia: Ultimately, the legitimate interests of non-shareholder stakeholders are likely to impact, albeit indirectly, on the interests of shareholders and taking those non-shareholder stakeholder interests into account is therefore entirely consistent with existing provisions of the Corporations Act.

Again, reflective of the differences in opinions between the categories of respondents, the responses from the social and environmental organisations showed no instances of a belief that the current legal provisions encouraged a consideration of a broader group of stakeholder. Rather, many submissions indicated that it provided discouragement. Reflective of this 'counter view' were the following comments:

Amnesty International: There are numerous cases of Australian companies that have acted with gross disregard of the environment and the communities in which they operate. It is also apparent that none of the supposed controls on corporate malfeasance—enlightened shareholder value, corporate reputation, voluntary commitments, personal ethics—were sufficient to prevent these events.

Public interest advocacy centre: The current legal interpretation does not allow for situations where directors pursue decisions that favour social or environmental interests, where these decisions may adversely impact on shareholders' financial interests. It is in the public interest to extend directors' statutory duties to consider, act, mitigate and report on any negative impacts of the corporation's decisions or activities on other stakeholders.

Terms of Reference Parts D and E

Whether revisions to the legal framework, particularly to the Corporations Act or other alternative mechanisms, including voluntary measures are required to enable or encourage incorporated entities or directors to have regard for the interests of stakeholders other than shareholders, and the broader community.

The area of revision to the legal framework and 'alternative mechanisms' provided the majority of discussion within the submissions. Consistent with previous results reported herein, the results reported in Table 6 show that no business corporations considered there was a need to change the corporation law to specifically require corporations to embrace the interests of stakeholders other than shareholders.

Amongst the industry bodies and the business corporations, the level of uniformity in the arguments and related terminology against introducing additional legislation was interesting. Many of the submissions referred to the risk that the introduction of specific legislative requirements pertaining to corporate social responsibilities would tend to stifle innovation in corporate social responsibility, engender a compliance mentality and increase compliance costs.

Table 5 Summary of submissions to Terms of Reference Part C

Classification of submitting party	Total number of submissions	Current legal framework encourages or discourages corporation from having regard for stakeholders			
		Encourages	Discourages	Neither	Not addressed
Business corporations	25	9	0	0	16
Industry bodies	15	7	0	2	6
Social and environmental organisations	30	0	12	4	14
Accounting bodies and firms	6	2	0	1	3
Consultants/Professional advisors	20	4	0	3	13
Government	5	1	0	0	4
Individuals	36	5	10	1	20

Table 6 Summary of submissions to Terms of Reference Part D

Classification of submitting party	Total number of submissions	Revision to corporation act required to give regard to stakeholders		
		Required	Not required	Not addressed
Business corporations	25	0	14	11
Industry bodies	15	3	8	4
Social and environmental organisations	30	16	1	13
Accounting bodies and accounting firms	6	3	2	1
Consultants and professional advisors	20	8	2	10
Government	5	0	2	3
Individuals	36	17	3	16

Numerous submissions from the business community also stated that a 'one-size-fits-all' approach (legislation that applies to all entities) is highly inappropriate and that given market efficiencies and the managers' quests for maximising shareholder value then these factors alone should lead to innovation and benefits for all (as if by an 'invisible hand').

Given the apparent uniformity in terminology used by the corporations, further analysis of the submissions made by the corporations that addressed the issue and by Australia's largest business associations (the Business Council of Australia, Australian Institute of Company Directors, Australian Banking Association and Group of 100) were undertaken Specifically the authors searched for the use of the words 'stifle', 'compliance costs', 'compliance mentality', 'innovation' and 'one-size-fits-all'. The search indicated that nine organisations specifically used the term 'stifle' to describe the effects regulation will have on corporate social activities and initiatives being undertaken by organisations. A further 10 organisations referred to the fact that regulation will lead to a 'compliance mentality', 7 organisations referred to the 'high compliance costs', 12 organisations indicated that regulation will lead to a 'reduction in innovation' in the area of socially responsible activities and 7 organisations specifically made reference to the inappropriateness of the 'one-size-fits-all' approach that is associated with legislation. Hence, not only were they generally taking the same positions in their submissions (that is, opposing legislation), they were typically embracing the same language in doing so. Reflective of the language being used by the respondents from the business sector was the following submission made by the Australian Institute of Company Directors:

> The Australian Institute of Company Directors: The AICD believes that reporting on CSR in Australia is at a very early stage and mandating any particular approach is likely to stifle innovation and experimentation by companies and to lead to a mentality where directors and management focus on compliance only…AICD suggests that the best method of achieving meaningful disclosure of companies' CSR activities is to avoid mandatory 'one size fits all' reporting. The flexibility of the ASX Principles' 'if not, why not approach' is preferable and achieves the goal of enhanced disclosure without stifling flexibility or innovation.

