

CORRUPTION, CORPORATE SOCIAL RESPONSIBILITY AND CORPORATE GOVERNANCE

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ABSTRACT

Corruption is an issue that affects developing and developed countries alike. Businesses are often seen as fuelling the flames of corruption by engaging in corrupt practices in order to gain advantages over competitors in business deals. Since the mid-1990s the international community has been focusing on ways to increase business integrity by adopting conventions for ratification and effective implementation by Contracting States and soft law instruments for voluntary incorporation by businesses within their Corporate Social Responsibility (CSR) policies. The question however is whether these self-regulatory measures have made any noticeable impact on companies' practices and policies in respect of corruption. This paper addresses this question through a survey of companies' policies and practices as expressed in their CSR statements and responses to questionnaires of publicly listed companies as published by *The Times* (London) in the Industrials, Telecoms and Technology sectors.

INTRODUCTION

It is trite to say that businesses play a central role in spreading corruption globally.³ The media is replete with cases of businesses bribing officials in order to gain a competitive advantage in business deals. The latest, at the time of writing this article, is the investigation by the (UK) Serious Fraud Office of Alstom, a French transport and infrastructure group with

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³ According to Huguette Label, Chair of Transparency International (TI) '[t]he BPI [Bribe Payers index] provides evidence that a number of companies from major exporting countries still use bribery to win business abroad, despite awareness of its damaging impact on corporate reputations and ordinary communities'. See the Bribe Payers Index available at http://www.transparency.org/news_room/latest_news/press_releases/2008/bpi_2008_en.

subsidiaries in the UK. According to the news item in The Times⁴ the SFO believed that the British subsidiaries may have bribed officials for the purpose of obtaining lucrative contracts.

The international community became actively involved in anti-corruption issues in the mid-1990s and since then there has been widespread activity at both regional and international level. The approach to increasing integrity in the conduct of transactions, be it commercial or otherwise, has taken two different but related routes, each supplementing the other. One is the conventional regulatory route which has seen the adoption of regional and international conventions⁵ that require contracting states to create specific bribery and other corruption related offences in their national legislations thus bringing about some degree of harmonisation across jurisdictions. The other is the self-regulatory route or the soft law approach where the primary goal is to improve the integrity of the business sector, the expectation being that the businesses themselves will take a firm stance in the fight against bribery and other corrupt activities. As Mr Angel Gurria⁶ recently observed, “[t]he objective is to stop bribery. And that will only happen if the companies put in place their own rules and controls against bribery.”⁷

The self-regulatory route has been actively promoted through the adoption of the OECD Guidelines for Multinational Enterprises, the United Nations Global Compact,⁸ the ICC Rules on

⁴ Alex Spence (2010) ‘Fraud Detectives Step up Search in Alstom Bribery Enquiry’ March 26: 60.

⁵ The conventions in force are: (1) Organisation of American States Inter-American Convention Against Corruption (OAS Convention), (adopted 1996, entered into force 6 March 1997); (2) Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention) (adopted 1997, entered into force 15 February 1999). (For further on this see I. Carr and O. Outhwaite, (2008) ‘The OECD Anti-Bribery Convention Ten Years On’ *Manchester Journal of International Economic Law* 5(1): 3; (3) Council of Europe Criminal Law Convention on Corruption (COE Criminal Convention) and Civil Law Convention on Corruption (COE Civil Convention) (both adopted 1999, entered into force 1 July 2002); (4) African Union Convention on Preventing and Combating Corruption (AU Convention) which (adopted 2003, entered into force 5 August 2006). For further on this see I. Carr (2007) ‘Corruption in Africa: Is the African Union Convention on Combating Corruption the Answer?’ *JBL* 111 and (5) the United Nations Convention against Corruption 2003, entered into force on 14 December 2005. For further on this see I. Carr (2006) ‘The United Nations Convention on Corruption: Improving the Quality of Life of Millions in the World?’ *Manchester Journal of International Economic Law* 3(3): 3.

⁶ Secretary General of OECD.

⁷ ‘Principles for fighting corruption: from criminalisation to self-regulation?’ Address delivered at the MEDEF Colloquium on Fighting Corruption: From Regulatory Concepts to the Reality on the Ground, on 7 December 2006.

⁸ The United Nations in the 1970s set up a Centre on Transnational Corporations and published in 1977 Draft Code on Transnational Corporations. Unfortunately, it did not make much progress due to opposition from the US and the Centre was eventually closed.

Extortion and Bribery and the TI Business Principles for Countering Bribery. The expectation with all these instruments is that business organisations will act in a socially responsible manner towards corruption by putting in place measures ranging from adopting codes of conduct to promoting employee awareness and compliance with policies of the business organisation. In other words these instruments create an expectation that businesses will integrate anti-corruption measures within their corporate social responsibility (CSR) agenda. CSR as a concept is traceable to the late 1950s and the expectation that companies should weave anti-corruption measures within their existing CSR policies is neither surprising nor unfair. The question however when it comes to corruption is whether these self-regulatory measures have made any noticeable impact on companies' practices and policies. The aim of this paper is to address this question through a survey of companies' policies and practices as expressed in their CSR statements and responses to questionnaires in the industrials, telecoms and technology sectors.

However before evaluating the findings of the empirical study, the various self-regulatory instruments formulated by major international organisations such as the OECD are outlined in Section I, and the concept of CSR is explored in Section II against an historical setting to delineate the common key features found in the various approaches to social responsibility within the corporate sector and the degree of overlap with corporate governance which is increasingly incorporating social concerns within its ambit. Section III evaluates the empirical findings and proposes, based on the findings, how the anti-corruption agenda may be better embedded in the corporate culture.

I. SELF-REGULATORY INSTRUMENTS PROMOTING BUSINESS INTEGRITY

That self-regulation as a tool to guide behaviour is preferred by most commercial entities is evidenced by the numerous illustrations of standard-setting found in the world of international commerce. Neither is the phenomenon of adopting voluntary standards a contemporary innovation. The influence of *lex mercatoria* (law merchant)⁹ on international trade law through the adoption of standard trade terms and the customs and practices for the use of documentary credits and the role of the International Chamber of Commerce (ICC) in the formalising and the near universal adoption of these standards cannot be overstated.¹⁰ A similar trend can also be

⁹ See I. Carr (2010) *International Trade Law* (4th e.d) London: Routledge Cavendish;

¹⁰ The ICC INCOTERMS (International Commercial terms) and UCP (Uniform Customary Practices on Documentary Credits) are recognized globally. The ICC besides formalizing customary practices found amongst its members also plays an important role in lobbying for harmonization of commercial laws at venues such as the UNCITRAL (United Nations Commission on International Trade Law). There are other standard-setting bodies such as the World Association of Nuclear Safety Organisation and the International Air Transport Association.

seen within the standardisation of banking and accounting norms and this can be traced to the fourteenth century.¹¹ This self-setting of standards has become well-entrenched in modern times and is to be found in almost all sectors from accounting, insurance, banking and finance to human resource management. The advantages of self-regulation are that businesses are not placed under the stresses and pressures that come with state regulations and their requirements. Self-regulation also contributes to the view that businesses see themselves as responsible entities capable of setting standards that shape their behaviour in a manner that reflects the realities and what is pragmatically possible. Self-regulation as a result of voluntary adoption also has the advantages of harmonising the rules of engagement readily and speedily in the face of diverse legal systems and the relative weaknesses of formalised regulatory opportunities created by international conventions. And more importantly, from a business perspective they can mould the regulatory framework (albeit part of it self-imposed) which governs them. A further advantage with self-regulation is that the responses to changing realities such as market and social expectations can be quick thus avoiding the delays surrounding legal regulation.

While standard-setting is of itself not new, a more recent development of the mid twentieth century has been a move to set terms of engagement in respect of responsibilities to the community at large often termed corporate social responsibility (CSR). In very general terms standard-setting in respect of CSR requires that companies go beyond profit seeking and protection of shareholders to include within their core issues social problems such as human rights and the environment. In accommodating these wider issues it is expected that companies engage with stakeholders other than shareholders. That it is good for businesses to venture outside the realms of meeting shareholder satisfaction is supported by the substantial amount of research often termed the 'business case' for CSR which suggests that the participation of a wider range of stakeholders, for instance, employees, consumers, local communities and the public at large improves economic efficiency and contributes to profits.¹²

CSR also is a convenient means to bridge the gap between changing social expectations and legal developments and unlike law which sets only minimum standards it is potentially more effective at promoting higher standards and a 'beyond compliance' attitude.¹³

¹¹ J. H. Dunning (1993) *Multinational Enterprises and the Global Economy* London: Addison-Wesley.

¹² See P. Yeoh (2007) 'The Direction and Control of Corporations: Law or Strategy?' *Managerial Law* 49(1/2):13; F. Robbins, (2008) 'Why Corporate Social Responsibility should be Popularised but not Imposed' *Corporate Governance* 8(3): 330 and C. Holliday, S. Schmidheiny and P. Watts (2002) *Walking the Talk: The Business Case for Sustainable Development* Sheffield: Greenleaf Publishing:

¹³ Esther M. J. Schouten (2007) 'Defining the Corporate Social Responsibility of Business from International Law', (2007) *Managerial Law* 49(1/2):16 at 27.

The most common approach to CSR has been through the adoption of codes of conduct (individual or collective) or similar internal policies.¹⁴ A recent report reveals that there is increasing support for this approach to CSR. A survey conducted by McKinsey and Company in 2007 found that more respondents were incorporating social (including human rights, labour and infectious diseases) and environmental issues than they had done in the previous five years.¹⁵ Many respondents were also of the view that collective CSR oriented initiatives such as the UN Global Compact would have a far reaching influence on CSR policies.

There are obvious downsides to self-regulatory approach to CSR. It does not prevent 'rogue' businesses from abusing the standards accepted by the business community or by the business sector of which it is a member thus bringing with it grave doubts about the efficacy of the system. The voluntary nature of CSR also means that 'laggards' are unlikely to become signatories. Similarly 'free-riders' may take little or no action, therefore avoiding the cost of action, whilst hoping to absorb some of the benefits of the action of others, for instance improved public perceptions of the industry as whole.¹⁶

The doubts to some extent may be addressed by introducing monitoring mechanisms and some level of external oversight of the application of the codes by trade associations or sector based institutions. Self-regulation in respect of CSR is also viewed by cynics, as nothing more than a Public Relations (PR) exercise, 'window-dressing'¹⁷ or green-wash¹⁸ and as unlikely to have a real impact on businesses (as for instance in popularly cited corporate failings such as those surrounding the collapse of Enron). More so, since there is no accepted system in place to share the compliance systems in place within an organisation with the wider public.¹⁹ In practical terms, voluntary codes of conduct take years to embed themselves and become operational. As Fleiss

¹⁴ Krista Bondy, Dirk Matten and Jeremy Moon (2008) 'Multinational Corporation Codes of Conduct: Governance Tools for Corporate Social Responsibility?' *Corporate Governance: An International Review* 16(4): 294.

¹⁵ Shaping the New Roles of Competition: UN Global compact Participant Mirror available at http://www.unglobalcompact.org/docs/news_events/8.1/McKinsey.pdf

¹⁶ P. Utting (2005) 'Corporate Responsibility and the Movement of Business' *Development in Practice* 15: 375.

¹⁷ Mollie Painter-Morland (2006) 'Triple Bottom-Line Reporting as Social Grammar: Integrating Corporate Social responsibility' *Business Ethics: A European Review*, Vol. 15(4): 352; E.V.K. Fitzgerald (2002) *Regulating Large International Forms* UNRISD Technology, Business and Society Programme Paper 5, Geneva: UNRISD.

¹⁸ J.G. Frynas (2008) 'Corporate Social Responsibility and International Development: Critical Assessment' *Corporate Governance: An International Review* 16(4): 274.

