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Submission to the Inquiry of the Parliamentary Joint Committee on Corporations and Financial Services into Corporate Responsibility

The Australian Centre for Corporate Social Responsibility (ACCSR) welcomes the inquiry into Corporate Responsibility by the Parliamentary Joint Committee on Corporations and Financial Services.

ACCSR is an independent corporate social responsibility (CSR) advisory and training firm. Our services facilitate improved corporate social responsibility through consulting on CSR policy, strategy, capabilities and programs, provision of Australia's leading executive development learning programs in CSR, and CSR research and evaluation.

This submission is prepared together with Paul Hohnen, an internationally-based Australian consultant active in several global CSR processes and instruments.

We consider that government has a crucial role to play in supporting and enhancing improved corporate social responsibility. Section 181 of the Corporations Law does not prohibit corporate social responsibility, but neither does it specifically encourage it. Companies may not necessarily interpret "good faith" and "best interests of the corporation" to consider responsibility to the wider set of stakeholders who contribute to a corporation's wealth.

Currently, we have no empirical basis for understanding the extent to which corporations currently may have regard for the interests of non-shareholder stakeholders. This is a question for further research.

Indeed, many have argued that Section 181 precludes corporate social responsibility because directors might breach their duty to act in the best interests of shareholders if shareholder interests are seen to conflict with other stakeholders' interests (Wilson, 2005). Although broader stakeholder interests are protected to a degree by other legislation, we argue that greater government involvement is required to combat "short-termism" (BCA, 2004), and to ensure that the leadership shown by a handful of corporations is not dissipated over time through lack of institutional endorsement and legitimacy.

Government plays an important role to play in creating an "enabling environment" for CSR. For example, a recent review of US government activity that facilitates CSR used a World Bank framework for understanding the ways in which governments can support corporate social responsibility; namely, endorsing, facilitating, partnering and mandating (Yager, 2005).

The Australian Federal Government provides endorsement for one aspect of corporate social responsibility through the Prime Minister's Community Business Partnership Awards, and facilitates information about other aspects of corporate social responsibility through the OECD national contact point and some initiatives within the Department of Sustainability and Environment. However, these efforts, though laudable, are not sufficient¹. Further, the Government sends conflicting signals to business about CSR when it supports these activities while at the same time voting against the appointment of a United Nations Special Representative on human rights². The Government must do more to support CSR, and apply a consistent approach.

Specifically, we recommend:

- 1) Increased disclosure of corporate social and environmental impacts through mandatory reporting for corporations of a certain size;
- 2) Increased policy leadership by Government through appointment of a Minister for Corporate Social Responsibility;
- 3) A review or audit of Government activities that complement or support corporate social responsibility;
- 4) That Government convene a multi-stakeholder Forum on CSR involving business, government, civil society and mediating institutions to facilitate greater knowledge and development of CSR;
- 5) Increased support for the Australian Standard on Corporate Social Responsibility AS8003 through development of a certification program, with associated training and development support;
- 6) Government support for research on international trends on CSR, including on how CSR might help in developing Australia's international profile and competitive position in the global market place.

THE CASE FOR INCREASED GOVERNMENT SUPPORT OF CORPORATE SOCIAL RESPONSIBILITY ACTIVITY

Corporate social responsibility is a business strategy for creating long term value for both corporations and the societies they depend on. CSR achieves this goal by minimising negative social and environmental impacts and maximising positive social and environmental impacts. Socially responsible companies are therefore those that are accountable for the social and environmental impacts of their operations and actively manage opportunities and risks that arise from their social and environmental impacts.

One of the main reasons that Australian organisations are not currently more engaged in socially responsible behaviour and triple bottom line reporting is largely because there are, to date, no legal requirements to do so. Despite the "good faith" obligations and requirements for reporting on specific environmental regulations prescribed respectively in Sections 181 (1) and 299 (1)(f) of the *Corporations Act 2001* (Cth), there is little legal onus on Australian organisations to report the social and environmental impacts of their commercial practices to the wider Australian community. Consequently, while the current legal framework permits social responsibility by Australian companies, the failure to actively encourage it through enhanced reporting, policy, regulatory and certification processes does little to encourage or increase its practice.

¹ We acknowledge that a range of government departments and instrumentalities may provide encouragement for CSR.

² We refer to Australia's vote on 20 April 2005 against the UN Secretary General's appointment of a Special Representative on the issue of Human Rights, Transnational Corporations and Other Business Enterprises. Australia was one of only three countries to do so, the others being South Africa and the USA.

