

28 July 2015

The Committee Secretariat
Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Members,

Thank you for the opportunity to make a submission regarding the Australian Government Boards (Gender Balanced Representation) Bill 2015.

I am the Founding Chair of the Women's Leadership Institute Australia, a not-for-profit organisation established in 2010 that operates independently and in partnership with others to catalyse innovative actions that address the imbalance of women in leadership positions in Australia.

The Women's Leadership Institute Australia (WLIA) supports the passing of this Bill through parliament. We commend Independent Senator Nick Xenophon and the Bill's co-sponsors Senator Lambie, Senator Lazarus and Senator Waters, for seeking to ensure gender balanced representation on Australian government boards.

We have been strong advocates for advancing gender balance on boards and at the executive management level across Australian organisations and bodies. We view this Bill as a welcome development that will put in place a vital framework to progress gender balanced representation on government boards.

One of our most recent gender diversity initiatives has been the formation of the Property Male Champions of Change (PMCC) group. The PMCC was established by the Property Council of Australia and WLIA. It comprises 20 business leaders in the property sector who have committed to taking action within their organisations in order to increase the number of women in executive line management roles.

The PMCC is based on the successful Male Champions of Change (MCC) model and group, founded and chaired by the Sex Discrimination Commissioner Elizabeth Broderick. As Chair of the PMCC and as a business owner and company director, I have seen the benefits of individual and collective action in this area. Both are critical to achieving gender diversity at the board and executive level. However, any business objective and the actions taken to attain them must be met with accountability and transparency. This is to ensure that change is successful and remains in place for the long term.

I am confident the Bill reflects these critical elements for success. It enables individual and collective action as well as transparency of, and accountability for these actions.

The case for gender balanced boards as a business imperative

There is a vast body of research, both locally and globally, demonstrating the “business case” for gender diverse boards and leadership teams. Gender diverse boards (as opposed to those with no gender diversity) achieve higher financial returns. They also perform better on a range of other metrics, including increased levels of innovation, improved corporate governance and better average growth.¹ A recent research briefing compiled by Professor Robert Wood from The University of Melbourne's Centre for Ethical Leadership summarises a range of studies indicating that the presence of gender diversity on boards leads to better outcomes.²

This “business case” is well known and often cited by the business community in Australia. Leading organisations are working hard to ensure that gender diversity is a core, strategic business objective, measured and reported against like any other commercial aim.

The role of targets

For any business priority, bringing the full management system to bear is essential. This naturally means setting and monitoring targets, taking action, assessing the results and then taking renewed action. The objective of gender balance on boards and at the executive level

¹ Credit Suisse, ‘Gender diversity and corporate performance’, August 2012, pp. 12-19. <https://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=88EC32A9-83E8-EB92-9D5A40FF69E66808>

² Professor Robert Wood, ‘Building a Business Case for Gender Diversity’, Centre for Ethical Leadership, The University of Melbourne, July 2014. <https://cel.edu.au/our-research/building-a-business-case-for-gender-diversity>

must be integrated across our business processes, with key targets in place in order to reach them.

The setting of targets has been a particularly well adopted and broadly accepted strategy employed by many organisations in order to move the dial on this issue. Evidence shows that for any business objectives, targets, particularly when backed with strong accountability through reporting, are one of many effective options at the disposal of organisations.

The role of the Bill

This Bill seeks to reinforce bipartisan policy, that of a target for gender balanced representation on government boards, whereby each board is to comprise 40 per cent men, 40 per cent women, and 20 per cent of either gender (40:40:20). The critical and natural development of this policy is reflected in the Bill and was best described by Senator Xenophon in his second reading speech, “The Bill introduces these targets as a positive obligation, rather than an aspirational objective.”

Legislating this bipartisan policy will ensure positive compliance by those who are currently not meeting the 40:40:20 target. It will motivate action and catalyse innovative approaches to recruitment, making certain that the full talent pool is surfaced and available to Government appointers for each and every appointment.

As a BoardLinks Champion, I committed to advocate and publicly promote the BoardLinks initiative which is a program that encourages talented female candidates to consider applying for government board positions, specifically those seeking their first board appointment. It is important that initiatives like BoardLinks which was established in 2012, be resourced and built upon in order to ensure that Government appointers have easy access to a broad, diverse and growing talent pool of candidates. This would assist appointers in reaching the bipartisan target and this Bill’s requirements.

