

Managing ethical standards: when rhetoric meets reality

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In the last two decades, the private sector has been placed under intensifying pressure to ensure it operates in an environmentally and socially responsible manner. Companies have moved through various phases of response, starting with a 'deny and defend' position, moving to 'paying penance' through donations and philanthropy, and currently settling on risk management through mitigating the negative impacts of their business operations. Drawing on research undertaken by Oxfam International mainly in the retail sector, as well as in the coffee and pharmaceutical sector, this article argues that the current approach is, as yet, inadequate. Simply mitigating negative impacts through castigating intermediaries or suppliers does not contribute to sustainable solutions. For the private sector to meet corporate social responsibility pledges, companies need to pursue alternative business models that forge connectivity, coherence, and interdependence between their core business operations and their ethical and environmental commitments.

Introduction

In March 2004, the UK Department for Trade and Industry (DTI) issued a Draft International Strategic Framework on Corporate Social Responsibility (CSR) for consultation (available at www.dti.gov.uk). The draft prompted a 16-strong coalition of British human rights and development NGOs to write an open letter to the Secretary of State outlining major concerns with the substance and approach taken. Four points were made to support the contention that the proposed strategy was an inadequate tool for securing responsible corporate behaviour with regard to social and environmental impacts:

- the majority of companies are not integrating their social and environmental commitments and responsibilities into their business models;
- existing CSR initiatives are not delivering results to the scale required to effectively meet the key challenges;
- the market's failure to reflect social and environmental costs can only be overcome with public policy intervention; and
- corporate governance needs to be addressed in this context.

To be fair, the current draft does reflect the most common approach taken by companies towards CSR: the voluntary undertaking of ethical (social and environmental) commitments to address

externalities to the extent that these pose a sufficient risk to the company. But this is an approach that is failing to deliver. Drawing on research undertaken by Oxfam International (OI), this paper shows that when the rhetoric of ethical commitments meets reality—the impact of the business model—the limitations of the current CSR model for change are exposed. As one commentator suggests, ‘at its best it is a creative approach to address poverty and inequality within the parameters of existing markets; . . . at its worst, however, it appears to be a convenient smokescreen to distract attention from the uncomfortable reality of some business impacts’ (Tickell 2004:1).

The paper is divided into three sections: the first recaps why CSR has been placed on the agenda; the second illustrates—using the retail sector as an example—why there is a pressing need to rethink current approaches towards managing ethical standards; and the third concludes by suggesting what can be done unilaterally by companies and explaining why public-policy interventions are necessary to counter the failure of the market to respond to social and environmental impacts.

Why the demand for corporate responsibility?

The call for companies to behave responsibly is not a new one. What is expected of companies, however, has mutated as the nature of the corporation and its interaction with people and governments has evolved. In the last two decades, we have experienced immense changes in the structure and function of global markets, with the transnational corporation (TNC) emerging as a dominant player in the political economy in both the industrialised and the developing world. This growth in power and influence in itself has attracted demands for greater responsibility and greater accountability. Alongside this, a number of other factors have placed the TNC within the frame. These include:

- *The massive disparity between huge profits reaped by TNCs against incidences of dire poverty in countries where they operate.*
- *Global trade rules that expand the privileges and rights of TNCs while seemingly contracting those of poor people.* The 1994 Uruguay Round of GATT talks that established the WTO brought this to the forefront with the Trade Related Intellectual Property Rights Agreement (TRIPS) and the General Agreement on Trade in Services (GATS), which were effectively written and pushed through by a heavily influential corporate lobby. Developing countries—in the course of the horse-trading that took place during this the Round—had to accept these agreements despite certain anti-developmental characteristics.
- *Economic liberalisation and the consequential growth in international competitiveness.* This has led to TNCs looking for ways to strip-out costs, often from the production end of the supply chain, leaving those with the least bargaining power to bear the biggest risk. In the retail sector, for example, the ultimate brunt in the form of unhealthy, unsafe, and undignified working conditions is borne by those working on farms, in the factories and, in some cases, in the home.
- *Privatisation of basic services.* Whether it is water, electricity, health, or education, companies are increasingly becoming the main providers of basic services as governments, either through their own volition or through conditionalities, delegate their role to the private sector. While privatisation is not bad per se, in a number of instances the failure by companies to deliver services equitably to poor people has become a problem.
- *The strength of TNCs’ political influence over local, national, and international institutions, especially when it is used to promote anti-poverty policies and measures.*

- *Evidence of direct liability for or complicity with human rights abuses, including environmental rights.*

TNCs have the capacity to bring substantial benefits to societies in the developing world through job creation, revenues, technology transfer, and the delivery of goods and services, although there are questions about the *quality* of these benefits or whether they are indeed being delivered.