¹⁹ According to J. Ruggie (2002) 'Managing Corporate Social Responsibility' *The Financial Times* 25 October less than one in four share such information with the public.

observed in many instances 'management systems are in their infancy, which makes it hard to assess their effectiveness.'²⁰ However, voluntary codes of conduct setting out standards for business behaviour have been actively and vigorously promoted and there are indications that more companies are producing CSR reports. There is however the danger that these are still nothing but a PR exercise. A number of organisations have analysed these reports and have found them to be very weak. Christian Aid views the CSR trend as simply a means of blocking the adoption of mandatory regulation of companies' activities at an international level.²¹

The adoption of voluntary standards (or codes of conduct) in respect of corruption is also included within the CSR initiatives promoted by the international institutions. Of course this does not stop a business organisation from formulating its own code of conduct for its purposes. A bespoke code of conduct has advantages in that the code of conduct is designed to suit the sector, the regions where it is engaged and the risks that it is presented with when dealing with suppliers and customers.²² There are numerous examples of individually designed codes of conduct in respect of corruption and these range from a general statement about honesty and integrity to specific commitments or objectives.²³ Some of these codes of conduct also make specific reference to the ICC Rules on Extortion and Bribery, the UN Global Compact and other international instruments.²⁴ While there is nothing stopping an organisation from adopting its own code of

²⁰ B. Fleiss (2001) 'Better Business Behaviour' *OECD Observer* 229:53.

²¹ Christian Aid *Behind the Mask: The Face of Corporate Social Responsibility* 2004 London; Christian Aid.

²² It is also not unknown for companies to adopt a bespoke code of conduct as a result of external pressures from activists and NGOs. Rio Tinto in Namibia is an instance of this which resulted in their adoption of Rossing Communities Policy for its mine in Rossing which includes with it corporate-community partnership and community health.

²³ See Motorola's Business Code of Conduct available at <http://209.240.81.206/images/uploads/cr-code-english.pdf>.

²⁴ Nestle, for instance states as follows in its Corporate Business Principles (available <http://www.nestle.com/Resource.axd?Id=70014B84-A4FC-4F82-BFA0-23939DC52E9D>) as follows:

'Nestlé insists on honesty, integrity and fairness in all aspects of its business and expects the same in its relationships with all business partners and suppliers of materials, goods and services.

For that reason, our company has always endorsed efforts to fight corruption. Throughout our global operations, we are guided by the International Chamber of Commerce rules on extortion and bribery in international business transactions (1996); the OECD recommendations on Bribery and International Business Transactions of May 1994 and the OECD Convention to counteract corruption, which was signed by all the member countries and by Argentina, Brazil, Bulgaria, Chile and Slovakia in 1997 (the signatories undertake to consider corruption of foreign officials a penal act under their

conduct, the anti-corruption standards formulated by the international organisations have the advantage of providing a common framework of reference and the likelihood of wider impact. Some of the major anti-corruption standard-setting instruments are considered below.

(i) The OECD Guidelines for Multinational Enterprises (OECD Guidelines)

The OECD Guidelines are aimed at promoting responsible business conduct and the governments adhering to these Guidelines include those who are home to the multinational enterprises (MNEs) and who are the largest source of investment and trade globally. The Guidelines cover all areas of business ethics including labour, environmental standards and health and safety. Chapter VI of the Guidelines focusing on combating bribery was added in 2000 and its coverage is wider than that of the anti-bribery convention adopted by the OECD.²⁵ It includes provisions that aim to help in combating corruption such as enhancing transparency, promoting employee awareness of company policies in respect of bribery and compliance with company policies, and adoption of suitable management control systems, and accounting and auditing practices that prevent the use of ‘off the books’ or secret accounts. Illegal contributions to political parties or candidates seeking public office are also prohibited and there is a requirement that contributions, where made, comply with public disclosure requirements and are reported to senior management.

The OECD Guidelines are actively promoted and monitored through a National Contact Point (NCP) in the adhering state²⁶ which collaborates with the business community, employee organisations and other interested stakeholders such as civil society organisations (CSOs). The OECD Guidelines have been influential and the degree of influence is attributable to the monitoring role of the NCP. The CSOs have frequently reported complaints, ranging from bribe paying and illegal exploitation of natural resources to breaches of human rights standards and eviction of communities near mining projects, which have subsequently brought about changes in

national law); Nestlé also supports OECD efforts to have non-member nations adhere to the OECD recommendations for fighting against corruption.

Nestlé believes that its support for these international measures also demonstrates its support at a very practical level for the principle of the UN Global Compact, added in June 2004, which deals with anti-corruption. “Business should work against corruption in all its forms, including extortion and bribery” (Principle 10)’.

²⁵ OECD Convention on the Prevention of Bribery of Foreign Public officials in International Business Transactions 1997. As the title of the Convention indicates the focus is narrow. For further on this see I.Carr & O.Outhwaite (2008) ‘The OECD Anti-Bribery Convention: Ten Years On’ *Manchester Journal of International Economic Law* 5(1): 3.

²⁶ All OECD Member States adhere to these Guidelines.

company behaviour,²⁷ thus indicating that this instrument has had some influence. However emerging economies such as China and India which figure as highly corrupt in Transparency International's Bribe Paying Index with growing influence and huge investments in Africa and in independent states of the former USSR do not adhere to the OECD Guidelines.

(ii) United Nations Global Compact (UNGC)

The UNGC is another major international corporate citizenship initiative providing a platform for companies to commit to its ten universal principles which covers human rights, labour, environment, and corruption. Its tenth principle requires business to work against corruption in all its forms, including bribery. The UNGC has been widely launched across the five continents and well over 2000 companies are reported as having signed up to the Global Compact.²⁸ Those who have signed up to the UNGC can display the UNGC mark (the badge of business integrity) thus assuring that the company subscribes to the UNGC principles. The UNGC expects active engagement with different stakeholders and the Global Compact Office provides facilitation and support to all stakeholders and the Global Compact Board members act as champions in promoting the principles.

It seems that the UNGC is having some impact and companies have collaborated with local CSOs to set up codes in the countries of operation. Total South Africa (a subsidiary of Total Société Anonyme) is one illustration. It collaborated with the Ethics Institute of South Africa²⁹ to set up an ethics management programme which is intolerant of corruption and fraud. Part of the programme is to formulate a code of ethics that is unique to Total South Africa and to create an extensive awareness programme of this code. Auditing the implementation of the code is also an integral part of this management programme undertaken by Total South Africa.³⁰ It must however be noted that the UNGC does not include within it any processes for actively engaging in the auditing, implementation of the UNGC principles or sanctions for breaches. However the UNGC does require companies to submit a progress report in respect of implementing the principles. This requirement is said to be taken seriously and so far 900 participants are said to have been

²⁷ A list of the cases is available on www.oecdwatch.org (an international network of CSOs that promote corporate accountability and responsibility).

²⁸ Further information on the progress made by these networks and list of participants (which include small and medium sized enterprises and large enterprises) are available at www.unglobalcompact.org.

²⁹ This is an independent not-for-profit organization initiated by South Africa to facilitate the development and implementation of ethics codes and assist in ethics code training ; see www.ethicsa.org.

³⁰ See The Global Compact Regional Learning Forum 'Creating a Culture Intolerant of Fraud and Corruption in Total South Africa (PTY Ltd)' in *Businesses Fighting Corruption: Experiences from Africa* (2007).

de-listed for their failure to report on progress. This is to ensure “some solid protection against free-riding,³¹ promote ownership by participants, and offer incentives for quality improvements over time”.³² The UNGC has also introduced measures such as providing implementation guidance in the form of tools and activities related to performance models and also encourage greater “public transparency and social vetting.”³³

Regardless, the UNGC has its fair share of criticisms since it does not police, enforce or measure what companies and hence the view that it allows companies to ‘bluewash’ their shortcomings with the UN’s name.³⁴

(iii) International Chamber of Commerce

The International Chamber of Commerce (ICC) is a global organisation that has worked to bring about harmonisation through the adoption of rules and promotion of best business practices, and is an important source of *lex mercatoria*.

The ICC adopted its Rules of Conduct to Combat Extortion and Bribery (RCCEB) in 1977 in response to the scandals that erupted in the mid-1970s and the US Security Exchange Commission survey that established that many US businesses were engaged in acts of corruption when dealing with foreign public officials. The RCCEB,³⁵ which underwent further amendments in 2005, are rules of good commercial practice and have no direct legal effect. They are intended to be a method of self-regulation by businesses against the legal backdrop of national anti-bribery laws. They prohibit bribery and extortion, be it direct or indirect through the use of agents or other intermediaries. The phrase ‘agents and intermediaries’ is construed widely to include sales agents, customs agents and professionals such as lawyers and consultants who may act as a conduit. The distinction often drawn between bribery and facilitation payments leaves scope for companies to pass off bribes as facilitation payments. In this regard, the RCCEB take a robust approach by requiring businesses to refrain from making such payments unless a managerial review indicates that they cannot be eliminated totally. In this event businesses are expected to ensure that they are limited to small payments to low level officials for routine actions. Businesses involved in charitable contributions and sponsorships are expected to behave

³¹ The UNGC logo is a kite mark and has an external function in indicating that the company is a subscriber to the core principles as enunciated in the UNGC.

³² United Nations Global Compact ‘Global Compact Governance’ 19 February 2008, available at http://www.unglobalcompact.org/docs/about_the_gc/governance_update2008.pdf

³³ *Ibid.*

³⁴ G. Standing (2007) ‘Decent Workplaces, Self-Regulation and CSR: From Puff to Stuff’ DESA Working Paper No. 62 ST/ESA/2007/DWP/62.

³⁵ Text available at <http://www.iccwbo.org> .

responsibly and not use them as a means of disguising bribery. As part of this responsibility they must act in accordance with national laws and make public disclosures where required. There is also the expectation that the companies will provide guidance and training in identifying and avoiding bribery or extortion, including protection from retaliation to those wishing to seek advice or make reports of corrupt activities and disciplinary procedures to sanction misconduct. It is expected that these company codes will also extend to controlled subsidiaries (foreign and domestic). The RCCEB also address aspects of accounting and auditing and impose duties on those with ultimate responsibility for the business (e.g. directors) to ensure that the Rules of Conduct are complied with and to sanction violations and take corrective actions. Appropriate public disclosure of the enforcement of business anti-corruption policies or codes is also expected. The ICC has also published Fighting Corruption: Corporate Practices Manual which is a practical toolkit providing guidance on how to comply with the Rules of Conduct.

To encourage the creation of safe channels for employees to report bribery without fear of reprisal the ICC has also adopted Guidelines on Whistleblowing.³⁶ Its aim is to bring about inclusion of whistleblower policies in codes of conduct adopted by companies since it is in the business interests to be aware of and deal with a concern of their employee before an illegal act is committed.

(iv) Transparency International's Business Principles for Countering Bribery

Transparency International (TI),³⁷ a CSO devoted to fighting corruption, has also developed a framework in partnership with other stakeholders including MNE's. The Business Principles for Countering Bribery (BPCB)³⁸ was adopted in 2002 and this was followed by a special edition devoted to small and medium enterprises in 2008. Like the RCCEB the BPCB's aim is that business will adopt values and practices to counter bribery in its various manifestations. These business principles are normally publicised through the national chapters of TI.

³⁶Text available at [http://www.iccwbo.org/uploadedFiles/ICC%20Guidelines%20Whistleblowing%20%20as%20adopted%204_08\(2\).pdf](http://www.iccwbo.org/uploadedFiles/ICC%20Guidelines%20Whistleblowing%20%20as%20adopted%204_08(2).pdf).

³⁷ The Council of Europe recognizes the importance of protection whistleblowers as an aid to exposing malpractices including corruption within the corporate and public sectors. See I.Carr and D.Lewis (2010) 'Combating Corruption through Employment Law and Whistleblower Protection' *Industrial Law Journal* 39(1) : 51.

³⁸ Available at http://www.transparency.org/global_priorities/private_sector/business_principles .