We believe the Bill is a pragmatic and measured approach to ensuring gender balance on government boards is achieved. This will ensure that the Australian Government continues to benefit from the performance advantage that comes from gender diversity on boards. Any risk to gender balance carries with it a significant performance cost.

The Bill's characteristics

Importantly, the Bill is flexible and pragmatic. It allows for exceptions in “extraordinary circumstances” whereby it is not “reasonably practicable for the Government appointer to comply with the obligation in relation to a particular appointment.”³ As set out in the Explanatory Memorandum:

“...extraordinary circumstances may be considered to have occurred when the Government appointer can demonstrate that reasonable efforts have been made to find a candidate of the appropriate gender, and despite those efforts it has not been possible to appoint a suitable candidate of the necessary gender to meet the requirement of at least 40 per cent men and at least 40 per cent women on the relevant Government board.

For these purposes, reasonable efforts would include where all of the following steps have been taken:

- a. The board vacancy has been advertised and/or there has been a call for expressions of interest in the board position;
- b. Relevant government databases such as AppointWomen or BoardLinks have been searched for potential candidates;
- c. A gender balanced shortlist of candidates has been compiled;
- d. Candidates have been interviewed that reflect the gender balance of the shortlist; and
- e. Each candidate has been evaluated against a consistent set of selection criteria.”

We believe the steps outlined above are sufficient and will enable any Government appointer who cannot meet the 40:40:20 requirement in subclause 1 to demonstrate that they have undertaken a best practice recruitment process that surfaces the most talented and suitable candidates available.

In terms of reporting on those particular appointments where the requirements of subclause 1 cannot be complied with, the Bill is in line with the “If not, why not” approach,

³ Australian Government Boards (Gender Balanced Representation) Bill 2015, subclause 7(2)(e).

which is fundamental to the operation of the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations.

The "if not, why not" approach requires an entity or in this case, the Government appointer, to explain why they have not complied with a certain requirement. This explanation is subsequently captured in the relevant departmental report and the compiled report, providing for an effective level of transparency and self-regulation.

The relevant "if not, why not" reporting requirement in this Bill can be found at subclause 8(3)(d); "if there have been any appointments during the financial year in relation to which the Government appointer has not complied with section 7—the particulars as to why the Government appointer did not comply with that section [must be provided]." It is an essential element of this Bill and provides a level of rigour not present in the current policy in its aspirational form. It will also ensure that valuable information is collected and will further each department's understanding of the issue and the recruitment strategies and innovations necessary for success.

Furthermore, we support the Bill's reporting requirements. Our experience is that measurement of progress and the reporting of data is critical to achieving any strategic target. The reporting requirements set out in the Bill are inline with existing approaches currently in place for each portfolio.

We believe the small but important difference between pre-existing reporting arrangements and the requirements of this Bill, that each government board's gender balance is reported on as opposed to a portfolio-wide board composition figure, will provide the necessary transparency and granularity of detail required to achieve the 40:40:20 target.

This appears to add no additional burden to the work currently undertaken by each portfolio in collecting and providing data to the Department of Prime Minister and Cabinet, who receives the data and compiles the annual Gender Balance on Australian Government Boards Report.

Summary

The presence of a bipartisan commitment to gender balanced representation on government boards demonstrates that this is a parliament-wide priority. It also shows a positive awareness and understanding of the benefits of gender balance. This bipartisan commitment should be supported and reinforced to ensure that gender balanced representation remains a priority into the future. This Bill seeks to do that by creating a positive obligation for the Government to meet its targets for both men and women on government boards.

We believe the Government and broader parliament can and must take further leadership to advance gender balance on government boards. By passing this Bill and thus becoming legislation, the Government would enshrine the standard for gender balanced government boards that it currently expects of itself and by implication, it would solidify best practice standards for the wider community to aspire to and follow.

I commend this Bill to the Committee and indicate that we would welcome the opportunity to speak about the Bill and gender balanced representation on government boards further at a public hearing, if the Committee deems it important to do so.

~~Yours Sincerely,~~

Carol Schwartz AM
Founding Chair, Women's Leadership Institute Australia