

that would require directors of publicly traded firms to act as fiduciaries to multiple stakeholders, and conform their discourse to fiduciary standards in all corporate speech about or to such constituents. Shareholders are not entitled to the default terms of shareholder primacy in corporate charters. We should give the support of our public institutions, including our corporate law, securities laws, tax laws, and other public advantage, to such stakeholder equality corporations.

Nevertheless, even if one were to take the view that the First Amendment would forbid the imposition of fiduciary discourse standards on corporate speech to multiple stakeholders, given the latitude that the Supreme Court has required for corporate commercial and political speech,ⁿ¹¹¹ it would seem much more difficult to argue that government cannot prescribe corporate default terms that call for multi-stakeholder governance and concomitant fiduciary-based internal corporate speech about shareholders, employers and consumers. These permissible changes to internal corporate discourse would likely be sufficient to spur significant changes over present patterns in the way that corporations speak to non-shareholders, without requiring formal, heavy-hand government enforcement of external corporate speech.

CONCLUSION

Corporate speech contributes to many public policy problems, perhaps most obviously in the area of public health. Through advertising and other commercial speech, firms manipulate consumer perceptions of the risks or other consequences associated with the consumption of their products. Through lobbying and other political speech corporations undermine the development of government regulations which might otherwise curb exploitative corporate conduct in the commercial arena. The shareholder primacy norm in corporate governance is the real culprit behind this dynamic. Corporate law tells directors to run their firms in the interests of shareholders alone, while other stakeholders are left to fend for themselves or else rely on ineffectual external governmental regulation. **[*228]**

These corporate speech problems can be solved through the reform of corporate law. In particular, this Article has argued that the pernicious effects of corporate speech can be ameliorated by extending the fiduciary obligations of corporate directors to include non-shareholding stakeholders that are otherwise targets of corporate misconduct, including employees and consumers. A multi-stakeholder corporate governance regime could be institutionalized by altering the discourse norms that underlie and give shape to corporate speech. Such a reform would change the way that corporate directors speak about various stakeholders in their internal deliberations and decision-making, and it would change the way that firms speak to their various stakeholders through advertising and other externally directed speech. This Article has also examined a sampling of discourse norms which scholars, policymakers, and businesspeople might look to when institutionalizing multi-stakeholder corporate governance, including familiar norms that govern personal or fiduciary engagements, as well as fully artificial ones, such as "expressive overdetermination,"ⁿ¹¹² or "integrity."ⁿ¹¹³ Future work in this area may reveal other discourse norms that could improve the social utility of corporate speech by getting corporations to speak about and for the interests of all of their stakeholders, rather than for shareholders alone.

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