Besides the above initiatives there are a number of other initiatives such as the Ethical Trading Initiative,³⁹ Global Reporting Initiative⁴⁰ and schemes devoted to certification such as the SA8000.⁴¹

All of the above initiatives either involve a number of stakeholders, that is businesses, non-government organisations, trade unions and international institutions or involve the collective business sector. They all have social responsibility at their core.

At this juncture it would be fair to raise doubts in tactical terms about the effectiveness of so many initiatives in bringing about real change, namely making companies 'actually' behave responsibly. There is no doubt that the formulation of a single standard-setting instrument is a neat and attractive solution to achieving uniformity of standards. It must however be said that the risks are unlikely to be uniform across different sectors and different regions. The labour issues in the apparel industry in developing countries may be far different from those in the dairy sector in developed countries. Hence the need for bespoke standard-setting instruments, be it at an individual or a collective level.

II. THE FEATURES OF CORPORATE SOCIAL RESPONSIBILITY (CSR)

The view that company management has responsibilities that go beyond the shareholders to include customers, employees and the public has been traced to the early years of the Cold War. Spector, in his interesting article, compellingly argues that this broad responsibilities approach was a means of defending capitalism from the dangers of communism.⁴² CSR took shape and gathered momentum during the 1950s and 1960s, despite warnings from some that businesses were not equipped to enter the general welfare arena which should be left

³⁹ This initiative is the result of an alliance of companies, voluntary organizations and trade unions and focuses on workers' conditions. For more see <http://www.ethicaltrade.org/about-eti>.

⁴⁰ This is a network (representing business, civil society, academia, labour and other professional institutions) based organization which has developed reporting framework for organizations to report and measure their economics, environmental and social performance. The intention is to facilitate transparency and provide a common and comparable framework of reference for all stakeholders from which to understand disclosed information. For more see <http://www.globalreporting.org/Home>.

⁴¹ The SA focuses on workplaces standards and is based on ILO and UN Convention. It is drafted by Social Accountability International, an NGO. For more of the SA 8000 <http://www.sa-intl.org>.

⁴² B. Spector (2008) 'Business Responsibility in a Divided World: The Cold War Roots of Corporate Social Responsibility' *Enterprise and Society* 9: 314.

to the State and that the sole motive to ensure business success was profits.⁴³ The reasons for the gathering force of CSR have been attributed to a number of social movements ranging from women's rights, consumer rights and rights of the newly independent countries to a healthy environment. The growth of multinational corporations (MNCs)⁴⁴ and their economic and political might also contributed to growing demands for CSR from activists representing a range of interests from consumers and fair trade to workers and watchdogs devoted to human rights.⁴⁵

The negative impacts arising from global business operations have also received attention, from the media, NGOs and the general public.⁴⁶ A development associated with globalisation is the shift in attention from national concerns, associated more with the Westphalian model, to a recognition of the transnational and interdisciplinary nature of many issues of public importance, particularly those associated with sustainable development and poverty reduction. This shift led to what has been perceived as a 'governance gap'. Multinational businesses undertook activities within a framework which did not always provide for their accountability. This was particularly highlighted in cases involving the apparel industry who employed complex multi-national supply chains and in which high profile failings initially saw companies deny responsibility. National laws applicable to companies often did not extend to impose liability in such situations. At the same time international law also failed to provide a mechanism for holding these important actors to account.⁴⁷ There was therefore a perceived problem arising from the disparity between the influence exerted by these actors and the mechanisms by which they could be held accountable. As a consequence of these developments businesses have become actors in what is often termed the 'new governance'. In this case, actors assume a role in governance in a way that

⁴³ T. Levitt (1958) 'The Dangers of Social Responsibility' *Harvard Business Review* September-October: 41.

⁴⁴ The latter part of the twentieth century saw a substantial growth in the number of these MNCs from 7000 companies to 70000 companies with 690,000 subsidiaries between 1970 and 2005. Many companies have economies bigger than those of certain nations (see Schouten(2007), above at n.12). Businesses have also expanded the reach of their operations and often now are involved with the provision of services which had previously been the responsibility of governments (Laura Albareda, Josep M Lazano *et al.*(2008) 'The Changing Role of Governments in Corporate Social Responsibility: Drivers and Responses' *Business Ethics: A European Review* 17(4): 347.

⁴⁵ For example Corporate Watch, Human Rights Watch, Pesticide Action Network.

⁴⁶ For example the gas leak in the Union Carbide factory in India and the widespread impact of the poisonous fumes on the local community; the activities of Shell in Nigeria and sweatshops supplying major brands such as Nike.

⁴⁷ The question of whether MNCs have international legal personality has been mooted in academic literature. See for instance, Steven R Ratner (2001) 'Corporations and Human Rights: A Theory of Legal Responsibility' *Yale Law Journal* 111:443.

addresses the gap between the international nature of many issues concerning both the public and private sectors, and the scope and reach of national government. Businesses are not the only actors in this new governance; international organisations, multi-stakeholder coalitions and particularly civil society and NGOs, have all found a role in demanding a fundamental shift in the thinking of companies and regulating behaviour. This new governance involves a range of actors, beyond state governments, assuming responsibilities and playing a regulatory role in some capacity.

(i) CSR – Definitions and Characteristics

Given that CSR has been promoted since the 1950s it would be normal to expect a comprehensive and universally accepted definition of CSR. However, this unfortunately is not the case. The matter of definition is compounded further because of the emergence of new phrases such as 'corporate accountability', 'corporate governance' and 'corporate citizenship' that to some extent overlap with the key concept of responsibility driving CSR. A review of the literature on the social responsibility of business shows that definitions can be broadly categorised as those based either on a moral obligation where the commitment is made to the society at large or choice or discretion led where the commitment is made to society at large or to specific stakeholders. Definitions that fall within the former category are normally to be found in the literature from the 1950s through to the 1970s. They do not use the phrase CSR but instead use the phrase 'social responsibility of business'. Among this category can be included the definitions provided by Bowen,⁴⁸ Davis and Blomstrom⁴⁹ and Carroll.⁵⁰ For Bowen the social responsibilities of businessmen are "to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society."⁵¹ Davis and Blomstrom see social responsibility as an obligation 'which protects and improves the welfare of society as a whole with their own interest'.⁵² And for Carroll the social responsibility of business 'encompasses the economic, legal, ethical and discretionary expectations that society has of organization at a given point in time'.⁵³ Whilst there is some convergence in the above definitions

⁴⁸ H.R.Bowen (1953) *Social Responsibilities for the Businessman* New York: Harper.

⁴⁹ K.Davis & R.L. Blomstrom (1975) *Business and Society: Environment and Responsibility* New York: McGarh-Hill.

⁵⁰ A.B.Carroll (1979) 'A three-Dimensional Conceptual Model of Corporate Performance' *Academy of Management Review* 4: 497.

⁵¹ Bowen (1953) *op. cit.* at p, 6.

⁵² Davis & Blomstrom (1975) *op. cit.* at p, 6.

⁵³ Carroll (1979) *op. cit.* at p, 500.

in that they start from a moral base and focus on the interests of the society at large a number of distinctions can be made. Bowen's definition expects businessmen to be know (perhaps *a priori*) the values and objectives of society thus seeming to adopt a Kantian tone. However it is not clear whether these values are universal since the emphasis in the Bowen definition is on 'values of our society'. So is the reference to 'our society' a reference to a global society or is it a reference to 'this society' as opposed to 'other societies'? The Davis and Blomstrom definition on the other hand has built within it an element of discretion since the interests of the businesses have to be balanced with those of the society⁵⁴ and in doing so may let factors other than self-seeking economic interests decide their course of action. The Carroll definition while focusing on the ethical is wider in bringing other factors such as the economic and legal but more importantly expects businesses to be reactive by taking into account the expectations of society thus making room for greater flexibility and variation in CSR policies across the ages, regions and sectors. Definitions that fall within the latter category are to be frequently found in the literature from the 1980s onwards. The tendency is to use the phrase CSR though there are a few definitions within this period that also refer to the social responsibility of business. The definitions do not see the commitments as a moral obligation but impart an element of discretion. Amongst this category can be included the definition of the European Commission in which CSR is a concept where 'companies integrate social and environmental concerns in their business and in their interactions with their stakeholders on a voluntary basis'.⁵⁵ Maclagan views it as 'a process in which managers take responsibility for identifying and accommodating the interests of those affected by the organisation's action'⁵⁶. Whilst these two definitions see specific stakeholders as the object of the commitments Kotler & Lee see the commitment's object as society at large when they say that 'it is a commitment to improve well-being'⁵⁷ through discretionary business practices and contributions of corporate resources'.⁵⁸ Regardless of these variations some common features emerge and are discussed below.

(a) Responsibilities pertaining to the triple bottom line

⁵⁴ Once again the ambiguities in respect of 'society' remain. Does the reference in the definition to 'society as a whole' refer to global society or is it referring to a particular society without demarcating the different sectors and interest groups within a given society?

⁵⁵ European Commission (2001) Green Paper: promoting European Framework for Corporate Social Responsibility COM (2001) 366 final, at p, 6.

⁵⁶ P.W. Maclagan (1998) *Management and Morality* London: Sage at p, 147.

⁵⁷ Use of phrases such as 'well-being' bring with them their own issues. As a value laden concept the content of such concepts is not always that clear and is prone to relative interpretations.

⁵⁸ P. Kotler & N.Lee (2005) *Corporate Social Responsibility: Doing the Most Good for Your Company and Your Cause* Hoboken, NJ: Wiley at p, 3.

The immediate characteristic apparent from the various approaches is that businesses will assume responsibility for issues other than the traditional 'bottom line' of profit. These responsibilities may include the protection of human rights, ensuring equality and non-discrimination and fair and equitable labour practices and working conditions, environmental protection and resisting and preventing engagement with corrupt practices. Various commentators have argued that the singular pursuit of profit maximisation is no longer acceptable,⁵⁹ hence CSR is viewed as focusing on the 'triple bottom line',⁶⁰ people, planet, profit. In other words, the focus is on the environmental and social alongside the normally accepted focus of business, profit. In light of the increasingly sharp criticisms of business in the context of the rapid acceleration of globalization and activism from a number of quarters, CSR assumes that companies will recognise a broad spectrum of responsibilities, beyond that of profit maximisation. The triple bottom line approach, whilst widely acknowledged in CSR literature, has come under criticism from a practical perspective. It is seen as being 'confusing and intellectually suspect as a basis for a code of conduct' on a number of counts. Amongst the criticisms are that 'social and environmental benefits tend to be long-term before impacting on stakeholder value' and that '[c]ompanies cannot simply put profitability on the same level as social and environmental considerations, as a company cannot survive by behaving in a socially or environmentally responsible manner whilst making losses.'⁶¹ Added to this it can be said that no specific reference is made to corruption or bribery in business the global cost of which stands at US\$ 1 trillion per annum.⁶²

The above criticisms may be said to be unfair since the social, the environmental and the economic are value led not all can be treated as ends in themselves or as absolute values and depending on circumstances there is likely to be some balancing between the values. What is suggested by the approach is that companies assume responsibilities in relation to factors other than the economic and integrate those within their policies and practices appropriately. Equally

⁵⁹ See Yeoh (2007) *op.cit.*; John Nowland 'The Effect of National Governance Codes on Firm Disclosure Practices: Evidence from Analyst Earnings Forecasts' (2008) *Corporate Governance: An International Review* 16(6): 475.

⁶⁰ This notion of 'triple bottom line' was developed by John Elkington (1999) *Cannibals with Forks: The Triple Bottom Line of 21st Century Business* NJ: John Wiley & Sons.

⁶¹ M.Hopkins (2004) 'Corporate Social responsibility: An issues Paper' Working Paper No. 27 Geneva: ILO at p, 16.

