

The reforms explored in this Article involve corporation-based, process-oriented solutions to the problems associated with contemporary corporate speech. These prescriptions are anchored in an abiding faith in the fundamental process-orientation of corporate law and a belief that specific solutions to specific corporate problems must come from within our firms, rather than be imposed from the outside by external regulators, or law professors. As the Jensen quote at the start of this Article asserts, "it is only the Board that this in the end can come from."ⁿ¹⁴ It would be incongruous, therefore, to assert with any specificity what specific policies or innovations should or would emerge from multi-stakeholder corporate governance. Nevertheless, without violating the substantive abstention which both corporate law and corporate law scholarship must always embrace, it might plausibly be imagined that corporate boards charged with the obligation to speak openly, honestly and sincerely about the interests of multiple stakeholders might manage their firms in such a manner as to, for example, forego from artificially increasing the levels of addictive nicotine in the tobacco they grow for use in cigarettes, or they might better alert consumers of junk-food to the adverse health consequences associated with substantial weight gain, or perhaps they would include more state-of-the-art environmental safeguards when drilling for oil in fragile ecosystems.ⁿ¹⁵ What more to be said can only be said by specific corporate boards, addressing particular circumstances, on behalf of multiple stakeholders.

Legal Topics:

For related research and practice materials, see the following legal topics:

Business & Corporate Law Corporations Shareholders General

Overview Governments Fiduciary Responsibilities Labor & Employment Law Employment Relationships Fiduciary Responsibilities

FOOTNOTES:

n1 MARK TWAIN, MARK TWAIN'S NOTEBOOK 345 (Harper & Brothers 1935).

n2 Charles Dickens, The Wreck of the Golden Mary, HOUSEHOLD WORDS, Dec. 25, 1856 at 10 (1856).

n3 Michael C. Jensen, Professor of Bus. Admin., Harvard Bus. Sch., Presentation at the Stanford Law School: Beyond Agency Theory: The Hidden and Heretofore Inaccessible Power of Integrity (Feb. 11, 2010), <http://rockcenter.stanford.edu/2010/02/11/beyond-agency-theory-the-hidden-and-heretofore-inaccessible-power-of-integrity/>.

n4 See David Yosifon, The Consumer Interest in Corporate Law, 43 U.C. DAVIS. L. REV. 253, 270-81 (2009) [hereinafter The Consumer Interest in Corporate Law] (reviewing case studies of social problems relating to corporate activity in consumer markets, including tobacco, junk food, and dietary supplements); see also David M. Uhlmann, After the Spill is Gone: The Gulf of Mexico, Environmental Crime and the Criminal Law, MICH. L. REV. (forthcoming 2011) (reviewing lapse of environmental safeguards that contributed to the severity of the 2010 Deepwater Horizon oil disaster in the Gulf of Mexico), available at <http://papers.ssrn.com/sol3/papers.cfm?abstractid=1740567>.

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