# 5

# Corporate Responsibility for Pharmaceutical Corporations

*Klaus M. Leisinger*

## CORPORATE RESPONSIBILITY: A TOPIC IN HIGH DEMAND

The financial and economic crisis of 2008–10 was much more a crisis of trust than anything else—trust in the integrity of institutions, as well as in the integrity of corporate and political leaders.[1] Many people all over the world suffer from the complex repercussions of inappropriate credit appraisal and underwriting standards, excessive leverage on and off balance sheets, deficits in regulatory supervision, concealed risks and flawed risk management, as well as unreasonable compensation practices that have encouraged risk-taking over prudence.[2] The political, social, and economic implications of this disorder are not yet fully measurable. Paul A. Volcker, an American economist who was the Chairman of the Federal Reserve under US Presidents Jimmy Carter and Ronald Reagan and is currently the Chairman of the newly formed Economic Recovery Advisory Board under President Barack Obama, and the G30 rate the current crisis as 'severe, whether measured in trillions of dollars, in the length and depth of the worldwide recession, or in simple human terms of unemployment and shattered personal finances.'[3]

In this social atmosphere, characterized by lack of trust, fear, and increasing frustration if not wrath, the reputation of and trust in businesses suffers even more. It has not been exactly 'splendid' before the crisis hit: more than

[1] The author thanks Karin Schmitt for her constructive criticism and her most valuable assistance in editing the final version of this chapter.

[2] Group of Thirty: *Financial Reform: A Framework for Financial Stability*. Washington 2009.

[3] Ibid., p. 13.

two-thirds of people in industrial countries believed that NGOs act in the best interests of society, only 52 per cent trusted in national governments, and as few as 38 per cent trusted in multinational businesses.[4] In autumn 2009, between 50 and nearly 80 per cent of the people asked in major countries had less trust in corporations than before—and more than two-thirds thought that 'more and stricter regulation' would help.[5] In some countries, the belief that democracy is the appropriate regime to guarantee social equilibrium in the global marketplace has started to fade.[6] Now, the 'strong state' needs to bail out banks, insurance companies, and industries of structural importance—even expropriation seems to have become an acceptable means of last resort. Anybody who had foreboded this development two years ago would have lost any academic or political credibility.

The complexity and severity of this crisis makes sustainable solutions enormously difficult. One thing, however, is certain: as loss of trust into the economic community is a main effect of the crisis, the issue of corporate responsibility will *gain* in importance. Business will have to deal with corporate responsibility issues more deeply and comprehensively than in the past. Conventional corporate responsibility codes such as the UN Global Compact would not have prevented the current crisis. Wise financial management, proper risk-management, and other managerial arts have always been part and parcel of a holistic responsibility approach, but reflections on the architecture of the economy and viable strategies for long-term value creation are likely to include additional questions such as 'What are the reasonable scope and limits of prudent regulation?'; 'How can incentive systems be designed so that they promote innovation, effectiveness, efficiency and economic success without ending up in unwise risk-taking and/or a breakdown of social and ecological standards?', and so on.

Despite the current crisis and its potential for social unrest, civil strife, and political turmoil, a development inversely proportional to Francis Fukuyama's 'end of history' is an unlikely scenario. The crisis, however, ought to be seen as an opportunity for the development of an 'embedded market economy' on a global scale, one which makes a *contrat sociale* an integral part of the market rationale, so that the pursuit of private interests does not work against the common good. The distinct economic, social, ecological, and human rights related corporate responsibilities should be part of the fabric out of which future development models will be woven.

[4] GlobeScan: Corporate Social Responsibility Monitor; see www.globescan.com
[5] Edelman Trust Barometer 2009, see http://www.edelman.com/trust/2009/#
[6] Spiegel Online, 3 July 2008: www.spiegel.de/politik/deutschland/0,1518,563013,00.html

## CORPORATE RESPONSIBILITY BECOMES A BROADER CONCEPT

Fifty years ago, companies were expected to be profitable, adhere to the law, provide jobs, and pay taxes. Milton Friedman's famous phrase 'the business of business is business' is frequently quoted in this respect—often as evidence for a lack of responsibility.[7] The quote, however, is usually taken out of context: Friedman argued in his book *Capitalism and Freedom*, that 'there is one and only one social responsibility of business—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' (Friedman, 2002: 133).

The business of business still is business—but 'the rules of the game' have changed significantly since Milton Friedman's book appeared in 1962. Today's corporate responsibility is to create value in the context of the corporate core competence while adhering to internationally accepted norms. Profits, as understood today by enlightened managers, are sustained proceeds from corporate activities pursued in a responsible way. Sustained earnings can only be realized if and when a company uses its resources in an economically prudent, socially responsible, environmentally sustainable, and politically acceptable way—in other words, in a manner that ensures the prospering of a company compatible with the public good. Profits are *not* an isolated corporate objective, but understood as the aggregate indicator that a company is successful in a comprehensive sense and over time; profitability is embedded in the corporate human rights, social, ecological, and anti-corruption performance.