Faced with these perceptions, the corporate sector has worked through various phases of response, starting with a 'deny and defend' position, moving to 'paying penance' through donations and philanthropy, and currently settling on risk management through mitigating the negative impacts of their business operations. This paper will argue that if business is to retain its licence to operate, corporations will need to move into a fourth phase of exploring alternative business models that have social and environmental responsibilities built into them.

Rethinking the management of ethical standards: retail-sector case study¹

We have overtime work till late every day. The price they pay us per piece is so low, there is no point working such long hours. If our income was higher, I would have no complaints. But all we have now is exhaustion and a low income. Some of us do not even have money to spend on food. It is more than we can bear. (A garment worker in a Chinese factory supplying well-known sports brands, quoted in Oxfam GB et al. 2004:21)

Hit by an increasing number of sweatshop campaigns in the 1990s, companies within the retail sector were among the first to adopt codes of conduct to police suppliers' adherence to labour standards. Implementation is largely through audits of workplaces conducted either in-house or through third-party commercial auditors. Yet, despite all the good intentions, improvements in working conditions have been limited. Over 2003/2004, OI conducted extensive research with partners in 15 countries spanning the supply chains of over 20 companies in order to understand why this is the case. We found that current sourcing strategies designed to meet 'just-in-time' delivery (premised on flexibility and fast turnaround), combined with the lowering of unit costs, are significantly contributing to the use of exploitative employment practices by suppliers. Whereas companies have been putting resources into 'fire-fighting' the problem of sweatshop labour by whipping suppliers into line with their codes of conduct, not one of them has adequately addressed the fact that their purchasing practices and sourcing strategies are not only a key cause of the problem but are ultimately undermining any efforts to secure decent working conditions (Dhanarajan 2004; ETI 2004).

Research conducted in the garment retail sector found that, although export-oriented industries are providing jobs, especially for women, the nature of those jobs is precarious: insecure, lacking proper labour protection or benefits, and unhealthy. Responding to retailer sourcing strategies, employment within global supply chains in this sector is typified by:

- *Short-term 'rolling' contracts* rather than permanent employment in order to accommodate buyers' demands for flexibility and uncertainty of orders, and to cut labour costs such as benefit payments and severance pay. Governments are increasingly confirming their acceptance of this type of employment as the norm in response to pressures to capture investment. For example, proposed labour reforms in Honduras would permit garment factories to hire up to 30 per cent of their workers on temporary contracts (Raworth 2004a:21).
- *Piece-rate payments* allowing the factory manager to determine the quantity that s/he wants the worker to produce in accordance with the order put in by the buyer. When suppliers are

given too little time to turn around the order, production targets become excessive. If targets are not achieved during the normal working day, workers are expected to work overtime on their own account and are not paid at all unless the set target is completed. Piece-rates also allow the supplier to adjust to drops in unit costs by reducing the amounts paid per item. Workers at an Indonesian factory supplying six sportswear brands told researchers: 'The usual target is 1000 pieces per lane, per day; but during export days, the target doubles to 2000 pieces. This doubling is very stressful for us and we often cannot reach it' (Oxfam GB et al. 2004:42).