⁶²<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20190295~menuPK:34457~pagePK:34370~piPK:34424~theSitePK:4607,00.html> (undated interview); see also 'Costs of Corruption' 8 April 2004 available at <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20190187~menuPK:34457~pagePK:64003015~piPK:64003012~theSitePK:4607,00.html>

the triple bottom line does not suggest that the impact on stakeholder value be immediate. As for lack of specific reference to corruption it can be said that it is subsumed under the social.

(b) Application of the stakeholder model

A further feature of the CSR approach is a move away from the traditional approach which viewed businesses as being responsible only to shareholders,⁶³ to the stakeholder model which expects that responsibilities are owed not only to shareholders but to society generally and to groups, communities and individuals who may be affected by a company's operations. This in turn necessitates opportunities for these stakeholders to be identified and to be able to communicate their expectations and potentially to seek redress for violations of those responsibilities. NGOs have consequently assumed a strong role within CSR. Similarly, the media and the general public have also contributed towards influencing companies to assume responsibility toward non-shareholders.⁶⁴

(c) Emphasis on self-regulation

Another key feature is that CSR is widely viewed as a self-regulatory approach involving 'beyond compliance' action on the part of business.⁶⁵ CSR implies business taking responsibility in a way that is pro-active and focused on ensuring that the responsibilities assumed are met, rather than simply meeting minimum regulatory standards. Initial efforts in CSR in particular relied upon the adoption by companies of codes of conduct or other internal measures. This focus on self-regulation may be evolving towards a model which call for greater accountability thus raising the view that there is a 'a gradual hardening of soft rules'.⁶⁶ This could be arguably reflected through developments such as the UNGC which seek to bring CSR activities within a somewhat more transparent and accountable framework. Nevertheless business choices pertaining to CSR remain largely voluntary (see section I above).

(ii) CSR and Corporate Governance

Parallel to the developments in CSR there have been developments in corporate governance, the system of rules and processes which aim to provide for accountability, stability and transparency within a corporation. In regulating the exercise of decision making powers and

⁶³ According to M Friedman (1962) *Capitalism and Freedom* Chicago: Chicago University Press, the social responsibility of business is 'to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud'.

⁶⁴ See Schouten (2007) *op. cit.*; Yeoh, (2007) *op. cit.*

⁶⁵ Albareda *et al* (2008) *op. cit.*

⁶⁶ P. Utting (2005) 'Corporate Responsibility and the Movement of Business' *Development in Practice* 15: 375.

duties Corporate Governance (CG) frameworks, offer an important alternative approach for addressing CSR objectives, so that CG and CSR have been described as ‘two sides of the same coin’.⁶⁷ This link without doubt is particularly important from the point of view of combating corruption since certain common CG measures, such as controls on the exercise of power by directors and the adoption of accounting and audit controls, are directly relevant to the prevention and detection of corruption and bribery.

In recent times it has been said that there is an emerging convergence between the values embedded in corporate governance (CG) and CSR. Certainly the OECD definition of CG⁶⁸ as ‘[p]rocedures and processes according to which an organisation is directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among the different participants in the organisation such as the board, managers, shareholders and other stakeholders and lays down the rules and procedures for decision-making’⁶⁹ may indicate that the gap between CG and CSR indeed may not be that wide.

Whilst it cannot be denied that CG may be useful in detecting corruption as the following paragraphs indicate there are fundamental differences between CG and CSR. In the UK, CG is traceable to the Committee on Financial Aspects of Corporate Governance 1992,⁷⁰ chaired by Sir Adrian Cadbury. It was set up as a response to low levels of confidence in financial reporting and the apparent failings in accounting and auditing standards which were highlighted by various controversies. While the Cadbury Report is sometimes cited as recognising broader interests in the context of CG, it in fact conceptualises CG in traditional inward looking terms, outlining CG as ‘the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies. The shareholders’ role in governance is to appoint the directors and the auditors and to satisfy themselves that an appropriate governance structure is in place. The responsibilities of the board include setting the company’s strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship. The board’s actions are subject to laws, regulations and the

⁶⁷ See Dima Jamali, Asem M Saffiedine *et al* (2008) ‘Corporate Governance and Corporate Social Responsibility Synergies and Interrelationships’ *Corporate Governance* 16(5): 443.

⁶⁸ Mason and Mahoney contend that the term ‘corporate governance’ ‘first appeared in 1981 in George Siedel’sarticle ‘Corporate Governance under the Foreign Corrupt Practices Act’ though measures directed at aspects of what would be considered CG date further back. See Michael Mason and John O’Mahoney (2008) ‘Post-traditional Corporate Governance’ *Journal of Corporate Citizenship* 3: 1 at p.2.

⁶⁹ <http://stats.oecd.org/glossary/detail.asp?ID=6778>

⁷⁰ Known as the Cadbury Report the text is available at http://www.ecgi.org/codes/code.php?code_id=132

shareholders in general meeting'. The Report did not refer expressly to CSR, to social or environmental responsibilities or issues or to broader stakeholder influences.

The goal of CG is to provide the structures and processes which will allow businesses to achieve maximum economic efficiency, thus the underlying rationale of CG differs from that of most conceptions of CSR.

Another fundamental difference between CG and CSR is that whilst CSR emphasises the stakeholder model, CG, at least in terms of the Anglo-American model has traditionally followed the shareholder model⁷¹ (in contrast to views that the African, Asian and Continental European models show stakeholder orientations, 'to a greater or lesser extent'.⁷²) And even where stakeholder theory is embraced there is some debate as to whether it really does do away with the primacy of shareholder interests and the manager and shareholders as key actors.⁷³

CG's focus is internal, that is, on the responsibilities owed to corporate stakeholders and the need to maximise returns for shareholders, whereas CSR's focus is on the external, the various impacts of business operation on society and the stakeholders who may be impacted by them.

Although historically CSR and CG have some important paradigmatic differences, recent changes in governance structures and shifts in CSR perspectives have led to a reduction in the gap between these approaches. CG can potentially be a vehicle for achieving CSR by embedding social and environmental concerns into the management and decision-making processes of companies. Indeed, this strategy is more in line with the so called 'next generation' of CSR, focusing on corporate citizenship or accountability, which 'takes a firm beyond compliance to mitigating potential risks and looking for opportunities in the relationship between business and society. In this framework, issues such as climate change, rising obesity rates, the digital divide, rich-poor gaps, the impact of corporate policies and lobbying and public perceptions of business all impinge on the governance and operations of a firm. It calls on corporate boards and management to actively engage stakeholders, including critics, and to face today's economic, social and environmental issues while monitoring and preparing to address those approaching in the longer term'.⁷⁴ The potentially symbiotic relationship between CSR and CG is also highlighted by others. For instance, Frynas argues that 'if CSR is not simply the subject of a corporate cost benefit analysis but a vehicle for advancing the public good, significant changes in corporate

⁷¹ See Stephen Letza and James Kirkbridge (2008) 'Corporate Governance Theorising: Limits, Critics and Alternatives' *International Journal of Law and Management* 50(1):17.

⁷² G.J. Roussouw (2009) 'The Ethics of Corporate Governance' *International Journal of Law and Management* 51(1): 5 at p, 9.

⁷³ Mason and O'Mahoney (2008), *op. cit.*

⁷⁴ Guy Morgan, Kwang Ryu and Philip (2009) 'Leading Corporate Citizenship: Governance, Structure, Systems' *Corporate Governance* 9(1): 39 at p, 41.

governance regimes are inevitable.⁷⁵ Frynas also goes on to argue that voluntary corporate initiatives cannot succeed in advancing societal goals without changes in corporate governance regimes.

This approach suggests that whilst providing a more traditional regulatory approach which would address some criticisms of voluntary CSR initiatives, in line with moves towards greater emphasis on accountability, it would at the same time meet the requirement for CSR efforts to address the triple bottom line and to adopt the stakeholder model. Thus, some of the 'external' aspects not usually associated with CG are introduced. Such changes are an attractive proposition for proponents of CSR, particularly NGOs who have lobbied for more regulatory control of business operations.⁷⁶

There are two key sources of corporate governance rules – statutory requirements and obligations, found particularly in company law, and rules associated with stock exchange listings for public companies. A CG code may, for example, set out both statutory requirements and additional guidelines or suggestions for listed companies. The potential for CG as a CSR tool is illustrated by the South African King Report (King Report on Corporate Governance 2002 and 2009 – see below). Painter-Morland suggests that this document succeeds in bridging the gap between CSR and CG.⁷⁷ Companies listed on the Johannesburg Stock Exchange are required to comply with King II which includes a section on sustainability, provides guidelines on the implementation of codes of conduct and requires the use of the GRI reporting guidelines. The 'King III' report was published recently (and is effective from March 2010) and appears to continue to strengthen the weight afforded to the issue of 'sustainability'.⁷⁸

⁷⁵ G. Frynas, (2008) *op. cit.* at p, 278.

⁷⁶ The flip side of this, and one of the principal arguments against such developments, is that it would impose a greater burden on companies, particularly smaller companies. From the point of view of achieving goals related to employment, investment, and the reduction of poverty, it has been argued that this could in fact have adverse effects.

⁷⁷ Painter-Morland (2006) *op. cit.*

⁷⁸ Principle 1 for instance focuses on ethical and responsible leadership. It is noted in the introduction to the Code, that

'Although the board is accountable to the company itself, the board should not ignore the legitimate interests and expectations of its stakeholders. In the board's decision-making process, the inclusive approach to governance adopted in King II dictates that the board should take account of the legitimate interests and expectations of the company's stakeholders in making decisions in the best interests of the company'

and that

'*Sustainability* [original emphasis] is the primary moral and economic imperative of the 21st century. It is one of the most important sources of both opportunities and risks for businesses. Nature, society, and business are interconnected in complex ways that should be understood by decision-makers. Most importantly, current incremental changes towards sustainability are not sufficient – we need a fundamental shift in the way

In the UK however, the extent to which developments to extend CG so that stakeholder values are embedded within recent company law legislation is limited. Section 172 of the Companies Act 2006 reads as follows:

- (1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefits of its members as a whole, and in doing so have regard (amongst other matters) to –
 - (a) the likely consequences of any decision in the long term
 - (b) the interests of the company's employees,
 - (c) the need to foster the company's business relationships with suppliers, customers and other,
 - (d) the impact of the company's operations on the community and the environment,
 - (e) the desirability of the company maintaining a reputation for high standards of business conduct, and
 - (f) the need to act fairly as between members of the company.

The provision appears at first glance to include the triple bottom line as well as issues of corruption and bribery since they would be covered under s. 172(1)(e) dealing with reputation. However, the primacy of the shareholders is highlighted in the opening words of s.172(1). Admittedly, the director in being expected to 'have regard to' should balance the shareholders interests against those of the stakeholder. But 'having regard to' is a woolly phrase and prone to a variety of interpretations that may depend on existing circumstances that the director of a

companies and directors act and organise themselves." The issues of corporate citizenship, sustainability, stakeholder sustainability and recent developments in CSR are discussed in further detail.

(Institute of Directors in Southern Africa, King Code of Governance for South Africa 2009 at p.9.)

The Code applies to companies listed on the Johannesburg Stock Exchange on a 'comply or explain' basis (similarly to the UK listing rules) rather than what is referred in the King III report to a 'comply or pay' basis, which is the basis of the US Sarbanes Oxley Act (see pp.5-8). The Code therefore incorporates a mixture of mandatory and voluntary requirements.

See also for instance the Norwegian White Paper on CSR (<http://www.forumfor.no/Artikler/5142.html>); the Danish Law n CSR Reporting (<http://www.csrgov.dk/graphics/Samfundsansvar.dk/Dokumenter/Proposal Report On Social Resp.pdf>).

company will have to face. In times of negative economic growth a company director may well regard taking stakeholder interest in to account as box-ticking exercise. The approach embedded in s.172 has come under criticism from NGOs (Friends of the Earth and Amnesty International) for not giving greater priority to stakeholder issues.