Companies that commit to adopting and implementing CSR strategies and practices are, by their nature, more stable and openly accountable organisations, and hence more likely to be profitable. The simple act of disclosing social and environmental impacts helps to build confidence within consumer and investment markets, while demonstrated willingness to address the concerns of the community will often lead to greater customer loyalty, market differentiation and improved brand reputation.

Attention to CSR helps employers create a working environment in which workers feel that their values are aligned with the values of their employer. This in turn increases the likelihood of improved employee commitment and productivity and retention and attraction of quality staff. When a company is accountable for its social and environmental impacts, conflict with stakeholders is reduced. Our research shows that corporate social responsibility accounted for 12% of variance in business performance and the effect of CSR on business performance is partially mediated by conflict reduction effects (Black & Hartel, 2002).

The impacts of market deregulation, specifically in the context of increased economic globalisation, have thrust many large corporations into powerful positions of economic and political influence. In practice, this power has been coupled with a greater sense of freedom and increased economic rights. Nevertheless, as Westpac Chairman Leon A. Davis acknowledged, "with greater rights comes greater responsibilities," and thus as corporations become ever-more powerful, the community has a right to demand ever-more from them in return (Davis, 2001).

Given the positive effects of CSR on business, on its stakeholders and the wider community, Government has a strong case to support increased CSR through actively creating an enabling environment of CSR.

A World Bank report on the role of government in facilitating corporate social responsibility identified four possible roles for government: mandating, facilitating, partnering and endorsing (Fox, Ward, & Howard, 2002). The report identified ten government activity areas to support CSR:

- Setting and ensuring compliance with minimum standards
- Public policy role of business
- Corporate governance
- Responsible investment, philanthropy and community development
- Stakeholder engagement and representation
- Pro-CSR production and consumption
- Pro-CSR certification, "beyond compliance" standards and management systems
- Pro-CSR reporting and transparency
- Multilateral processes, guidelines and conventions

In addition to supporting the adoption of these 10 governmental activities, we suggest that government can provide leadership in this area through the establishment of a ministerial portfolio for social responsibility. In the remainder of this submission, we make several recommendations for government activity, while recognising that there are an even wider range of activities that would be fruitful for government to consider and adopt.

THE CASE FOR MANDATORY SOCIAL AND ENVIRONMENTAL REPORTING

The extent of voluntary social and environmental reporting in Australia is one indicator of the extent to which companies take into consideration the broader interests of stakeholders other than shareholders.

The Global Reporting Initiative (GRI) is a framework for non-financial reporting that is rapidly becoming the de facto global framework for social and environmental reports. The GRI database lists 38 Australian reporters. Other research has shown that less than a quarter of

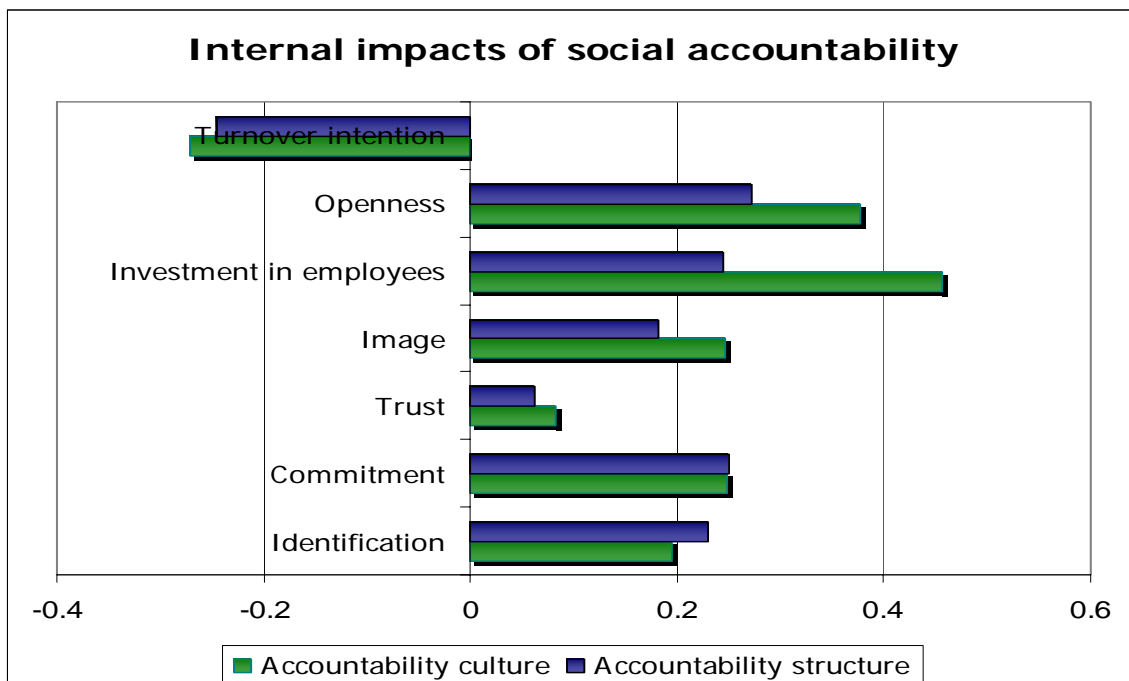
ASX 100 companies produce an annual social or environmental report (KPMG, 2005) or that only 31 of the ASX top 500 issue such a report (Frost, Jones, Loftus, & Van der Laan, 2005). By comparison, KPMG reported that over half the world's top 250 companies issue a social or environmental report.