By contrast, the submissions from parties not within the business community made no reference to the above implications of legislation as an argument against legislation. Rather, a number of the submissions directly questioned the points so often made by the business community

when regulations are proposed. That is, the submissions from the social and environmental groups appeared to predict in advance that the business community would rely upon terminology such as 'stifle innovation', 'one-size-fits-all', and so on, to support their arguments against the introduction of legislation. Reflective of the views being presented by social and environmental groups was the following:

> Total Environment Centre: Many have said that a change to the Corporations Act will create a compliance culture, without the benefits of competition and innovation that business is very capable of. In TEC's opinion, regulation often creates a minimum standard, but rarely inhibits competition and innovations for those businesses willing and able to do better. The above suggestion [to amend legislation] does not prevent businesses competing on how responsive they are to stakeholder interests, nor on how well they manage sustainability risks.

Returning to the submissions from the business sector, a number of the submissions argued that the introduction of legislation would act to reduce the positive contributions that organisations would otherwise make to the community. For example:

> BHP Billiton: We are concerned that a regulated approach may eliminate much of the potential for innovation that has advanced industry so dramatically in recent years. Without this potential for competitive advantage, efforts that might have been pursued in the CSR area may well have to be diverted elsewhere.
> ANZ Bank: Should corporate responsibility (CR) be transformed into a compliance requirement, many companies will respond with a 'compliance approach'. CR could be associated with companies fulfilling their legal duties rather than genuinely contributing to the community in which they operate in an innovative way.

A number of the submissions from the business community indicated that 'the market' is the most appropriate and efficient mechanism to ensure sound corporate social and environmental performance. For example, the submission from QBE Insurance stated:

> The market is the natural mechanism under which the issue of corporate social responsibility will continue to thrive.

But for 'market' participants to make informed choices with regards to the social responsibilities demonstrated by organisations, they need information. But as the social and environmental accounting literature demonstrates (for example Deegan and Rankin 1996; Adams 2004; O'Donovan 2002; Islam and Deegan 2008), companies often provide incomplete or biased information about their social and environmental performances. Hence, with incomplete information, the ability of market participants to make informed judgments becomes problematic.

Reflecting the polar extremes in views about the need to introduce additional legislation, the social and environmental groups called for the introduction of specific legislation within the corporations' law to specifically require corporations to undertake specific socially responsible activities, and to reduce the level of ambiguity currently in place with respect to the responsibilities of corporations. Reflective of their views were the following:

> Brotherhood of St. Laurence: Director duties should be expanded to include oversight in areas such as human rights implications; responsibilities to local communities in all countries; compliance with local laws and international standards; developing a corporate culture that values ethical business practices and CSR. These broader responsibilities of decision makers should be acknowledged in the Corporations Act.
> Homeless Person's Legal Clinic: Section 181 of the Corporations Act should be amended to positively require directors to consider stakeholder interests and social, environmental and human rights concerns in the exercise of directors' duties.
> St James Ethics Centre: We would recommend an amendment to the Corporations Act, similar to the provisions relating to the 'business judgment rule', allowing company directors to make decisions based on bona fide ethical considerations (including but not limited to the interests of stakeholders other than shareholders)—and protecting them from liability for doing so when a reasonable person would judge those considerations to be well founded.

Again, the differences in opinions between the business leaders and the individuals and NGOs is stark.

As Table 7 demonstrates, business corporations, industry bodies and accounting bodies and accounting firms were opposed to the introduction of any mandatory requirements being introduced in relation to increasing concerns for a broader group of stakeholders. By contrast, submissions from social and environmental groups and individuals were overwhelmingly in support of the introduction of some form of legislation to specifically increase the social and environmental responsibilities of business entities.

Terms of Reference Parts F and G

> The appropriateness of current reporting requirements associated with these issues and whether

Table 7 Summary of submissions to Terms of Reference Part E

Classification of submitting party	Total number of submissions	Mechanisms to enhance consideration of stakeholders' interests		
		Voluntary	Mandatory	Not addressed
Business corporations	25	17	0	8
Industry bodies	15	13	1	1
Social and environmental organisations	30	6	19	5
Accounting bodies and accounting firms	6	6	0	0
Consultants and professional advisors	20	9	5	6
Government	5	1	0	4
Individuals	36	5	15	16

regulatory, legislative or other policy approaches in other countries could be adopted or adapted for Australia

Business corporations and industry bodies argued that the introduction of mandatory reporting requirements would lead to a stifling of innovation, induce a compliance mentality and reduce the standard of corporate social responsibility reporting. That is, the same arguments were applied to reporting as were applied to corporate social responsibilities in general. Representatives from the business community commented on the positive features of the Global Reporting Initiative's (GRI) *Sustainability Reporting Guidelines*, especially that the guidelines were voluntary and allowed organisations to select the components of the Guidelines that best suited their reporting needs. That is, the business community favoured flexibility in reporting whereas other respondents tended to favour compliance with specific disclosure requirements. Reflecting on this position typically embraced by business, the Australian Centre for Corporate Social Responsibility made the following comments:

> Some leading Australian social reporters have argued that social reporting here is an emergent practice and that mandatory reporting could stifle innovation in reporting. This argument is spurious…the introduction of mandatory social reporting in other countries has led to no reported decline in innovation. Indeed, the selection of relevant indicators and the style of reporting in these countries remain at the discretion of individual companies, since companies will vary in the nature and range of impacts.
> It is important for members of the Inquiry to understand the motivation behind the apparent paradox that some of Australia's leading social reporters oppose mandatory social reporting. If reporting were mandatory, the leaders would lose the reputational benefit of reporting. After all, companies do not improve their reputation by publishing a profit report; they improve it by producing a superior profit. Likewise, companies may not gain a reputational benefit from mandatory social and environmental reporting, but they would gain a reputational benefit by producing positive social impacts and minimising or removing negative social and environmental impacts.

Table 8 provides a summary of the submissions that addressed Part F of the *Terms of Reference*. As we can see, for those submissions that addressed the issue, apart from the submissions from business corporations and industry bodies, there was a majority view that current reporting requirements were not appropriate.

Reflective of the views of the respondents from the business community, we can consider the following quotes:

> British American Tobacco (Australia): Setting a minimum reporting requirement will increase the number of organisations that are reporting, but it does not necessarily follow that the standard of reporting in Australia will improve, nor guarantee that the reported information meets the material interests of all stakeholders. In our view, a mandated minimum tends to breed a culture of compliance and 'box ticking' but may not develop organisational commitment to, or innovation in, reporting.
> IAG: One of the central features of the GRI Guidelines is the fact that participation is voluntary and organisations are permitted to report against any or all of the indicators. The flexibility in the number of indicators to be reported allows an organisation to build capability over time.

Counter to the above views, a representative from the social and environmental organisations stated:

> Gippsland Community Legal Centre: In the absence of mandatory guidelines corporations may be able to produce highly favorable reports whilst omitting concerns which may need to be made public. A uniform approach will be of benefit to shareholders and stakeholders and ultimately to the reputation of the company itself.

Table 8 Summary of submissions to Terms of Reference Part F

Classification of submitting party	Total number of submissions	Current reporting		
		Appropriate	Not appropriate	Not addressed
Business corporations	25	10	0	15
Industry bodies	15	9	2	4
Social and environmental organisations	30	4	20	6
Accounting bodies and firms	6	1	5	0
Consultants and professional advisors	20	0	14	6
Government	5	0	0	5
Individuals	36	1	15	20

A point that came out in a number of submissions from individuals and representatives from social and environmental groups was that companies will tend to use reporting as a reputation enhancing technique in the absence of regulation and will tend to favour disclosing information that positively reflects their performance, whilst downplaying or ignoring information of a negative nature. Whether justified or not, a great deal of the submissions argued that current reporting practices were not credible, and that as long as reporting was left in the hands of corporations, then such disclosures would continue to lack credibility. A comment in the submission by Dr. Robert Gale, a senior lecturer within the Institute of Environmental Studies at the University of NSW with expertise in environment management, economic development and sustainability reflected this concern:

> The reason that reporting on financial performance is not voluntary is that companies would have no incentive to report accurately, and indeed, some incentive to do otherwise. By analogy, the same case can be made for the limits of voluntary reporting on social and environmental performance. Voluntary reporting particularly suits companies managing their reputations with respect to a given "commercial constituency". It is "good news" reporting because it allows companies to accentuate the positive and to ignore or perfunctorily address social and environmental performance.

The counter view from the business community was that the 'market for managers' would ultimately penalise a manager that is shown to be associated with biased reports of the organisations' performance, and hence the operation of 'market forces' will act to ensure that managers will be motivated to provide reliable accounts of performance.

Whilst the views of corporate managers and business associations was that social and environmental reporting would be stifled and innovation reduced if mandatory reporting requirements were introduced it is interesting to note that there is a level of opinion to support a view that current reporting practices have stagnated in recent years in the general absence of mandated reporting requirements (Gray 2005b; ACCA 2006, 2008, 2009). There is also evidence to show that in an environment where there is a lack of disclosure regulation, organisations have often been less than objective in their disclosures and have tended to provide information of an overwhelmingly self-laudatory nature (Wiseman 1982; Rockness 1985; Deegan and Rankin 1996; Deegan et al. 2002).

In relation to the issue of other countries' regulatory, legislative or other policy approaches being adopted or adapted for Australia, the social and environmental organisations, individuals and consultants and professional advisors were overwhelmingly in support of adopting, on a mandatory basis, some overseas initiatives.

> Brotherhood of St Laurence: Encourage greater implementation of international treaties, standards and mechanisms that form part of the global corporate governance framework (e.g. OECD Guidelines on Multinational Enterprises, ILO Declaration on Fundamental Rights at Work, UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights, Rio Declaration on Environment and Development, and the Monterrey Declaration)
>
> Public Interest Advocacy Centre: Corporations that are registered in Australia or that conduct activities in Australia should be responsive and accountable to the interests of stakeholders and that the level of accountability should be referable to the benchmarks established in the UN Norms.

