



Tom Ravlic

SIA (Aff.), BA (Journalism) RMIT, GradCert AccFinMan (CSI)

Phone-61 3 9551 1878

Fax-61 3 9551 1877

Mobile 0407 408 000

Email travlic@bigpond.com

Address 4 Loddon Court, Clayton South, VIC 3169

24 April 2004

Dear Dr Dermody,

I greatly appreciate your forwarding the material on the disclosure of political donations in company financial statements for my review. Senator Murray's interest in my view is greatly appreciated. I hope what follows below assists in his deliberations on the appropriateness of including the draft amendments to the Bill presently being considered by the parliamentary committee.

Transparency a key principle

This submission is being addressed with the principles I outlined during my opening statement before the parliamentary committee. The committee must consider the issues of achieving the optimal degree of transparency and independence. In this instance the notion of transparency is the most critical because it would appear that Senator Murray is concerned that shareholders may be uninformed as to when their companies are donating the funds shareholders trust them to deal with prudently to political organisations. Shareholders deserve to be told in no uncertain terms what their companies are doing with their funds and the proposition that there be mandatory disclosure of the existence and quantum of such donations will not be contested here. What is of great concern is the underlying intent of the proposed amendments that would by their very nature require companies to put either the principle of donating to political parties or a specific donation to a shareholder vote or be – prima facie – found to be guilty of an offence under this country's law governing the behavior of corporate entities. It also appears to defy the general trend that seems to be emerging from the current CLERP 9 debate that places the onus on companies to appropriately and transparently make market disclosures. Any penalty for failure to disclose would occur after the event if it is discovered shareholders were not given the opportunity to vote on whether such donations were appropriate.

Transparency in these matters is critical as it also enables a company's external stakeholders, analysts and commentators to understand the kind of governance psyche that exists within a company. The information will assume the same importance as the disclosures of directors' and executives' remuneration as people assess the governance



Tom Ravlic

SIA (AIC), BA (Journalism) RMIT, GradCert AccFinMan (CSIU)

Phone: 61 3 9551 1878

Fax: 61 3 9551 1877

Mobile 0407 408 000

Email travlic@bispond.com

Address 4 Loddon Court, Clayton South, VIC 3169

practices of entities. The market forces deserve some credence for being able to work out whether companies are exercising the powers delegated to the board and management by shareholders appropriately.

Why seek approval before the event?

Why should a company have to seek shareholder approval for political donations in the first instance? Companies would make purchases of equipment, motor vehicles, stationery amongst other things and we do not tend to see evidence of shareholders being asked to approve those expenditures. Members of a company board are charged with the task of making decisions they believe are appropriate and company management are charged with the task of making decisions they believe to be in the interests of the entity. Should an entity have to put before its shareholders the fact it intends to undertake a major spend in an area of its operations? This concept could open the door to further questions about why political donations are so significant an outgoing that they must be approved by a shareholder vote and other expenditures would be subject to the usual rules of engagement and. If necessary, review when the accounts are produced and an annual general meeting is held. Step back a little and consider whether you would also require the endorsement by a group of shareholders of any charitable donations a company might make that may well represent an amount that is fairly significant. It may unnecessarily complicate a process of governing a corporation given that shareholders expect directors and management to act reasonably as agents of the greater shareholder mass.

One could mount an argument that political donations are different to the usual business expenses because they are given – as Senator Murray never hesitates to point out – as a means of supporting a political cause or political organisation. Giving – in other words – some level of patronage to an individual or an organisation. This could in the eyes of some commentators be an argument for an entity seeking shareholder approval before parting with a ‘fistful of dollars’. I do not necessarily see this as a major issue. Where shareholders and others believe a political donation has been inappropriately given then there is a mechanism for them to take action against the company through the internal democratic means of the entity. We can argue about the effectiveness of such measures but doubts over effectiveness should not in themselves create a need to legislate in this manner to gain shareholder approval. There is no reason why continuous disclosure through the Australian Stock Exchange’s systems and disclosure of the donations in the annual or interim reports issued by an entity should be regarded as being insufficient in this area. Disclosure should be required and the penalty should be no different to the one that will apply to continuous disclosure breaches.



Tom Ravlic

SIA (AII.), BA (Journalism) RMIT, GradCert AccFinMan (CSU)

Phone: 61 3 9551 1878

Fax: 61 3 9551 1877

Mobile 0407 408 000

Email travlic@bigpond.com

Address 4 Loddon Court, Clayton South, VIC 3169

Enforcement

Enforcement of such a provision in the law could be rather simple. The Australian Electoral Commission requires political parties to disclose which entities or individuals have provided funds to them. A company that refuses to properly disclose its donations in its annual report but the disclosures subsequently appear on documents available on the web site of the AEC¹ can easily be sprung by the corporate regulator. It is not as if we are talking about transactions or outflows of company resources that are forever hidden from public view in this circumstance.

Other solutions

Consideration should be given to whether the objectives of Senator Murray's concern could be met through other means. The amendment of the law to require such a disclosure could be dealt with in other ways. An accounting standard could incorporate those requirements so that political donations appear in the income statement² as a separate line item. The justification could be that the donation to a political cause could in itself be material because it could be given as a part of the company seeking to exercise some influence. It may be from an accounting point of view defined as material and therefore disclosed separately within the financial statements and notes. It could comfortably sit in an accounting standard such as AASB 1046, which is the standard that deals with director and executive remuneration disclosures. It would need to be renamed to incorporate the concept of disclosure of remuneration and other governance disclosures. That would not take a terribly long time to institute if it was made clear that such a disclosure was desirable. It would also be put to the broader community for public comment. The present amendments are only being exposed by the committee secretariat at the death knell of the inquiry and such an amendment to the disclosure rules in this country may be better handled by the Australian Accounting Standards Board.

A final word

I do not believe we need to further clutter the law with disclosure and penalty provisions that may end up making the administration of corporations far more onerous than necessary. It is advisable to keep it simple and require disclosure of political

¹ The web site is www.aec.gov.au. The details are freely available for download although users can obtain the details on a CD for about \$40.00 if they want them accessible offline in that format.

² Also known by the terms 'statement of financial performance' or 'the statement of profit and loss'.



Tom Ravlic

SIA (Aff.), BA (Journalism) RMIT, GradCert AccFinMan (CSI)

Phone: 61 3 **9551 1878**

Fax: 61 3 **9551 1877**

Mobile **0407 408 000**

Email travlic@bigpond.com

Address 4 Loddon Court, Clayton South, VIC 3169

donations. Non-disclosure of such donations should be penalised in a similar fashion to that which failures to follow continuous disclosure rules are dealt with. It may be wise to raise this matter when the committee meets with bodies such as the Australian Securities and Investments Commission and the Australian Accounting Standards Board.

Kindest Regards

Tom Ravlic