So far we have considered the arguments for CSR, the features of CSR, collective anti-corruption codes and the possible common ground between CSR and CG. To make true inroads in the fight against corruption it is important to see how far businesses have internalized CSR and other initiatives in respect of combating corruption. The following section examines the findings of an empirical survey conducted by the authors.

III. EMPIRICAL FINDINGS

(i) Sample population profile

The findings reported below build upon the pilot data previously reported⁷⁹ and derive from a wider study investigating anti-corruption strategies and international business and comprise two main sources:

- (1) Data collected from companies' websites. In this instance we analysed corporate web pages for references to CSR, CG and corruption in order to gain information about the extent to which companies have engaged with these concepts in a way which is publicly accessible,⁸⁰ and

⁷⁹ I.Carr and O.Outhwaite (2008) 'Investigating the Impact of Anti-Corruption Strategies on International Business: An Interim Report' available at <http://hq.ssrn.com/submissions/MyPapers.cfm?partid=784635> .

⁸⁰ In addition, we coded the main country of operation or head office of the company, the regions in which it operated and the stock exchanges on which it is listed. Some caveats apply here. Firstly, the data is derived from the company websites and thus inaccurate information would affect the findings, for instance where not all stock exchange listings are disclosed or countries of operation are not listed in full. Secondly, for the purpose of consistent analysis it was necessary to adopt working definitions of the categories of analysis and in a small number of cases companies who displayed relevant information on their website but which did not use the terms as adopted by the present authors would be regarded as not having the information on their website (for instance, companies who had given detail of the directors duties, remuneration committee, audit committee etc. but who had not used the term 'corporate governance'). Finally, the inclusion of references to the three categories on the company website does not tell us definitely whether the company has adopted policies or procedures in that area. A CSR policy may exist, for instance, but not be available on the website. Nevertheless, given the assumed importance of stakeholder demands and other drivers for the adoption of CSR policies it is in itself interesting to note the number of companies which have policies which are publicly available in this way. In addition to general references to 'corruption' or 'bribery' we also coded those websites which referred to specific potentially corrupt practices, for instance restrictions on giving or receiving gifts and hospitality. It is interesting to observe that in some cases these are prohibited or internally regulated but without express reference to corruption.

(2) Data collected through administration of a questionnaire which sought to investigate company experiences and attitudes towards different approaches to combating corruption.

The survey population is derived from publicly listed companies as published by *The Times* (London). The sample below comprises three sectors: Industrials (80 companies), Telecoms (27 companies) and Technology (154 companies). The majority of companies were based in the UK, particularly those in the Telecoms sector, with a small number of companies based in other countries, especially in China and the USA (Table 1).⁸¹

We also coded the regions in which the company operated in based on website data (Table 2).⁸² Unsurprisingly, given the source of the sample population, Europe was the most common region for companies to operate in, with 90% of coded companies operating here.⁸³

Nearly all companies were, as would be expected, listed on a London stock exchange. However, the percentage of companies fully listed on the London Stock Exchange (LSE) was low compared with the number listed on the Alternative Investment Market (AIM); 34% and 61% respectively. The high number of AIM listed companies is surprising and the potential implications can be highlighted at this point: the AIM market is designed to facilitate growth in small and medium sized companies and has several features which aim to assist this. One of these features, along with others such as simplified admission procedures, is more 'relaxed' regulatory requirements, including those related to corporate governance.⁸⁴ This has potential implications for the prevalence of company CG statements, if not the other surveyed areas. Small numbers of companies were listed on a variety of other exchanges (Figure 1) and as can be seen there were sectoral differences in these listings.

Missing values occur where it was not possible to collect the data, for instance where a company did not have a website or the website was not available. Figures given generally refer to the total number of coded cases (i.e. those for which data is available).

⁸¹ We coded the country of head office or main country of operation as identified by the company on its website.

⁸² In most cases the websites contained details of the companies' global operations on either a country or regional basis

⁸³ For other regions the overall company presence was as follows: North America, 65%; Asia Pacific, 44%; Asia, 28%; Africa, 23%, Middle-East, 22%; South America 16%, Other 0.5%.

⁸⁴ The UK Financial Reporting Council requires all companies listed on the main market to report on how they have complied with the Combined Code on Corporate Governance (CCCG) (under the 'comply or explain' model). AIM listed companies do not have to meet these conditions. Separate Corporate Governance Guidelines for Aim companies have been published but are voluntary. See also e.g. the guidance for companies produced by legal firm SJ Bermwin 'The AIM Market Fast-Track Admission Route for International Companies'.

(ii) Website content and influence of key variables

The number of companies referring to CSR on their website is quite low; 22% of the coded population, and the number referring specifically to corruption or bribery is lower still; less than 10%.⁸⁵ By contrast, the majority of companies did refer to CG (Figures 2 – 4).

At first glance these data suggest that whilst CG is embedded relatively strongly, the CSR and corruption agendas have made less of an impact. The level of reference (as a percentage) to the surveyed areas (CSR, CG, corruption) also differs on the basis of secondary variables – company sector, location of head office, region of operation and stock exchange listing. An understanding which of these variables influences others is important for gaining a greater understanding of the impact of anti-corruption efforts.

(a) Industry Sector

One important finding relates to sectoral performance. The Technology sector tends to lag behind Industrials and Telecoms (Table 4). This is particularly the case for corruption references. The percentage of Technology companies referring to this issue on their website was at least half that of the other sectors. Telecoms and Industrials on the other hand are more closely aligned. Again, understanding why these sectoral differences occur will enable a greater insight into the impacts and limitations of anti-corruption strategies. There are some further indications in the data below that the sector in which a company operates is an important variable in determining whether or not it refers to CSR, CG or corruption on its website.

(b) Head office/main country of operation

Head office location does not appear to account for companies' website content with respect to CSR, CG and corruption. Whilst the figures for the Industrials sector suggest that the main country of operation may be relevant to the likelihood that CSR, corruption, and CG will be referred to, this is not borne out by the figures for the other sectors.

The Telecoms sector, for instance, scored higher average figures (in terms of percentage of websites coded as referring to CSR, corruption or CG) for all of the surveyed aspects than average figures for companies based in the UK generally, despite the fact that 82% of Telecoms companies were based in the UK and that the remaining companies in this sector were based in the UAE, Italy and Ireland, all of which referred only to CG on their websites, with one further company based in Israel, which did achieve higher than average scores for corruption and CG but was below average for CSR (Tables 1 and 5).

Likewise, the Technology sector scored below average for all areas, lagging particularly with respect to corruption. This sector also had a relatively high number of companies based in the UK (68%) which might provide some explanation but also included six companies based in Canada, which scored 0% for CSR references but above average for CG and corruption. This sector

⁸⁵ 7.8% referred to specific aspects of corruption but in 15 of these 19 cases the website also referred to corruption/bribery generally.

included similar percentage of USA-based companies as the Industrials sector and the USA-based companies followed the same trend as Canadian companies. Six of the companies were based in Israel (an almost identical percentage of the sector as Telecoms) which scored above average for CG and corruption; and a similar percentage of companies were 'various'-based as the Industrials sector, with 'Various' scoring above average for CSR but below average for CG and corruption.; A small number of companies were based in China (a smaller percentage than the Industrials sector but greater than Telecoms) and one case each was based in Germany and Switzerland, all of whom generally had higher than average levels for all aspects.

(c) Regional presence

Regional presence appears to have some bearing on the likelihood of a company referring to CSR, CG or corruption on their website. As can be seen in Table 6, companies that operate in South America or Africa are the most likely to refer to CSR, corruption and CG on their websites followed by companies operating in the Middle East. Companies operating in Asia (for CG), Asia Pacific (for corruption and CSR), Europe or North America the were least likely to include a reference.

The Technology sector, which scored below average overall, had a lower than average presence in South America and in Africa (around half the percentage of other sectors, Table 2) and had a higher than average presence in North America, and slightly higher levels of companies operating in Asia-Pacific (though by smaller margins).

The Industrials sector, as has been seen, scored above average for all areas and had the highest percentage of references of all three sectors for corruption and CSR. This sector had a much higher presence in Asia, which scored the lowest for CG, than the other sectors but also had a lower presence in Asia Pacific, which achieved a lower score for corruption and had a lower presence in Europe than other sectors. Industrials however, also included slightly fewer companies operating in South America, Africa and the Middle East and more companies operating in North America than Telecoms (but fewer than the Technology sector).

Although the Telecoms sector includes a very high number of companies operating in Europe it also includes the fewest number of companies operating in Asia by some margin – and has the highest sectoral coverage of CG, as well as having the lowest presence of all sectors in North America, a higher presence in the Middle East and the highest sectoral presence in South America and Africa. It also has a slightly higher presence in Asia-Pacific than Industrials; Asia-Pacific is associated with fewer references to corruption and Telecoms scored lower than Industrials for corruption (similarly for CSR).

The data indicates that the region in which a company operates is associated with the likelihood that it will refer to the various aspects on its website. Sectoral differences appear to be relevant.

For example, Industrials companies based in Europe are more likely to refer to CSR than Telecoms companies and Technology companies are less likely still.

(d) Stock exchange listings

The data suggest that stock exchange listing may have some relationship with sectoral performance for present purposes. However, some aspects of these data are surprising and it does not appear that this variable provides a complete story.

Reference to the different areas surveyed varied according to stock exchange listing (Table 7). The AIM, the exchange most frequently used by listed companies (61% of cases), achieved very low scores, with the exception of CG which was in line with the average. AIM listed companies were identified as having around half the average number of references for CSR and one third of the average for corruption. LSE listed companies (34% coded companies), overall, had figures which were substantially above the overall average, particularly for CSR and corruption.

The proportion of companies listed on the AIM and the LSE is broadly comparable across sectors. However, although the Technology sector was the weakest in terms of website references it included fewer companies listed on the AIM than Telecoms (and a similar proportion to Industrials) and a slightly higher proportion of companies listed on the LSE) (Table 3).

The New York Stock Exchange (NYSE) was relevant to the Industrials sector and particularly to Telecoms. Companies on this exchange always referred to CG and corruption and 80% referred to CSR. The Industrials sector also included a small percentage of companies listed on the Tokyo exchange, which scored 100% in all cases and the Hong Kong exchange, which scored above average for CSR. Both Industrials and Technology included companies listed on the JSE, Australian exchange, Euronext, Frankfurt exchange, and Other exchanges (though for the JSE, Australian exchange and Other the percentage was much lower in the case of Technologies). It can be seen that all of these exchanges have mixed scores regarding the four aspects surveyed. The Technology sector in particular (as well as Industrials) included companies listed on the Toronto exchange and Technology also included the companies listed on NASDAQ exchange. As can be seen in the data, these exchanges performed above average, to varying degrees, with the exception of CSR references on the Toronto exchange.

As suggested, sectoral divisions appear again to have some relevance. For example, Industrials companies listed on the AIM exchange were more likely to refer to CSR and corruption than the other sectors.

(iii) Questionnaire data and perceptions of corruption and CSR

Data derived from the pilot phase of questionnaire have been reported elsewhere.⁸⁶ The inclusion of the two further sectors in addition to the Industrials sector which was the subject of the Pilot

⁸⁶ Carr & Outhwaite (2008 a) *op. cit*

study, enables us to begin making comparisons within the data as well as allowing us to continue theory development related to the responses.⁸⁷

The response rate for the questionnaire was low – just 4% of companies completed the questionnaire (10 cases) though there was again some sectoral variation; the response rate was 7.4% for the Telecoms sector followed by 5% for Industrials. The most populous sector, Technology, again lagged behind with a response rate of only 2.6%.^{88 89}

Survey participants provided information on the characteristics of their company and on this basis we find that in seven cases the company was reported to be based in the UK, with one company, from the Technology sector, based in 'various' locations, one company each based in the USA and the British Virgin Islands, both of which were in the Industrials sector (Table 2). Of the seven companies for which the variables were coded, six were identified as operating in Europe, three in Asia, three in the Middle-East, three in Asia Pacific, three in North America, three in South America, four in Africa and one in 'Other'.⁹⁰ The main variation in regional presence appears to come from the Technologies sector (Table 3).