Compared to other developed countries, the level of voluntary social and environmental reporting in Australia is low.

Companies voluntarily disclose their social and environmental policies and impacts for a range of reasons, such as improving decision-making or satisfying stakeholder demands (Adams, 2002). However, a growing body of empirical research around the world demonstrates that foremost among the reasons for reporting is the desire to improve the corporate image and to be seen as acting in good and proper ways (Adams, 2002; Bansal & Roth, 2000; Campbell, 2000; Deegan, Rankin, & Tobin, 2002; Hooghiemstra, 2000; Livesey & Kearins, 2002). Thus, reputational benefits are among the foremost drivers of voluntary social and environmental reporting.

In addition, companies receive internal benefits of reporting. Our research shows that the benefits include reduced employee intention to leave (turnover intention), increased workplace openness and trust, increased commitment of employees and improvement of their image of their employer, and an increased propensity of the reporting organisation to invest in their employees through actions such as career development assistance (Black, 2004). These benefits are depicted in Figure 1.

These outcomes are significant for both organisational culture and the structure through which accountability to stakeholders is delivered. Managers report that these outcomes are possible because the act of reporting stimulates thinking within the organisation about its broader relationship with stakeholders.



Greater disclosure of social and environmental impacts would be very beneficial for a wide range of stakeholders, including employees as noted above, and investors. A recent study of long-term Australian institutional investors showed that they believe that not enough attention is being paid by listed companies to corporate social responsibility, and that CSR is

an important driver of value. However, they lack information about corporate social and environmental impacts and risks on which to base their assessments (Coghill, Black, & Holmes, forthcoming). The combination of rising inflows into superannuation and the expanding globalising of Australian business, with accompanying increases in social and environmental risk, mean that investors will increasingly demand such information in the future. They will need data that is comparable across companies and industries. Mandatory disclosure of social and environmental impacts will be an effective way to address this need.

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 for at least two reasons. First, voluntary reporters are converging around the GRI reporting guidelines which are beneficial for both reporters and stakeholders as they enable comparability across companies and industries. Standardisation rather than innovation is thus the observed trend in reporting. Second, the introduction of mandatory social reporting in other countries such as France and the United Kingdom 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. While Australia continues to lag other countries in social and environmental reporting, Australian reporters gain an even greater reputational benefit as they are seen to be international leaders while the rest of business remains "as usual".

We do not in any way suggest that voluntary reporters are producing "spin and not substance". Far from it. Companies rarely undertake voluntary social and environmental reporting unless they have made significant investments in understanding and managing their social and environmental impacts. We do, however, suggest that voluntary reports are important communications tools for companies that help to build reputations for social responsibility. Therefore, mandating the production of such reports would void the reputational benefit. Companies that have made such investments naturally do not wish to lose the reputational benefit and will argue in favour of continued voluntary reporting.

Further, companies that have made no significant investment in understanding and managing their social and environmental impacts are very unlikely to welcome additional regulatory and reporting requirements. Therefore, very few companies at all are likely to favour mandatory social reporting.

In deciding whether to support mandatory disclosure of social and environmental impacts, the Inquiry should focus on the needs of stakeholders, including communities, employees, suppliers and investors who need such information for balanced and considered decision-making.

The UK's Operating and Financial Review (OFR) Guidelines form a recent template for government activity from a country with which Australia has much in common, including a shared legal heritage³.

³ See <http://www.societyandbusiness.gov.uk/ukpolicy.shtml>

RECOMMENDATION 1: We therefore recommend that the Australian Government adopt OFR-style regulation that encourages companies to disclose and report on their CSR performance by requiring directors to produce a "fair review" of their company's business, that is independently audited, and subject to appropriate regulatory oversight and enforcement.

THE CASE FOR APPOINTMENT OF A MINISTER FOR CORPORATE SOCIAL RESPONSIBILITY

The Australian Government may have numerous ways in which it encourages corporate social responsibility, but a lack of coherence and focus of initiatives and policies makes this difficult to ascertain. Consequently, a lack of government leadership on this issue makes it easy for companies to apply a narrow interpretation to Section 181 of the Corporations Act and disregard responsibilities to stakeholders other than shareholders.