- *Low wages* to meet falling unit costs. At a Chinese factory, the owner reported that unit prices for a well-known UK brand of sports shoes were falling year on year. Workers from his factory interviewed in November 2003 complained that their wages had also fallen over the last three years. While they used to be paid at least the minimum wage during the low season, that protection has since been removed. During a low season in 2003, workers in the sole department reported being paid between a mere RMB200 and RMB400 (€20–40) per month (Oxfam GB et al. 2004:43). There has been an average drop in unit costs of 30 per cent in three years in the garment sector. Conversely, production costs are rising for the factory. A Sri Lankan manufacturer supplying a US sportswear company estimated that while his production costs had increased by approximately 20 per cent in the last five years, unit prices paid by the company had dropped by 35 per cent in the previous 18 months (Oxfam GB et al. 2004:39). Threats to relocate are also often used as a means of bargaining down prices.
- *Excessive working hours and forced overtime* as the industry focuses on shortening lead times and fluctuating size and frequency of orders. On average, lead times have halved, from 90 days to 45 days. Workers at a Chinese factory producing for a UK sports brand alleged that they worked a total of 120 hours of overtime in a month—three times in excess of Chinese labour legislation. One worker complained: 'We have endless overtime in peak season and we sit working non-stop for 13 to 14 hours a day. We sew and sew without stopping until our arms feel sore and stiff' (Oxfam GB et al. 2004:19). The 'fast-fashion' phenomenon led by companies such as Zara and H&M that can take designs off the catwalk and into high-street stores at incredible speed—Zara can put together a range in 7–30 days—risks exacerbating the problem unless managed responsibly.
- *Restrictions on freedom of association* in order to prevent workers from challenging exploitative working conditions. Such restrictions range from simply not providing workers with time to organise to outright harassment, intimidation, and even violence against unionists.

Employment practices in the fresh-produce sector are similar, though breaches in labour standards here seem to result from what the UK Competition Commission terms as 'coercive and abusive business practices' used by supermarket retailers. These fall into three categories:

- *Offloading of price and payment risks onto the farmer*: in most cases, supermarkets fix their profit margins and leave suppliers to bear price fluctuations. Payment for products is usually determined and made only after the product arrives rather than upon shipment. If the product is unsatisfactory or not needed, the farmer bears the cost of its being sold on the wholesale market. A South African-based apple packhouse manager supplying one of the UK's largest supermarkets told researchers: 'They chop and change their minds constantly. It takes a month for us to get the fruit there, but it takes two minutes for them to change their minds . . . Then the only thing we can do is dump it somewhere else' (Raworth 2004a:69).
- *Increasing specification costs but decreasing unit prices*: product standards demanded by retailers have become highly specific—for example, Fuji apples must be 65 mm and not 63 mm—and these have raised costs in terms of both input and by yield reduction. At the

packhouse level, supermarkets have also become very prescriptive about the use of different types of bags, crates, boxes, and packaging, which has affected productivity because of the increase in complexity of the work. Although costs have risen, however, this has not been compensated with higher prices being paid by the retailer.

- *Discounting and fees*: suppliers are often required to foot the bill for promotions whereby buyers discount products in order to boost sales. Further, suppliers are also asked to give ‘overrider’ (in anticipation) discounts and upfront payments for the privilege of being on the retailers’ list (Blythman 2003).

As one South African apple farmer supplying a number of UK supermarkets summed up: ‘The only ham left in the sandwich is our labour costs. If the supermarkets squeeze us, it’s the only place where we can be squeezed’ (Raworth 2004a:7).

Failure to address the disparities between the commitments stipulated in the code of conduct on the one hand, and sourcing priorities on the other has meant that working conditions remain, by and large, exploitative. Both at the retailer end and at the supplier end, codes are viewed as something that can be derogated from in the normal run of the business. Code-compliance staff admit that in certain circumstances—for example, last-minute orders—excessive overtime is overlooked. From the supplier end, factory managers fake compliance during inspections. As one Chinese garment manufacturer said, ‘I know how to deal with the ethical code people from my many years of experience. I can judge the balance of power between the buying departments and those responsible for the codes to see where the real power lies’ (Raworth 2004a:37).