All companies reported being listed on a UK stock exchange; the questionnaire did not ask them to distinguish further but cross-analysis indicates that four companies are listed on the LSE and five on the AIM (with one case uncoded). We also find that of two Telecoms companies, one was listed on the LSE and one on the AIM; of three coded Industrials companies, all were listed on the AIM, whereas three of the Technology companies were listed on the LSE and only one on the AIM. In addition, one Technology company is also listed in America and one (a different company) in Australia.

(a) Prioritisation of corruption in CSR

We asked participants to rank different listed components of CSR, in order of priority (Table 8).⁹¹ Their responses place corruption somewhere in the middle, with the most prioritised aspects being health and safety and equality and anti-discrimination, and the least prioritised being human rights and environmental protection. This differs from the figures reported in the pilot study which suggested that corruption was less prioritised and this change can be attributed to

⁸⁷ Clearly there is a strong caveat relating to the questionnaire response rate and we must bear in mind that views expressed by participants may not be generalizable at this stage.

⁸⁸ Response levels were also highlighted as a concern in the pilot study and influencing factors are discussed in Carr & Outhwaite (2008 a) *op.cit.*

⁸⁹ In addition to this, a further 6.3% of companies provided a reason for non-participation. These included inter alia resource constraints (4 cases), company policy precluding participation (3 cases) and the company indication that it did not carry out any international business (3 cases) and the frequency of survey requests (2 cases).

⁹⁰ The uncoded companies consisted of three of the four Industrials companies.

⁹¹ Giving a score of '1' to the most prioritised aspect and '6' to the least prioritised aspect.

the lesser priority afforded to human rights (compared with corruption) by responding Telecoms companies and to human rights and environmental protection by Technology companies (Table 9). There is, in this case, continued divergence of the Technology sector from the other sectors. We also find that though there is some difference in the total scores between AIM and LSE listed companies, in both cases health and safety and equality and anti-discrimination are the most prioritised

(b) Motivations and Values

The data provides insights into company attitudes towards different regulatory approaches and influences (both formal and informal). The data set out in Table 10, reveals that protection of corporate reputation is considered to be the strongest influence overall, followed by corporate ethical values and stock exchange listing requirements and then national law in the main country of operation and international law.⁹² Thus the formalised sources of rules identified as the most influential in the pilot survey, and in particular the stock exchange rules, are still key influences for these companies but the company's internal values and reputation are also highly influential in guiding behaviour with respect to corruption. The less formalised sources are perceived to be less influential with the demands or influence of most external stakeholders (employees, consumers, the general public and NGOs – but not shareholders or board members) ranked as the least influential sources.

There is some sectoral variation here – for Technology companies the wish to remain competitive was ranked lower than the influence of NGOs, employee demand was a little more influential for companies in the Industrials sector, and for Telecoms companies, stock exchange requirements were slightly more important than corporate ethical values and consumer and general public demand were ranked more highly while national government policies were the second least influential source. These differences point toward different sectoral experiences both in terms of internal, corporate attitudes to combating corruption and with experiences of government policy and regulation (see also 'Views on anti-corruption rules and instruments' below).

Company attitudes were also explored through their views on the extent to which different factors would decrease or increase their likelihood of signing a new anti-corruption initiative (see Table 12).⁹³ The initiative having the status of a binding international legal instrument was the factor most likely to encourage membership of a new instrument, followed by the belief that the initiative would actually be enforced and the initiative reflecting the company's own morals or ethics. Also supported were the opportunity for a high level of input, the inclusion of a broad range of similar organisations, a major competitor signing up to the initiative, a requirement for standardised

⁹² We asked companies to rate different influences on a scale of 1 -10, with '1' indicating that the source had no influence at all and '10' indicating that it had been extremely influential.

⁹³ Again based on a scale of 1 – 10 with '10' indicating that the factor would strongly increase the likelihood of signing the anti-corruption initiative.

implementation and the likelihood that competitors will comply. The involvement of NGOs and consumers was seen in neutral or weaker terms, as was the agreement having the status of a voluntary agreement and the involvement of consumers in the negotiation. The least supported factors were the involvement of local NGOs, a major competitor refusing to sign up to the agreement, and the provision that organisations would be free to implement in their own preferred manner.

With respect to competitors it seems that whilst the involvement of a competitor may persuade a company to join a new initiative, their non-participation would not be a barrier to this. Again some preference for formal approaches with clear enforcement can be observed although there is also support for flexibility in internal implementation. Relatively little divergence in terms of the rating of factors relative to each other, is observed on a sectoral basis.

As well as indicating that compliance is an important concern, these views suggest that whilst there may be some scope for outside influence, external stakeholders are not strong drivers and the response of business seems rooted in the narrower context of regulatory requirements and the behaviour of competitors or others within the same industry. The fact that the initiative reflecting the company's own morals/ethics was the most important factor and the involvement of a broader range of stakeholders was seen as less significant lends weight to the idea that anti-corruption efforts are more closely aligned with the traditional CG approach than with the traditional characteristics of CSR.

(c) Views on anti-corruption rules and instruments

Consistent with these attitudes, the General Listings Rules of the London Stock Exchange (LSE rules), the LSE Combined Code on Corporate Governance (CCCG) and the US Foreign Corrupt Practices Act (US FCPA) were considered to be the most influential specific sources of rules (Table 11). Certain other stock exchange requirements were seen as the least influential instruments though this is unsurprising given they are generally not applicable to participating companies (for instance the JSE and HKSE).⁹⁴ In general terms, beyond the three most influential instruments most other instruments received low or middling scores, but national legislative measures tended to be ranked the highest. Multi-stakeholder and voluntary initiatives received the lowest scores. The OECD, UN and EU Conventions ranked slightly higher but still with low scores. As discussed in the pilot survey, these perceptions could help with considering how future anti-corruption efforts might be more effectively structured, with more prescriptive or

⁹⁴ The next least influential instruments were the SADC Protocol and the ECOWAS Convention. The African Union Convention was rated slightly higher. This interesting given the fact that companies operating in Africa were among the most likely to include references to the areas examined on their websites. Further questions clearly arise in respect of both the impact of these conventions and the actual impact of these public corporate statements and policies.

formal rules possibly favoured over voluntary approaches, (although the summary data on website references and stock exchange listing, discussed above, suggests that other variables are also relevant).

The figures are fairly consistent across the three sectors in the ranking of international instruments but there is strong variation in perceptions of national legislation which is not fully explained by reference to stock exchange listing or regional presence. The greatest variation arose with respect to UK legislation, suggesting that different sectors have different experiences of these instruments. At this point we can only speculate on the possible reasons for this, for instance, company size, the nature of business arrangements, the level of risk perceived by regulatory authorities and associated monitoring and enforcement.

The LSE instruments received high scores although the CCCG received a lower average score from companies in the Industrials sector. It is possible that this reflects a weaker influence of the CCCG for AIM listed companies since all industrials companies were AIM listed. This might not be too surprising given the different requirements for AIM companies as regards this instrument. LSE listed companies rated UK legislative and stock exchange instruments more highly than did AIM companies.⁹⁵ These findings would also tend to support the notion that voluntary and less formalised influences have a lesser impact⁹⁶ This is consistent with the website data in which CSR, CG, and corruption references were higher for LSE listed companies than for AIM listed companies (but with limited variation with respect to corporate governance). It may also be observed that the average ratings of UK legislation by the Industrials sector was lower than for other sectors. Yet interestingly this sector had the highest levels of website references for CSR. Clearly however, the small number of participants prevents us from drawing an association at this point.

It could also be assumed that the companies based in the US and the BVI (both of which were located in the Industrials sector) would give lower ratings to the UK legislation and LSE instruments, since these would be less relevant. The data supports this but only partially; the US based company rated all relevant instruments as '1' with the exception of the LSE rules, which were rated '10'. The same pattern applied for the BVI based company, which rated the LSE rules and CCCG at '6' and the other instruments '1'.

⁹⁵ Mean scores of AIM compared with LSE listed companies were: UK Proceeds of Crime Act 1.8: 7.5; UK Fraud Act, 2.2: 7.5, CCCG, 4.3: 8.8, LSE Rules, 6.4: 8.8.

⁹⁶ Similarly, the American listed and US-based companies rated the NYSE rules as extremely influential.

IV. DISCUSSION

As seen in the previous section only a small number of companies make reference to corruption on their websites. The numbers referring to CSR more broadly are also low. The figures exclude those companies who, for instance, have adopted an Environmental, Health and Safety (EH&S) policy but have not referred directly to CSR.⁹⁷ For our purposes this is of limited relevance since it is the notion of combating corruption through the wider CSR approach that is of interest. On this basis the figures are not hugely encouraging. Based on the figures of this study, CSR, despite being a relatively well recognised concept at least within business management literature, it does not appear to have made a noticeable impact on companies since they seem to have engaged with CSR only to a very limited degree (based on this measure). It is possible that companies may have adopted a CSR or anti-corruption policy which they have not made public *via* their websites. Even if some allowance were made for such a possibility it nevertheless raises questions about how CSR is used by the companies and the extent to which they are concerned with the views of external stakeholders. If, on the other hand, companies are not adopting CSR policies then this clearly limits CSR's potential as an anti-corruption strategy thus creating the consequent need to understand how this block may be addressed.

Whilst the previous paragraph paints a gloomy picture there are a few rays of hope. A positive finding of this study reveals that amongst the small number of companies who completed the questionnaire, corruption, whilst not the most prioritised aspect of CSR, has, apparently at least, been taken on board. This is encouraging given the relatively short time period within which corruption has been a part of this agenda in comparison to issues such as health and safety and environment. It would be sensible to assume that those companies who completed the questionnaire are more likely to be active in terms of their anti-corruption efforts and this can in fact be said to be supported by the data.⁹⁸ However more needs to be done to raise the profile of CSR and the inclusion of corruption as a priority within CSR and in this recent highly publicised cases as Siemens and BAE may help towards generating awareness and suitable follow-up action on the part of companies,

In terms of references to CSR, CG, and corruption, differences in website content between sectors has also been observed, with the Technology sector lagging behind Industrials and Telecoms. The data highlights some variables which may be associated with this difference but

⁹⁷ With respect to CG there were also several companies who displayed CG information such as identification of Directors but who did not use the term CG and were therefore coded accordingly.

⁹⁸ Companies which had completed the questionnaire were more likely to refer to the various categories, particularly regarding corruption and CSR: 22.2% of responding companies referred to corruption on their website compared with 8.9% overall; for specific aspects of corruption these figures were 22.2% compared with 7.2%; for CSR they were 55.6% compared with 20.1% and for Corporate Governance they were 56.6% compared with 55.7%.

further data is needed in this respect. As well as the possibilities explored in preceding sections there may be further characteristics of the Technology sector which require further exploration. Similarly we have seen that sectoral experiences of national instruments in particular may vary and it is hoped that future analysis may help to reveal the nature of these differences. One hypothesis that can be put forward is that the sectors which have seen most attention from 'external' stakeholders, for instance having been the subject of campaigns or boycotts, may be most likely to have made efforts or at least adopted public statements, with respect to corruption and/or CSR. In the present case the Industrials sector contains a number of companies involved in relatively high risk business in this respect, and is also the sector most likely to refer to CSR or corruption on company websites. On the other hand, the relatively poor performance of the Technology sector is interesting if it is assumed that many companies listed within that sector are comparatively new and might therefore be expected to be more likely to engage more frequently with issues such as CSR and anti-corruption on the basis their internal policies would have followed the introduction of relevant instruments as well as civil society efforts, as opposed to older companies who may still be engaged with the process of 'catching up' in the light of recent legal and civil society expectations. This demographic picture however is not supported by the data and this remains another area which could usefully be explored in more detail.