As might be expected given the responses to other issues, business organisations were generally against adopting legislation from other countries. In the limited number of submissions from business that favoured the adoption of overseas initiatives, such support was on the basis that the initiatives would be voluntary within Australia. Table 9 summaries the responses to this issue.

Table 9 Summary of submissions to Terms of Reference Part G

Classification of submitting party	Total number of submissions	Adoption of other countries Approaches/policies/legislation		
		Yes	No	Not addressed
Business corporations	25	2	10	13
Industry bodies	15	2	6	7
Social and environmental organisations	30	17	1	12
Accounting bodies and accounting firms	6	2	1	3
Consultants and professional advisors	20	11	2	7
Government	5	0	0	5
Individuals	36	14	4	18

Having considered the responses to Terms of Reference C–G we are now in a position to answer RQ2 and 2a. In relation to RQ2, respondents from business organisations, industry bodies and accounting bodies and firms opposed the introduction of additional legislation pertaining to social responsibilities and related reporting. The view was that existing provisions with the corporations law were sufficient and that market forces, including the disciplining effects of the 'market for managers' was sufficient to ensure that organisations embrace appropriate corporate social responsibilities. By contrast, individuals and representatives from NGOs believed that existing legislation was insufficient and discouraged business from being socially responsible.

In terms of RQ2a, the opponents of legislation (predominantly from business organisations and industry bodies) provided a view that legislation would be costly from a number of perspectives. Introducing legislation would tend to stifle innovation in social responsibility-related activities and associated reporting, would introduce a compliance mentality, would increase reporting costs and would reduce the quality of reporting because a 'one-size-fits-all' approach would result if mandatory reporting requirements were introduced.

Consistencies in the Position of the Business Community

As we have already indicated, the perceived efficiencies inherent in freely operating markets were used in the submissions as a basis for supporting the business case against the introduction of regulation. Also, perceptions that regulation would stifle innovation and create a compliance mentality were raised in many submissions by the business community. Furthermore, various submissions from the business community explicitly referred to the works of Milton Friedman and Adam Smith—two iconic economists—to support their opposition to regulation. As this brief section will demonstrate, there is evidence to suggest that such arguments utilised within the recent Australian context have also been used to counter the possible introduction of corporate regulation at other times, and in other places. That is, there appears to be consistency in the business language being used.

For example, research undertaken by Collison (2003) indicates that internationally it is common to find the business community utilising the works of Smith and Friedman to defend an anti-regulation stance. In relation to the works of Adam Smith, Collison argues that his works are misrepresented as he was actually an advocate of regulation to protect the interests of less powerful stakeholders and they are misrepresented because of the 'iconic status' attributed to Smith. According to Collison, Smith also warned how 'powerful interest groups could influence legislation in their own favour'. Collison (2003, p. 861) states:

> His humane and enlightened views and his name have been pressed into service as propaganda to defend a covert partiality which has become deeply implicit in the way economics, finance and accounting is presented and discussed in modern Western culture. Selective and self-serving quotation of his work is central to the "meta-narrative of neo-classical economics and explains…the overriding focus on business owners' interests" (Reiter 1997).[17]

[17] Collison also argues that the works of other well-respected economists have been misrepresented by vested interests. For example, the studies of Berle and Means (1937) have "become identified with conflicts of interest between owners and controllers of wealth when they explicitly argued that both should be subservient to wider interests…They commended public policy rather than self-interest as the proper mechanism for allocating corporate income streams. As with Adam Smith, their names have arguably become misleadingly linked with a particular agenda".

According to Collison, arguments such as those presented by Friedman, and 'the corporate propaganda which is used to sell it to the public', were anticipated by Smith who warned of the negative impacts that could be caused by economically powerful interests, particularly when they are unrestrained due to an absence of adequate regulation or competition. According to Smith (as quoted in Collison 2003):

> The clamour and sophistry of merchants and manufacturers easily persuade … that the private interest of a part, and of a subordinate part of the society is the general interest of the whole (Smith 1776/1880, Bk. I, Ch. X, Pt. II, p. 101).

As a further point in relation to arguments surrounding the introduction of legislation, it is interesting to note that the arguments provided in the submissions to the Inquiry mirror the arguments that were raised in 1998 when an Australian Inquiry was put in place to consider the future of Section 299(1)(f) of the *Corporations Act* (Deegan 1999). As indicated earlier in this article, that section requires corporations to provide details within their Directors' Report (which is included with a corporation's Annual Report) of whether the corporation has complied with respective environmental laws. The requirement was introduced in 1998. In 1999, and because of significant opposition and lobbying to government from the business community, the Federal Government put in place an Inquiry which in part considered the possible removal of Section 299(1)(f) from the *Corporations Act*. Submissions to this Inquiry from business organisations argued that the section should be removed because it was 'stifling innovation' in reporting and that reporting would develop in a more meaningful way if environmental reporting was to remain voluntary (Deegan 1999). Following the Inquiry, Section 299(1)(f) was retained. But although industry argued that the retention of the section would 'stifle reporting', engender a 'compliance only culture' towards environmental reporting, and deter further developments and 'innovation' in social and environmental reporting (the same arguments that were utilised in the Inquiry into corporate social responsibility) this was not the case. In contradiction of the concerns of business entities—there is general agreement that the standard of social and environmental reporting within Australia improved in the years following 1997 (the period since Section 299(1)(f) was introduced within Australia) (Deegan 2010)—although there is some belief that reporting standards have not shown a great deal of improvement or innovation in the recent years (ACCA 2008, 2009).