The OI research recommends four areas of change in policy and practice that would integrate the ethical and buying functions, which is necessary in order to better manage ethical standards:

- *Raise the status of ethical commitments within the business*: such commitments are still being perceived and treated as a ‘bolt-on’. Within the corporate hierarchy, ethical staff sit lower than buyers and have little mandate over sourcing decisions beyond either recommending who are the ‘good’ and ‘bad’ suppliers or making ‘bad’ suppliers ‘good’ so that buyers can source from them. They have little say in, or the ability to push for, more responsible purchasing practices. This needs to change in order to send out the right signals both within the company and throughout the supply chain.
- *Responsible negotiations with suppliers*: retailers should be evaluating the impact of changes in lead-time strategies or pricing within a labour-standards framework. Production lead times need to be determined together with suppliers, and prices should be negotiated in the context of the supplier being able to meet labour standards.
- *Change the buying culture*: as a former fresh-food buyer from a leading UK supermarket reported: ‘[b]uyers are caught in a high-pressure culture of weekly reporting on their sales and profit margin targets. Ethical trade just doesn’t fit neatly into numbers so it gets left out of the picture’ (Raworth 2004a:37, 2004b). Buyers within the retail industry operate in a business culture of performance targets and incentives that encourages them to squeeze suppliers on price and delivery. Many of those interviewed spoke of being given only 12–18 months in any given category before being passed on, in order to prevent them from developing relationships with suppliers that might cause them to lose their edge in negotiations. Some retailers have conducted awareness-raising activities on their codes of conduct with their buyers, but none has gone so far as to change staff incentives and performance assessments so that they reward rather than undermine ethical purchasing.
- *Better critical-path management and improved forecasting*: poor critical-path management and poor forecasting are seen as the key problems by retailing staff, especially within the apparel industry. There is little accountability at the retailer end of the production chain for changes or delays in decision making, which means that the supplier is expected to

absorb them. 'Last-minute' orders are very common. Efforts could be made to ensure that internal procedures for placing orders do not lead to excessive or unagreed time pressures for suppliers. Databases for logging internal decisions can improve accountability. Retailers can work with the supply bases to 'multi-skill' suppliers so that orders can be spread to even out peaks and troughs, and they can be more thoughtful as to how orders are placed.

Integrating the ethical with the commercial: unilateral action and public-policy interventions

Our research on the retail sector confirmed not just the desirability but also the absolute necessity of ensuring coherence and connectivity between ethical standards and core business operations. Simply mitigating negative impacts through castigating intermediaries or suppliers, or through philanthropic activities, neither placates the critics nor contributes to sustainable solutions. From a business perspective, keeping the CSR function separate means missing the opportunity to take a critical look at the direct impacts of irresponsible behaviour upon the long-term profitability and survival of the business. As concluded in a parallel study conducted by Insight Investment, the asset manager of Halifax and Bank of Scotland Group (HBOS), which based its findings on interviews with the retailer end of the supply chain, breaches of labour standards are driven by failures that are also commercially undesirable (ACONA and Insight Investment 2004; HBOS 2004).

Take the coffee sector, for example. All four of the largest coffee roasters—Nestlé, Sara Lee, Proctor & Gamble, and Kraft—acknowledge that the current coffee crisis, which is destroying the livelihoods of 25 million farmers worldwide, is not in their own long-term interests. The impact that the crisis is likely to have on quality is significant; despite new technologies that allow roasters to mask the bitterness of lower-quality coffee, there is a bottom line that will be reached soon. Coupled with a general decline in coffee consumption—per capita consumption in the USA has more than halved in the last 30 years—this does not bode well. When interviewed in 2002, Nestlé conceded: 'The present low price situation has a tremendously negative impact on the quality of the coffee produced, making it more difficult for Nestlé to find the quality we need for our product' (Gresser and Tickell 2002:28) Yet despite the recognition, the industry—bar a few examples—has been slow to react and take responsibility for the part that it plays in contributing to the intractability of the crisis.