The limited engagement with CSR compared with the more common inclusion of CG information lends weight to the hypothesis that the CG model is more effective in terms of achieving desired 'compliance', in this case with respect to certain requirements for disclosure and reporting. Further data derived from the questionnaire suggests that the participating companies consider themselves to be influenced more by formalised sources or those associated with the narrower field of the market (through stock exchange instruments) and internal influences such as shareholder demands than with broader collaborative or voluntary approaches.

There is something of a paradox when examining the influence of different sources. Protection of corporate reputation is considered highly influential yet at the same time factors which are likely to be linked to reputation – such as responding to consumer demand – are seen to be relatively insignificant by the respondents.

At this juncture it would be pertinent to ask: 'what is reputation?'. Reputation, as with other concepts such as 'compassion,' 'sympathy; is a value related concept. Reputations can be good, they can be bad and the subject of reputation can be an individual, a group of individuals, or entities such as a company or a partnership. As to whether X's reputation is good or bad is not determined by looking at what the subject X believes about himself or itself.⁹⁹ It is not an issue of

⁹⁹ It must however be pointed out that an individual or an organisation can roll out the public relations machinery to influence people sufficiently to establish a reputation. That reputation is important for the corporate image was recently acknowledged in the Woolf Report (*Business Ethics, Global Companies and the Defence Industry: Ethical Business Conduct in the BAE Systems, the Way Forward* was published in May 2008. It highlighted the close relationship

self-esteem but an issue of other-esteem. Reputation is an other-led concept which means that the reputation of X is established by looking to what others think of X. While in the case of an individual a handful of 'others' (e.g. friends, colleagues and relatives) may be sufficient to establish the reputation of X in the case of large organizations such as a company the situation becomes more complex. The reputation of a company may be derived from what the internal stakeholders such as shareholders and creditors or it may be based on external stakeholders such as consumers, civil society and industry associations or a combination of both the internal and external stakeholders. The reputation of a company is also bound by the context in which the question is posed. It could, for instance, be posed in relation to the organisation's creditworthiness and ability to repay debts on time or in relation to CSR. Where the question of reputation has been raised in the context of CSR it follows that the good reputation of an organisation is dependent on that organization engaging with the core elements of CSR as outlined in Section 1 above and the perception of others (external and internal stakeholders). The findings discussed here however suggest that in the present context companies conceive of reputation issues within a relatively narrow sphere, concerning themselves more with the perceptions and behaviours of similar organisations or internal (senior) stakeholders, rather than the broader stakeholder community.

These findings and subsequent arguments point to the possibility that, with respect to corruption at least, companies' behaviours and attitudes are not closely aligned with the key characteristics of CSR. Rather than adopting the externally focused model which CSR implies, company attitudes in this area are more reflective of the traditional, shareholder model and with the CG approach which is still closely aligned with that model thus raising two key policy implications. Firstly further close examination of CSR strategies is needed to see how these can be targeted to bridge the gap with company attitudes. Secondly, since CG is seen to have been relatively widely

between reputation and commercial success and the concept of reputation was explained in the following manner:

'For a company, its reputation will derive from the quality of the product or service, its financial performance and treatment of staff, its leadership and its stand on the ethical issues it faces. So a company needs to test day-to-day commercial decisions by asking itself "would this action (or inaction) damage the company's reputation in the mind of a right thinking person?" This test is similar to those used commonly for ethical situations: "how would I feel about others knowing of my decision?", or "how would this be reported in tomorrow's newspaper?" '(At 2.6)

The Woolf Committee was of the view that a company's reputation is linked to a range of factors: 'The range of factors that may impact upon a company's reputation and be covered by the term "unethical business conduct" is broad and challenging. It covers the behaviour of the company in its relations with employees, customers, shareholders and other investors, suppliers and contractors, governments and local communities, competitors and non-governmental organisations (NGOs)'. (At 2.8)

See also Charles J Formbrun (1996) *Reputation: Realizing Value from the Corporate Image* Harvard Business School Press.

adopted and is seen as influential, the possibility of introducing anti-corruption requirements on a more formalised basis into the CG framework may be fruitful. The caveats previously emphasised however should be remembered at this point. The response rate for questionnaires was low with consequent implications for generalizability and at this stage only three sectors have been considered. Future analysis will investigate the full range of sectors included in *The Times* listing and this will allow further investigation of these hypotheses.

CONCLUSION

Those hoping to see corruption swept up and addressed by a wave of traditional CSR activity are likely to be disappointed. However it seems that corporate governance structures may provide a more effective route. This is not to say that companies should be viewed as 'bad actors', seeking to do the minimum necessary in order to comply. Rather, it may be that the increased clarity and certainty which mandatory or at least more formalised approaches tend to involve, is favoured by companies in preference to 'going it alone'. At the same time, the data suggests that traditional business interests and behaviours prevail over the newer, broader CSR mandate. In this respect corruption has some advantages over other aspects of CSR insofar as it is more closely aligned with existing governance controls related to directors duties, reporting and accounting and auditing requirements. The potential for anti-corruption efforts to be introduced more directly through CG frameworks therefore appears quite strong. There is, however, a need for further examination of empirical data before any such proposals can be advanced with vigour.

Despite the apparent limitations of CSR explored in this article, it could be argued that now is an opportune time for this model to be developed and more strongly embedded. One possible outcome of the 'global credit crunch' might be a renewal of interest in the effective regulation of corporations and, as suggested by Utting, a move towards 'corporate accountability'. The apparently reckless behaviour of some corporate actors has highlighted in a dramatic fashion the risks associated with a focus on the 'bottom line' and in this sense perhaps opens the door to renewed efforts, whether based on regulation or otherwise, to pursue a broader range of corporate responsibilities. The data reported above indicate possible directions for improved strategies with respect to the corruption component of this agenda. It is hoped that there is sufficient political, business and community will to follow these directions thus contributing to dousing the flames of corruption.

Table 1: Location of company head office, according to industry sector.

Location of Head Office/country of main operation	Industry sector					
	Industrials		Telecoms		Technology	
	Valid N %	Count	Valid N %	Count	Valid N %	Count
UK	54.3%	38	81.8%	18	68.0%	85
Germany	5.7%	4	.0%	0	.8%	1
Singapore	1.4%	1	.0%	0	.0%	0
China	8.6%	6	.0%	0	3.2%	4
Australia	2.9%	2	.0%	0	.0%	0
Switzerland	2.9%	2	.0%	0	.8%	1
Portugal	1.4%	1	.0%	0	.0%	0
USA	8.6%	6	.0%	0	7.2%	9
Hong Kong	4.3%	3	.0%	0	.8%	1
Netherlands	.0%	0	.0%	0	.0%	0
Israel	1.4%	1	4.5%	1	4.8%	6
Democratic Republic of Congo (DRC)	1.4%	1	.0%	0	.0%	0
Finland	1.4%	1	.0%	0	.0%	0
Japan	1.4%	1	.0%	0	.0%	0
UAE	.0%	0	4.5%	1	.0%	0
Italy	.0%	0	4.5%	1	.0%	0
Ireland	.0%	0	4.5%	1	.8%	1
Canada	.0%	0	.0%	0	4.8%	6
Various	4.3%	3	.0%	0	4.8%	6
Other	.0%	0	.0%	0	4.0%	5

Table 2: Regional presence of companies, according to sector.

Region	Industry sector (% present)		
	Industrials	Telecoms	Technology
Europe	77.2%	100.0%	93.5%
Asia	45.6%	13.6%	21.8%
Middle-East	17.5%	36.4%	21.0%
Asia – Pacific	35.1%	40.9%	49.2%
North America (United States and Canada)	54.4%	45.5%	72.6%
South America	21.1%	27.3%	12.1%
Africa	29.8%	36.4%	17.7%
Other	1.8%	.0%	.0%

Table 3: Stock exchange listing by sector

Exchange	Industrials		Telecoms		Technology	
	Count	%	Count	%	Count	%
LSE	22	29.7%	7	30.4%	48	37.2%
AIM	44	59.5%	16	69.6%	78	60.5%
New York Stock Exchange	3	4.1%	2	8.7%	0	.0%
Johannesburg Securities Exchange	2	2.7%	0	.0%	1	.8%
Australian Securities Exchange	1	1.4%	0	.0%	1	.8%
Hong Kong Stock Exchange	2	2.7%	0	.0%	0	.0%
Toronto Stock Exchange	1	1.4%	0	.0%	5	3.9%
NASDAQ	0	.0%	0	.0%	2	1.6%
Tokyo Stock Exchange	1	1.4%	0	.0%	0	.0%
Euronext	1	1.4%	0	.0%	2	1.6%
Frankfurt Stock Exchange (Deutsche Börse)	2	2.7%	0	.0%	2	1.6%
SWX Swiss Exchange	3	4.1%	0	.0%	0	.0%
Other	9	12.2%	0	.0%	7	5.4%

Table 4: Website content by sector

Industry sector	Reference to CSR	Reference to CG	Reference to corruption/bribery	Reference to specific aspects of corruption
Telecoms	25%	66.7%	12.5%	8.3%
Industrials	28.4%	62.2%	14.9%	9.3%
Technology	18.5%	50.7%	6.2%	6.7%

Table 5: Website references and location of head office

Location of head office/main country of operation	Reference to CSR (%)	Reference to CG (%)	b	Reference to specific aspects of corruption (%)
UK	22.1	52.3	7.1	5
Germany	60	80	40	0
Singapore	0	0	0	0
China	11.1	66.7	11.1	11.1
Australia	50	100	0	0
Switzerland	66.7	100	33.3	33.3
Portugal	100	0	0	100
USA	6.7	66.7	13.3	13.3
Hong Kong	25	25	0	0
Israel	12.5	75	12.5	12.5
Democratic Republic of Congo	100	100	100	0
Finland	0	100	0	0
Japan	100	100	100	100
United Arab Emirates (UAE)	0	100	0	0
Italy	0	100	0	0
Ireland	0	50	0	0
Canada	0	100	16.7	16.7
Various	33.3	33.3	0	0
Other	20	100	20	20

Table 6: Website content and regional presence

Region	Website does refer to CSR		Bribery		Website does refer to corruption' or 'bribery'		Website does refer to specific aspects of corruption	
	Count	%	Count	%	Count	%	Count	%
Europe	45	24.9%	104	57.5%	19	10.5%	17	9.4%
Asia	18	32.1%	30	53.6%	10	17.9%	8	14.3%
Middle-East	14	32.6%	29	67.4%	9	20.9%	7	16.3%
Asia-Pacific	24	27.0%	52	58.4%	12	13.5%	11	12.4%
North America	33	25.4%	74	56.9%	18	13.8%	15	11.5%
South America	16	48.5%	24	72.7%	11	33.3%	8	24.2%
Africa	21	45.7%	36	78.3%	11	23.9%	8	17.4%
Other	0	.0%	1	100.0%	0	.0%	0	.0%

Table 7: Website content and stock exchange listing

Exchange	Website does refer to CSR		Website does refer to CG		Website does refer to corruption' or 'bribery'		Website does refer to specific aspects of corruption	
	Count	%	Count	%	Count	%	Count	%
London Stock Exchange (LSE)	34	44.2%	47	61.0%	15	19.5%	11	14.3%
Alternative Investment Market (AIM)	14	10.3%	77	56.6%	4	2.9%	4	2.9%
New York Stock Exchange	4	80.0%	5	100.0%	5	100.0%	4	80.0%
Johannesburg Securities Exchange	2	66.7%	3	100.0%	1	33.3%	1	33.3%
Australian Securities Exchange	0	.0%	1	50.0%	0	.0%	0	.0%
Hong Kong Stock Exchange	1	50.0%	1	50.0%	0	.0%	0	.0%
Toronto Stock Exchange	0	.0%	6	100.0%	1	16.7%	2	33.3%
NASDAQ	1	50.0%	2	100.0%	1	50.0%	2	100.0%
Tokyo Stock Exchange	1	100.0%	1	100.0%	1	100.0%	1	100.0%
Euronext	1	33.3%	2	66.7%	0	.0%	0	.0%
Frankfurt Stock Exchange (Deutsche Börse)	2	50.0%	2	50.0%	2	50.0%	0	.0%
SWX Swiss Exchange	3	100.0%	3	100.0%	3	100.0%	1	33.3%
Other	2	12.5%	10	62.5%	3	18.8%	0	.0%

Table 8: Prioritisation of aspects of CSR (overall scores)

CSR issue	N¹⁰⁰	Mean average score
Environmental protection	10	4.200
Equality and anti-discrimination	9	2.111
Labour rights and standards	10	3.700
Corruption	10	3.800
Health and Safety	10	2.200
Human rights	9	4.444

Table 9: Prioritisation of aspects of CSR (sectoral scores)

CSR issue	Industry sector (mean average score)		
	Industrials	Telecoms	Technology
Environmental protection	3.5	3.0	5.5
Equality and anti-discrimination	2.7	2.5	1.5
Labour rights and standards	4.5	4.5	2.5
Corruption	3.8	4.0	3.8
Health and Safety	2.0	1.0	3.0
Human rights	3.0	6.0	4.8

¹⁰⁰ N denotes number of companies analysed for the given analysis – where less than the full set of companies is indicated this is due to missing data.