From a European perspective it is interesting to note that the submissions by the European business community to the Green Paper on *Promoting a European Framework for Corporate Social Responsibility* by the Commission of the European Communities overwhelmingly supported a view that corporate social responsibility and associated reporting should be voluntary with no 'one-size-fits-all' approach, and any attempts to regulate corporate social responsibility would stifle creativity and innovation (Commission of European Communities 2002). Similarly in response to the UK Operating and Financial Review (OFR) Working Group's 2003 consultation document, companies and business groups expressed concern about the introduction of a stakeholder model and the administrative costs associated with mandatory corporate social responsibility reporting (Cooper and Owen 2007). We could list additional examples in which business entities have adopted the same perspective, but what we are seeking to demonstrate here is that the arguments being raised by the business community to counter regulation seem to have some consistency internationally, and across time. Similarly, groups comparable to the organisations we classified as social or environmental organisations have argued in other times and places that voluntary initiatives are insufficient when it comes to corporate social responsibility, and they correspondingly advocated for a regulatory framework which established minimum standards and mechanisms for ensuring companies are accountable for their social and environment impact (Commission of European Communities 2002).

Summary, Concluding Comments and Suggestions for Future Research

This research has provided a basis for understanding the Australian business communities' perspectives about corporate social responsibility. It has also briefly been shown that the positions adopted by various stakeholder groups within the Australian context showed marked similarities with the positions adopted elsewhere. As our results show, Australian business opposes any legislative requirements pertaining to corporate social responsibilities and associated reporting and overwhelmingly supports a voluntary approach to corporate social responsibility and associated reporting. Representatives from the Australian business sector indicated that maximising shareholder wealth is the ultimate 'litmus test' for corporate activities, and that efforts to maximise shareholder wealth will of necessity incorporate social and environmental responsibilities.

Given the opinions presented in this article, it could be argued that the opinions of business leaders in relation to their corporate responsibilities have not altered a great deal since the 1960s. Many business leaders continue to publicly embrace the views of Milton Friedman (and actually quote him, perhaps due to his iconic status).

Utilising a schema introduced early in this paper, our results suggest that the majority of social responsibilities initiatives undertaken by corporations are insincere and of a relational nature (as opposed to being sincere and of a social activist nature)—something that would arguably please Friedman.

Numerous submissions from the Australian business community provided illustrations where profit maximising activities also coincided with activities that could be portrayed as being socially responsible. The submissions from the business sector typically emphasised that organisations cannot ignore particular social responsibilities, else shareholder value will be damaged. In doing so, and consistent with the results of an earlier UK study by Fineman (1996), the submissions from the Australian business community appeared to be 'embedded in enlightened self-interest rather than a substantive sense of care or concern for others' (Fineman 1996, p. 485).[18]

Ultimately, the Australian Government through the PJCCFS found, after reviewing the various submissions to the Inquiry, the arguments of the Australian business community to be compelling. The committee was particularly interested in the evidence provided by companies which appeared to demonstrate the integration of broader community interests into core business strategies in the absence of regulation (PJCCFS 2006, p. 13). The committee also reported a view that institutional investors provided a useful controlling mechanism in relation to corporate behaviour. The committee also specifically supported the GRI as a framework for voluntary reporting.

In justifying the conclusion in the Final Report of the Inquiry that there is no need to introduce additional legislation, the Committee itself made specific reference to the benefits of allowing 'enlightened self-interest' to dictate behaviour in stating (PJCCFS 2006, p. xiv):

> This 'enlightened self-interest' interpretation is favoured by the committee. Evidence received suggests that those companies already undertaking responsible corporate behaviour are being driven by factors that are clearly in the interests of the company….Maintaining and improving company reputation was cited as an important factor by companies, many of whom recognise that when corporate reputation suffers there can be significant business costs. Evidence also strongly suggested that an 'enlightened self-interest approach' assists companies in their efforts to recruit and retain high quality staff, particularly in the current tight labour market.

[18] Fineman (1996) undertook an investigation of the attitudes and views of senior supermarket managers in the UK.

Whether 'enlightened self-interest' will deliver us the changes necessary to address various social and environmental issues confronting the planet is a matter of opinion. Furthermore, how quickly will organisations adapt in the absence of new legislation?