Research undertaken by OI in 2002 suggests that major roasters have been opportunistic in reaping short-term profit gains from the drop in prices. If roasters at least committed to paying prices that provide farmers with a decent income, ensured them greater security over future income through fixed contracts or supply agreements, and bought coffee that met basic quality standards, it would go some way towards alleviating the crisis. This call has resonated with a few. Starbucks, for example, has significantly boosted its purchase of fair trade coffee, is paying its suppliers around double the open market price, and has independent checks done to see that it carries out its own purchasing guidelines. Others have been less responsive. Kraft, when asked in 2002 for its views on the crisis, replied that 'the market will find its own solution because countries and producers will be driven out of the market'. Such a solution may be a long time coming. The cost of waiting as prices on world markets continue to hover around 50–60 cents per pound, the lowest in real terms over the past 100 years, is taking its toll on farmers, on their families, and on national economies. Mohammad Ali Idris, an Ethiopian coffee farmer, told OI researchers:

Five to seven years ago, I was producing seven sacks of red cherry [unprocessed coffee] and this was enough to buy clothes, medicines, services and to solve so many problems. But

now even if I sell four times as much, it is impossible to cover all my expenses . . . Three of my children can't go to school because I can't afford the uniform. We have stopped buying teff [staple starch] and edible oil. The children's skin is getting dry and they are showing signs of malnutrition. (Quoted in Gresser and Tickell 2002:10)

Further, simply waiting is not the solution for the industry: while it is true that eventually coffee production will go down as farmers simply cannot afford to continue to tend to their crop, and prices will correspondingly increase, the timescale that this involves might mean the end of the coffee industry as we currently know it. Coffee bushes take 10–15 years to be ready for harvesting; at present, farmers are still growing them because there are no alternatives, and in hope that there will be a recovery.

A similar analysis can be applied to the pharmaceutical industry. For years, drug companies could rely comfortably on the fact that they produced medicines as evidence of their corporate social responsibility. This premise has been slowly eroded as evidence has emerged on, for example, unethical clinical trials. The AIDS crisis has, however, brought a definite end to that comfort. Against the backdrop of a public-health emergency of a global scale, the very pillars of the industry's operations—patenting and pricing—have been the subject of public outrage. Pharmaceutical companies have been accused of undermining poor people's access to medicines through two means: aggressively defending their patent rights through a variety of mechanisms so as to prevent the development of lower-cost generic medicines, and pricing medicines way beyond the means of poor people.

Many of the large firms have sought to mitigate these accusations through generous drug donations both unilaterally and through efforts like the Accelerating Access Initiative. Only a few companies have met the challenge head-on by exploring differential pricing and voluntary licensing. Failure by others within the industry to address the health crisis in a meaningful way is serious: patenting and pricing of anti-retrovirals continues to be a problem, despite donations. And looking to the future, the growing burden of non-communicable diseases like cancer, heart disease, and diabetes will take us to crisis point again if no real progress is made.² It is worrying, therefore, when the world's largest pharmaceutical company, Pfizer, rejects notions of tiered pricing. Interviewed in 2003, its vice-president for corporate affairs was categorical: 'We do pricing by markets' (quoted in Boseley and Pratley 2003).

Pfizer is also a member of the Industry Functional Advisory Committee, which advises the US government on the intellectual-property aspects of its bilateral Free Trade Agreements (FTAs). While the 2001 Doha Declaration confirmed the primacy of public health over patents, reaffirming the rights of countries to use all the public-interest safeguards in TRIPS, including compulsory licensing and parallel importation to promote 'access to medicines for all', a number of US FTAs—notably the Central American Free Trade Agreement (CAFTA)—have cut back on this safeguard facility by introducing longer patent periods, restrictions on compulsory licensing, and other provisions.³

A lack of progress by the pharmaceutical industry in addressing the impacts of its core operations on access to medicines is of concern to investors. Long seen as one of the best sectors in which to invest because of its good returns, the fear is that continued public criticism of the industry for failing to act will start to pose material risks. A report issued in September 2004 by an international grouping of 14 institutional investors identified four potential risks connected with the industry's lack of response. First, damage to reputation would undermine belief in the patent system as a whole—and with it one of the key profit mechanisms for pharmaceutical companies. Second, damage to relationships with regulatory bodies that control intellectual property, pricing, and drug approval frameworks may lead to further calls even from mature markets for downward pricing. Third, it may hamper access to new

markets. And fourth, the behaviour of the pharmaceutical industry may lead to damage to staff morale and to recruitment and retention problems (Pharmaceutical Shareowners Group 2004).