The UK government has appointed a Minister for Corporate Social Responsibility as part of the trade portfolio. This has the effect of signalling to business the importance that government attaches to responsible corporate behaviour and providing policy leadership and program coherence. As part of this approach, the UK government also reports on its own vision and progress towards achieving CSR goals.

RECOMMENDATION 2: We recommend that the Australian government appoint a Minister for Corporate Social Responsibility to provide focus and leadership in this area.

An audit of Government activities that support or complement corporate social responsibility efforts should be implemented as an early step. A template for this activity is provided by the USA government which, through the Government Accountability Office, recently completed an audit of federal activities that complement business CSR efforts. This report identified over 50 programs in almost every federal department, yet the government has no co-ordinated approach and consequently sends confusing signals to business. The implications of this report, released in August 2005, are still being considered.

RECOMMENDATION 3: We recommend that the Government undertake an audit of its CSR policies and programs to help define the scope and role of the Minister for Corporate Social Responsibility, including any regulatory or enforcement regimes that may exist or be developed.

In parallel with an audit of government activity to support CSR, we advocate establishment of a multi-stakeholder collaborative process, under Government auspices, that engages business, government, civil society, and mediating institutions in a dialogue aimed at improving CSR. For example, the European Union established a multi-stakeholder forum on CSR to promote transparency and convergence of CSR practice and instruments⁴. Improved transparency and standardisation are important to the advancement of CSR practice so that stakeholders, including investors, can make valid comparisons between the CSR of one company and that of another. The European Union's Multistakeholder Forum on CSR had the effect of improving knowledge about CSR, fostering greater CSR among a range of businesses of all sizes, and fostering development and transparency. This could provide a suitable model for the Australian Government to improve its ability to facilitate greater CSR.

RECOMMENDATION 4: We recommend that the Government establish a multi-stakeholder forum on CSR, linking business, government, civil society and mediating institutions, to facilitate greater knowledge and development of CSR.

⁴ See http://europa.eu.int/comm/enterprise/csr/index_en.htm

THE CASE FOR INCREASED SUPPORT OF AS8003

In 2003 Australia produced a Standard for Corporate Social Responsibility, AS8003, that aimed to facilitate a self-regulatory approach to CSR and provide a framework for the development and monitoring of effective CSR. When considered against world's best practice in CSR, we regard it as providing a foundation for good CSR practice that provides clear guidance to corporations beginning to address CSR, as well as those at a more advanced stage.

The Standard encourages identification of CSR issues, development and implementation of policies and operating procedures for CSR, reporting and independent verification of reports, stakeholder engagement, and education and training in CSR. Corporations at an advanced stage are likely to exceed the requirements of AS8003 and corporations at an early stage can use the standard as a basis for going forward.

Regrettably, the AS8003 has almost no visibility in business. We do not know the extent to which it is being used by business or even if business is aware of it. The AS8003 has no regulatory or certification framework attached to it. Without awareness and encouragement or enforcement, AS8003 is unable to perform its intended role.

Attention to CSR standards at a global level is increasing due to the current work by the International Standards Organisation to develop a global standard for CSR, ISO26000, due for release by 2008⁵. The AS8003 will form an important resource for the development of the global standard. The most recent meeting of the international working group for ISO26000 was attended by 43 ISO member countries, including 21 developing countries. Australia is now poised at a critical juncture whereby it has the opportunity to show leadership and assist many of its neighbours and partners by demonstrating good practice in implementing its CSR standard and providing encouragement for greater CSR.

AS8003 should be given further support through the development of a certification program and associated training and development. This would increase its visibility, attractiveness and usefulness to business, and help ensure the spread of a baseline level of attention to CSR in Australian business.

RECOMMENDATION 5: We recommend that AS8003 be supported through the implementation of a certification program with associated training and development support.

CSR might help in developing Australia's international profile and competitive position in the global market place, increasing its attractiveness as an investment market and partner for regional or international initiatives.

RECOMMENDATION 6: We recommend that Government support further research into the role of CSR in developing Australia's international profile and competitive position in the global market place.

There are clearly numerous ways in which government can provide an enabling environment for CSR. Our submission has briefly canvassed only a few options that we believe would have a significant impact on improving the social responsibility of business. By implementing these suggestions, Government has the ability to demonstrate its leadership in and commitment to CSR, to deliver greater benefits to businesses and the societies in which they operate.

⁵ See <http://www.iso.org/iso/en/info/Conferences/SRConference/home.htm>

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