The basis of the 'enlightened self-interest argument' is that if the products and services corporations provide are no longer in demand, then organisations will adapt quickly. But will they really change that quickly? Various practices, including those that might be considered to be 'corporate social responsibility-related' practices, tend to become institutionalised over time (Oliver 1991) with relatively standardised approaches being followed by corporations within particular 'institutional fields'. As Farrell and Saloner (1985) note, there are economic benefits that flow from standardisation, and organisations will often be reluctant to move to new standards despite various pressures. Farrell and Saloner refer to this as a problem of 'excess inertia', and it acts to impede 'collective switching' to new practices, including those that relate to social responsibilities (unless a 'bandwagon effect' is created). Farrell and Saloner also note that 'markets' often punish organisations that are too ahead (and different) relative to others. Hence, in the absence of a 'jolt' created by new legislation, organisations might be slow to adapt to issues such as climate change, despite the planetary imperative to do so.

Also of interest is the fact that the ultimate position taken by the Australian government is similar to the position of the government in Britain in regards to their OFR and the introduction of mandatory corporate social responsibility reporting. Under the proposed OFR regulations a company was required to provide information on the policies towards employees, customers and suppliers as well as its impact on the environment, on society, and on the wider community where the information is necessary for an assessment of the company (Department of Trade and Industry 2004 as quoted in Cooper and Owen 2007, p. 651). Owen et al. (2005) investigated whether the mandatory reporting requirements of the OFR would provide the catalyst for improving corporate disclosure of social and environment informations and they concluded that for already active social and environmental disclosers, the mandatory reporting requirement would have limited effect. However, for current non disclosers the OFR requirements 'may mean that social and environmental issues become more mainstream in strategic terms' (Owen et al. 2005, p. 8). However, after a 6-year consultation period and less than a year after the introduction of the OFR, the legislation was repealed on the basis of the concern by the business community over the additional 'administrative costs of the gold-plated regulatory requirements' and the view that market mechanisms

adequately ensure that corporations attend to their social responsibilities therefore making the OFR requirements redundant (Brown 2005 as cited in Cooper and Owen 2007, p. 664).

Whilst this article has focused on the submissions to the Inquiry, the final decision of government is also interesting from a regulatory theory perspective. Of course, we cannot be sure what motivates politicians to make specific decisions but the decision of government opens the door for further analysis in terms of whether the decision of the government was based on public interest considerations (consistent with public interest theory) or whether government was somehow captured by business interests (consistent with capture theory). Perhaps some indication is provided by the final report of the Inquiry. In providing a rationale for the decision not to pursue the introduction of legislation the report noted:

> The committee considers that an interpretation of the current legislation based on enlightened self-interest is the best way forward for Australian corporations (PJCCFS 2006, p. 63).

In noting that their conclusion is best for corporations this would seem to suggest that perhaps the committee may have been 'captured' by business. However, we will not pursue this matter further because it is beyond the intended scope of this article. Nevertheless, the position taken by government does raise some interesting issues worthy of further research.

Whilst not referred to by the advocates of legislation, introducing legislation is also not costless and therefore clear benefits should need to be demonstrated before regulation is introduced. Such costs would include those associated with formulating and explaining legislation, monitoring compliance, imposing and enforcing sanctions, compliance costs for companies, and so forth. If government believes that corporations are being socially responsible and that there are no compelling justifications for introducing legislation, then it might be more 'efficient' and in the 'public interest' to leave social responsibilities effectively in the hands of corporations. Further research could explore, perhaps through some form of modelling, the potential costs and benefits of legislation relating to corporate social responsibilities. Included in the costs of legislation would include the costs that might arise from 'non-market failure' (or as it also known, 'government failure'). As noted earlier in this article, non-market failure occurs when government intervention leads to inferior results relative to what would have occurred if government did not get involved with a particular issue. Such failure might occur: because government might introduce legislation to 'win' votes from particular constituents; because there are direct economic benefits to legislators from introducing legislation; or, because government might be, or ultimately become, captured by particular vested interests.

Whilst corporate Australia strongly opposed any regulatory intervention, it is of some interest that some business leaders elsewhere are acknowledging that regulatory intervention is ultimately a necessity—a view that the Inquiry revealed is not shared by the Australian Government. For example, Sir Mark Moody-Stuart, former Chairperson of Royal Dutch/Shell Group of Companies (1998–2001) and current Chairperson of Anglo American (a global mining and natural resources company) made the following comments (Moody-Stuart 2005):

> It is not the job of companies to think about global sustainability. Individual consumers (or companies) are also unlikely to constrain their individual choice purely in the interests of the common good. We in business tend to be passionately opposed to legislation. However, I do not believe that we will arrive at more sustainable environmental performance unless we have a regulatory framework that guides the market. We didn't get autocatalysts and seatbelts through voluntary action. These are simply things that the market will not deliver. The increased environmental efficiency of vehicles will not simply be delivered by the market. This is what I call the Bill Ford Dilemma. Bill Ford wants to produce more environmentally efficient vehicles but he makes most of his money out of what his customers want which are monstrous SUVs. The only way around that is not by market competition but some sort of regulatory framework.