Table 10: Perceptions of general sources of rules (overall mean average scores)

Source	Mean
Protection of corporate reputation	8.7
Corporate ethical values	8.3
Stock exchange listing requirements	8.1
National laws in the main country of operation	7.9
International law	7.3
National laws in other countries of operation	7.0
Industry specific codes or initiatives	6.9
[National] Government policies	6.8
Shareholder demand	6.7
General voluntary initiatives	6.1
Economic benefits/operational efficiency	6.1
Wish to remain competitive	5.8
Consumer/client demand	5.7
Employee demand	5.7
Attitudes of general public	5.6
Influence of NGOs or pressure groups	4.6
Other (please specify)	--.

Table 11: Perceptions of general specific of rules (overall mean average scores)

Source of rules/instrument	Mean
General Listings Rules of London Stock Exchange	7.7
London Stock Exchange Combined Code on Corporate Governance	6.1
US Foreign Corrupt Practices Act	6.0
UK Public Interest Disclosure Act 1998	4.9
UK Fraud Act 2006	4.9
US Sarbanes-Oxley Act	4.7
UK Proceeds of Crime Act 2002	4.7
OECD Convention on the Bribery of Foreign Public Officials in International Business Transactions	4.1
Council of Europe Criminal Law Convention on Corruption	4.0
Council of Europe Civil Law Convention on Corruption	4.0
The Inter-American Convention against Corruption	3.8
UK Anti-terrorism, Crime and Security Act 2001	3.8
Transparency International Business Principles for Countering Bribery	3.8
Listings Rules of New York Stock Exchange	3.7
United Nations Convention against Corruption	3.6
OECD Guidelines for Multinational Enterprises	3.6
International Chamber of Commerce Rules of Conduct on Combating Extortion and Bribery	3.6
US False Claims Act	3.5
African Union Convention on Preventing and Combating Corruption	3.0
SADC Protocol against Corruption	2.9
ECOWAS Protocol on the Fight against Corruption	2.9
United Nations Global Compact	2.9
Partnering Against Corruption (PACI) Principles for Countering Bribery	2.9
Listings Rules of Hong Kong Stock Exchange	2.6
Listings Rules of Johannesburg Stock Exchange	2.1
Other (please specify)	1.0

Table 12: Ratings of drivers and influences

Source of influence (as listed)	Mean
The initiative having the status of a binding international legal instrument	8
The belief that the initiative would actually be enforced	8
The initiative reflecting the organisation's own 'ethics' or 'morals'	8
The opportunity for a high level of input	7
The inclusion of a broad range of similar organisations in the negotiation	7
A major competitor signing up to the initiative	7
A requirement for standardised implementation	7
The likelihood that competitors will comply	7
The provision for enforcement of the initiative by an external body	6
The provision for enforcement of the initiative internally	6
A high level of external pressure to achieve the initiative	6
The involvement of multi-country NGOs or similar bodies in the negotiation	5
The involvement of consumers in the negotiation	5
The initiative having the status of a voluntary agreement	5
The involvement of local (national or smaller) NGOs or similar bodies in the negotiation	4
A major competitor refusing to sign up to the initiative	4
The provision that organisations would be free to implement the initiative in their own preferred manner	4

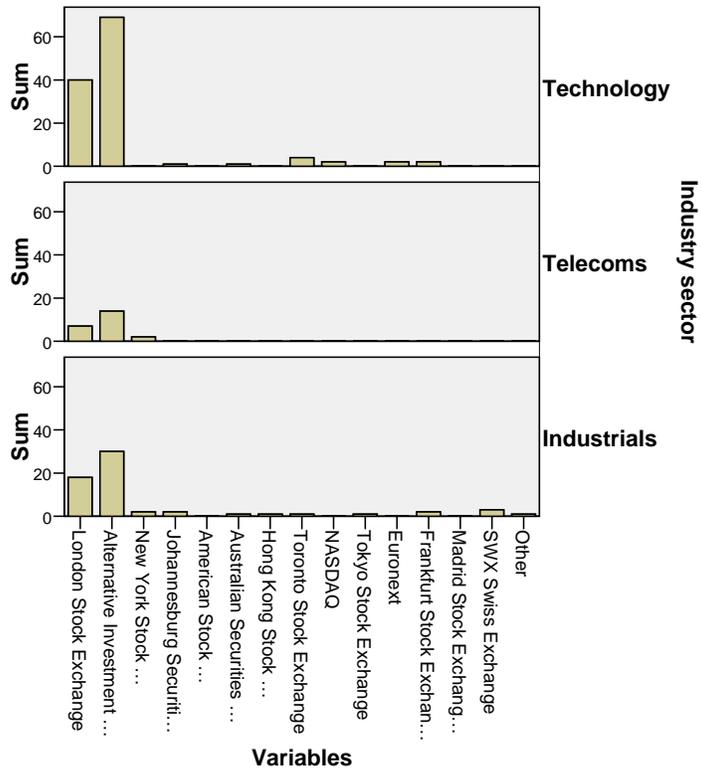


Figure 1: Stock exchange listings according to sector

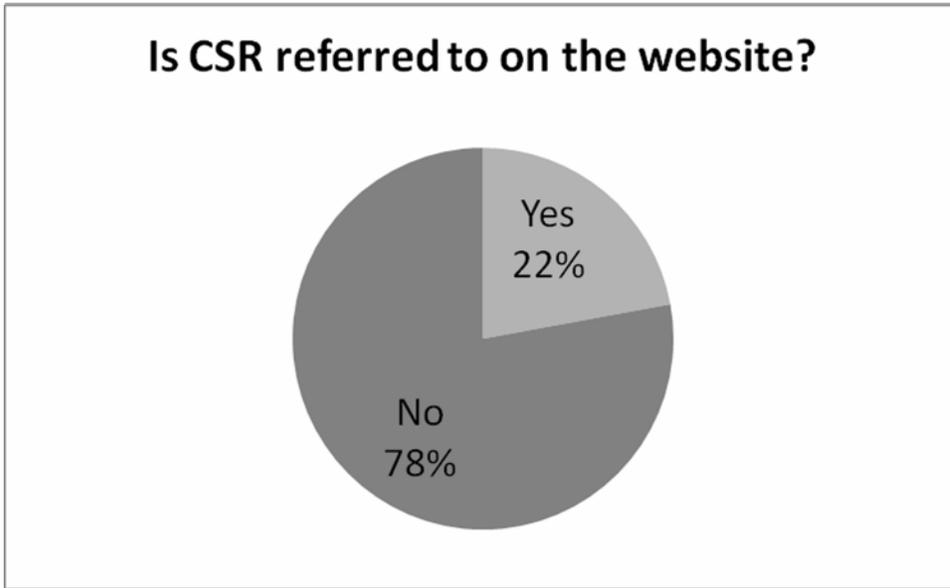


Figure 2: Percentage of companies referring to CSR on the company website

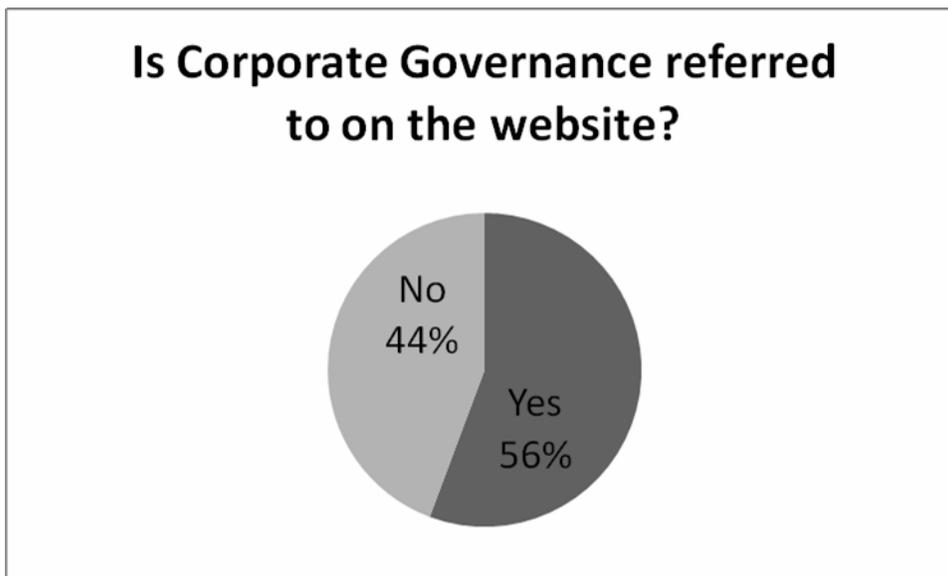


Figure 3: Percentage of companies referring to Corporate Governance on the company website

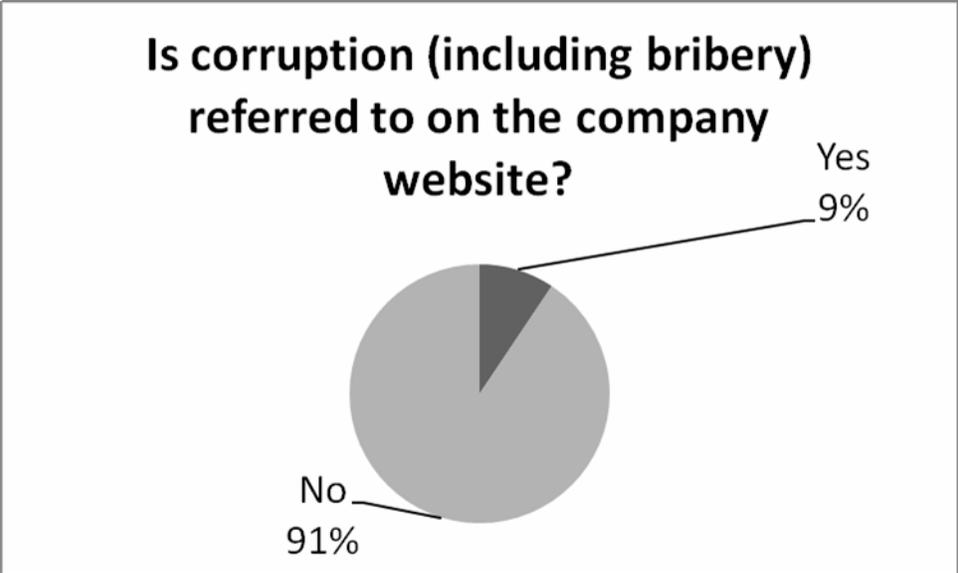


Figure 4: Percentage of companies referring to corruption on the company website