As demonstrated by the retail, coffee, and pharmaceutical sectors, when companies endeavour to apply their ethical responsibilities to core business operations, they can effectively and credibly manage their ethical standards. But the biggest threat to the CSR agenda is the fact that the market rewards irresponsible behaviour (Tickell 2004). Look at any of those three sectors and you will see more *irresponsible* than responsible companies. Although the growth in the socially responsible investment (SRI) movement offers hope, far more work needs to be done to convince and convert mainstream investors and financiers to rethink current indicators of success, and to ask critical questions as to whether what constitutes 'growth' in the short term translates into longer-term profitability. Business schools also must take up this challenge.

That the market is failing in this way also poses a real challenge to those who argue that CSR must continue to be a voluntary, self-regulatory regime. While the voluntary mechanism is and will always be important in that it defines the norm and offers a competitive advantage to the leaders, it cannot drag up the laggards. It also fails properly to establish which activities are acceptable and which are not given that ultimately the company will respond to market imperatives. Take the retail sector: whether or not excessive overtime is seen as a breach of a code of conduct depends on whether it is peak or low season. The moral or ethical bottom line is tenuous.

Given this, the need to explore public-policy interventions becomes all the more crucial. What form these take are up for debate. At one level, simply strengthening existing national laws—for example, labour legislation or consumer-protection laws—and their enforcement mechanisms will suffice. Yet the complex nature of the TNC in particular has prompted calls for a corporate accountability framework of a more global nature that allows corporate veils to be pushed aside, jurisdictional barriers to be overcome, and access to justice to become more easily achieved. In the UK, civil society groups have tabled a Corporate Responsibility Bill which offers a regulatory combination of reporting, stakeholder consultation, access to information, directors' duties, and liability (including foreign direct-liability) mechanisms.

For their part, governments have been fairly reluctant to take on responsibility on this front. Going back to the DTI draft strategic framework, the main role that it carves out for government is essentially one of raising awareness and providing support to companies as they develop their own strategies voluntarily. Suggestions of introducing legally binding mechanisms on human rights have been met with unease on the anachronistic basis that international law conceives of the state and the state alone as an actor with obligations. Having said that, the British government has at least taken some steps to regulate how companies behave in their operations domestically and overseas: in July 2000, the UK Pensions Act was amended to require trustees of occupational pension plans to disclose their policy on SRI as part of their Statement of Investment Principles (SIP). Belgium, France, Germany, and Sweden have adopted similar regulations. The Australian Financial Services Reform Act stipulates that all products with an investment component—including pension funds and mutual funds—must include disclosure of 'the extent to which labour standards or environmental, social, or ethical considerations are taken into account in the selection, retention, and realisation of the investment'. More recently, the Australian Securities and Investments Commission (ASIC) released Practice Statement 175, which requires advisers providing personal financial advice to enquire whether environmental, social, or ethical considerations are important to their clients.

It is to be hoped that the UK government's lead department on CSR will revisit its position and fulfil—as set out in the original draft—its 'ambitious vision for Corporate Social Responsibility'. In so doing, it should ensure that any policy or framework that it

develops meets the imperative of making companies entrench social and environmental responsibilities within the core of their businesses and establishes a governmental role in ensuring that this happens. Indeed, unless governments start to take more ownership of the CSR agenda, it is unlikely that we will overcome what BP's CEO, Lord Browne, fears—that globalisation will be perceived as 'a new form of colonialism in which a tiny, self-perpetuating elite grow rich at the expense of everyone else'.⁴

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Notes

- 1 This section draws heavily on Raworth (2004a) and Oxfam GB et al. (2004).
- 2 Patients in developing countries account for 59 per cent of the 56.5 million annual deaths worldwide from non-communicable diseases, including cardiovascular diseases, cancers, diabetes, and respiratory diseases.
- 3 This was followed by a decision by the WTO on 30 August 2003 to lift TRIPS restrictions on compulsory licensing for export of generic medicines to countries that lack the capacity to manufacture them themselves.
- 4 Lord Browne speaking at the Stanford Graduate School of Business Conference on Global Business and Global Poverty, Stanford University, 19 May 2003.

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