Following on from the above view of Moody-Stuart, we are left with a perspective that firms—who are 'passionately opposed to legislation'—might continue, on average, to produce products that are environmentally damaging to the extent the public—and 'the market'—demands them. However, corporations will probably feel absolved from any responsibility because their behaviour was 'market driven'. As Galbraith (1979) states:

> The imagery of choice in the market puts the business firm similarly in service of a higher deity. In consequence it is not responsible—or is only minimally responsible—for what it does. It responds to the theistic instruction of the market. If the goods that it produces or the services that it renders are frivolous or lethal or do damage to air water, landscape or the tranquillity of life, the firm is not to blame. This reflects the public choice (p. 21–22).[19]

[19] Galbraith arguably also held 'iconic status' like Friedman and Smith, but probably because his arguments are supportive of legislation he does not get cited by business.

Whilst Australian business leaders were very much anti-regulation in orientation—and this orientation was supported by the Government (who may or may not have been captured by business interests)—at the other end of the spectrum, representatives from social and environmental groups, as well as individuals who made submissions were of the view that corporations do not currently give appropriate consideration to their social and environmental performances, or associated reporting, and as such there was a need for immediate government intervention. As such, this article has provided a clear indication of the differences in 'mind-sets' between corporate managers and some other sectors of the Australian community that made submissions to the Inquiry. It has also clearly showed what position the Government favoured.

At a broader level, quests for sustainable development—something that various bodies and governments have been promoting on a global basis—require us all to consider how our production and consumption patterns are impacting the future livelihood of the planet. This necessarily will require some sacrifice at times, and a reduced inclination to consider 'self-interest' (or even "enlightened" self-interest) as a driving principal. It does appear to be a contradiction that organisations who evaluate actions in terms of whether the actions ultimately benefit the shareholders (and our results indicate that this is the dominant mind-set of industry) and therefore the managers' own wealth (due to various profit sharing and share ownership schemes), also come out with public commitments to sustainable development (with this commitment often being publicly reinforced by the public release of sustainability reports). Sustainable development requires considerations of various stakeholders, including those not yet born—and not as a derivative consideration—but as a prime consideration. It also accepts that non-market participants (who do not typically have a 'voice') are important.

Furthermore, the corporate view that maximising shareholder value is the ultimate 'litmus test' of all activity directly ties corporate performance to financial metrics and does not take into account alternative non-financial measurements pertaining to social and environmental performances and related outcomes. Again, it does seem somewhat contradictory that companies publicly embrace sustainability and the importance of triple bottom line reporting and/or sustainability reporting, but in justifying their own actions continue to defer to one measure—shareholder value—a financial measure as the basis of legitimising their decision-making processes. This apparent contradiction did not appear to be an issue within the submissions from the business sector, or with the Committee in charge of the Inquiry, yet the very view that all action can somehow be deflated to dollar terms is arguably one of the key reasons that social and environmental problems continue to abound.

A key issue necessary for debate is whether Australian corporations law should be amended to clearly allow or require 'sincere' corporate social responsibility that might reduce profits (at least in the short run) and which provides no obvious financial benefits to owners. If change is needed, then will the introduction of legislation and the resulting compliance create change more than would a reliance on voluntary initiatives? If we are serious about moving towards an ecologically and socially sustainable model of development then major change is required in society—and this will not be an easy task particularly given the power that business holds, and the views they embrace which are consistent with the 'business as usual' perspective.

By leaving corporate social responsibility effectively in the hands of corporations and 'the market', the government within Australia (and in many other countries) is relying upon stakeholders, such as consumers, to effectively adopt some form of personal social responsibility (PSR). That is, in a market system it is effectively up to consumers and other suppliers of resources to the organisation (such as shareholders, lenders, employees) to determine whether an organisation is operating in a socially responsible or desirable manner, or not. That is, if corporations are not operating in the manner expected by stakeholders then the stakeholders' resources might be deployed elsewhere. In such a 'market-based system' it is not a direct responsibility of government to ensure companies 'behave'. Rather, government effectively passes the responsibility on to individuals who are expected to act with a degree of PSR. Whether elected governments should hand over such responsibilities is another issue for future research and debate.

Whilst not explicitly addressed within the submissions, business organisations would likely be in favour of the whole concept of PSR, as would apparently government. Social and environmental organisations, however, favour government intervention. PSR is a term that has started to attract more attention (CPA Australia 2011). PSR requires ongoing judgements, such as the necessity for consuming particular goods and services, or the appropriateness of using particular suppliers. Some commentators have argued for PSR—or as it has also been called, corporate stakeholder responsibility—on the grounds that expecting corporate social responsibility becomes a way of 'passing the buck'—evading personal responsibility for doing the 'right thing'. As Chandler (2010) states:

> Let's get beyond the idea that firms are inherently evil. Such a perspective does not absolve firms of responsibility, but recognises that for-profit

organizations add considerable social value in producing products and services that are in demand. It also recognizes that the relationship between firms and society is symbiotic and, as a result, the responsibility to ensure social responsible outcomes is shared. In the same way that we deserve the politicians we vote for, we also deserve the companies we purchase from.

But again, as emphasised in this article, informed actions by individuals in 'markets' require information—but as noted elsewhere, researchers have shown that corporate social responsibility-related information often provides a biased perspective of firm performance. As also explained elsewhere in this article, the 'free good' attributes of information also contributes to lower levels of disclosure than might be socially optimal. Furthermore, do we really think that PSR will be effective given the evidence that suggests that consumers' decisions are, on average, driven by price considerations rather than issues of ethics or social responsibility? [20] Future research might consider the extent to which we can really rely upon PSR in freely operating markets and whether the whole concept of PSR might take away some of the focus currently given to corporate social responsibility. Furthermore, if it does become an accepted practice to rely relatively more upon PSR (rather than corporate social responsibility, or perhaps, government intervention) then what role will (or should) educational institutions—such as universities—have in instilling some form of social awareness, and should such 'education' be made available to all students across all disciplines if important social and environmental issues are to be effectively tackled. As this article has hopefully demonstrated, there are many interesting issues to debate when it comes to the subject of corporate social responsibility!

Appendix

See Table 10.

Table 10 Names of organisations included under respective categories of submitting parties

Business corporation	Industry body	Social or environmental organisations	Accounting bodies and accounting firms	Consultants and professional advisors	Government
Alcoa	Australasian Investor Relations Association	Amnesty International	Association of Chartered Certified Accountants (ACCA)	AMPCI Sustainable Funds	Australian Securities and Investments Commission
ANZ Bank	Australian Bankers' Association	Australian Conservation Foundation	CPA Australia	Australian Centre for Corporate Social Responsibility	Commonwealth Scientific and Industrial Research Organisation
Australian Stock Exchange	Australian Business and Community Network	Australian Consumers' Association	Institute of Chartered Accountants in Australia	Australian Institute for Social and Ethical Accountability	Department of Environment and Heritage
BHP Billiton	Australian Institute of Company Directors	Australian Council of Social Service (ACOSS)	KPMG	Beerworth & Partners Corporate Advisors	Department of Family and Community Services
Boral	Business Council of Australia	Australian Council of Trade Unions	National Institute of Accountants	BT Governance Advisory Service (GAS)	Treasury
BP	Chamber of Commerce and Industry WA	Australian Human Rights Centre	PricewaterhouseCoopers	Compact Consulting	
British American Tobacco	Chartered Secretaries Australia	Australian Network of Environmental Defender's Offices		Corporate Responsibility Pty Ltd	
Coles Myer	Commercial Law Association of Australia	Brotherhood of St Laurence		ECOS Corporation Pty Limited	

[20] For example, although most consumers in Nielsen's 2011 *Global Online Environment & Sustainability Survey* of 25,000 consumers in 51 countries report that they want brands to be eco-friendly, less than 20 % are willing to pay more for sustainable goods (see http://www.nielsen.com/us/en/reports/2011/sustainable-efforts-environmental-concerns.html).

Table 10 continued

Business corporation	Industry body	Social or environmental organisations	Accounting bodies and accounting firms	Consultants and professional advisors	Government
Fuji Xerox Company	Credit Union Services Corporation Industry Association	Caux Round Table and St James Ethics Centre		Ethical Investment Association	
GlaxoSmithKline	Financial Services Institute of Australia	Consumers Federation of Australia		Freehills Solicitors	
GM	Group of 100	Employment Studies Centre, University of Newcastle		Futureye Pty Ltd	
Insurance Australia Group	Law Council of Australia	Finance Sector Union		Global Reporting Initiative	
Mitsubishi Motors	National Farmers Federation	Gippsland Community Legal Service		Mallesons Stephen Jacques	
National Australia Bank	Tasmanian Farmers and Graziers' Association: Vegetable Council	Greenpeace		Melkonian & Company	
Newmont Australia	United Nations Environmental Programme Finance Initiative	Habitat for Humanity Australia		Positive Outcomes	
Novartis		Homeless Persons' Legal Clinic		RepuTex	
Origin Energy		Key Centre for Ethics, Law, Justice and Governance		Social Response Index	
QBE Insurance		Law Student Community Support		Sustainable Asset Management	
Santos		Mission Australia		The Centre for Corporate Public Affairs	
Shell Australia		National Pro Bono Resource Centre		The Centre for Public Agency Sustainability Reporting	
Telstra		Oxfam			
The Body Shop		Philanthropy Australia			
Unilever Australasia		Public Interest Advocacy Centre			
Westpac Bank		St James Ethics Centre			
Xstrata Australia		The Buoyancy Foundation of Victoria			
		The Human Rights Council of Australia			
		The Smith Family			
		Total Environment Centre			
		Volunteering Australia			
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