Whatever the quality of corporate performance, modern societies will pose a challenge by placing a multitude of claims on corporations, some of which will be unreasonable and, thus, remain unfulfilled, and this will in turn leave frustrated stakeholders behind. Whether or not corporate profits are perceived to be earned legitimately (not only legally) depends on a specific society's understanding of the corporate rights and obligations that are part of and make up the fabric of the social contract. In mature societies, citizens (which include employees, customers, shareholders, and stakeholders of companies) will continue to expect good financial results of businesses, even more so in times of economic crisis. However, profits that society perceives to be achieved without regard for or at the expense of good social and environmental performance or, even worse, by violating human rights will not meet public acceptance. The current economic crisis has already caused significant frustration in a large number of people—in such a situation corporate misconduct, whether perceived or real, will trigger an avalanche of public outbursts like perhaps never before. Corporate responsibility could therefore have to

[7] Friedman, M., *The Social Responsibility of Business is to Increase its Profits* (http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html).

continue to try to 'weave international norms and values into the fabric of corporate practices', as the United Nations Global Compact[8] or the OECD Guidelines for Multinational Enterprises[9] are proposing.

Successful efforts to put good intentions into corporate practice depend on coherent and consistent actions on two levels:

- On the *institutional level*, corporate management has to answer fundamental questions such as: What are the core values we and our company stand for? What is our role in global society? Which corporate governance structure complies with 'good governance' criteria? What are the basic dos and don'ts? What is our decision-making process in dilemma situations, which values take—when in doubt—precedence? For what do we want to be held accountable? Where are the limits?
- As all decisions are made by human beings, the *personal level* of responsibility is equally important. This starts with the hiring, selection, promotion, education, awareness raising, and encouragement of managers to translate core business values into action and applying the corresponding norms in decision making.

A good frame of reference to reflect on answers to questions arising on the institutional level is the UN Global Compact.

## THE UN GLOBAL COMPACT AS A FRAMEWORK FOR CORPORATE RESPONSIBILITY REFLECTIONS

Launched by former UN Secretary-General Kofi Annan, the UN Global Compact (UNGC) is the most relevant corporate responsibility initiative internationally. In 2009, nearly 5,000 companies from all over the world, along with many international labour and civil society organizations, are engaged in the UNGC. The Global Compact covers internationally accepted norms in the areas of human rights, labour standards, environmental care, and anti-corruption.

Companies committing to these norms are expected to incorporate them into their corporate policies and management processes (Figure 5.1). They should also strive to extend adherence to the UNGC philosophy to at least their most important third parties, such as their supply chain, joint venture partners, or others within their defined sphere of influence[10] (Leisinger, 2007b). Companies

[8] www.unglobalcompact.org

[9] www.oecd.org/document/28/0,3343,en_2649_34889_2397532_1_1_1_1,00.html

[10] The result of the Special Representative for Business and Human Rights, John Ruggie, shed new light on the definition of 'sphere of influence' in the context of the two UNGC human rights principles; see www.reports-and-materials.org/Ruggie-companion-report-15-May-2008.pdf

**Human Rights**

*Principle 1:* Businesses should support and respect the protection of internationally proclaimed human rights.

*Principle 2:* Businesses should make sure they are not complicit in human rights abuses.

**Labour**

*Principle 3:* Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.

*Principle 4:* Businesses should uphold the elimination of all forms of forced and compulsory labour.

*Principle 5:* Businesses should uphold the effective abolition of child labour.

*Principle 6:* Businesses should uphold eliminate discrimination in respect of employment and occupation.

**Environment**

*Principle 7:* Business should support a precautionary approach to environmental challenges.

*Principle 8:* Business should undertake initiatives to promote greater environmental responsibility.

*Principle 9:* Business should encourage the development and diffusion of environmentally friendly technologies.

**Anti-corruption**

*Principle 10:* Businesses should work against corruption in all its forms, including extortion and bribery.

**Figure 5.1.** UN Global Compact Principles

must report once a year to the UN Global Compact Office on their efforts to implement the ten principles in their daily business activities (communication of progress). Those who do not report are taken off the list of signatories. The baseline for responsible corporate conduct is the ten principles, which companies are expected *to embrace, support, and enact in their sphere of influence.*

## Top-management's 'homework' for the implementation of the UN Global Compact

The Global Compact promotes the core values and norms of the international community and therefore, at least superficially, the ten principles are plausible and reasonable. There are, however, significant differences in the corporate performances stemming from a different result of top managements' reflection on the obligations resulting from the ten principles.

### *What is the content and scope of corporate responsibility and where are the limits?*

Companies competing with integrity have already answered the basic question: through their normal business activities based on their core competence they want to be 'part of the solution', not 'part of the problem'. Such companies simply do not accept illegal conduct and wilful harm to human beings or the environment.

Principles such as those of the Global Compact, however, provide only a policy guideline, not the precise content of a corporate responsibility strategy. While some managers have relatively narrow definitions of certain terms (such as 'sphere of influence') and deduce narrowly defined obligations, others define their responsibility much wider and take the opportunity to demonstrate leadership. Therefore, the initial reflection processes on what exactly these ten principles mean for the specific business enterprise is the most important step—it is the step that defines the quality of the corporate responsibility performance.

Socrates once surmised that the 'truth' is in every human being; he or she just needs to recognize it. He assigned the moral philosophical discourse a 'midwife' function that helps to bring forth truth. Self-critical reflection on corporate responsibility in the light of the Global Compact principles has precisely this function for companies. Questions that have to be reflected may include the following:

- How do we define our role in society? What are our core values and what is the resulting action portfolio with which we want to fill them with practical life?
- What, in the light of our values and the ten principles are our main weaknesses and vulnerabilities?
- How do we concretely carve out our 'sphere of influence' within in which we can accept accountability for human rights-related, social, environmental, and anti-corruption standards and where (and why) do we have to draw the line?
- What are our most important stakes and—accordingly—what groups of stakeholders are relevant to us? Where and why do our views and objectives differ from those of our stakeholders?
- How do we proceed if the expectations of civil society conflict with those of the financial community? What is the general approach to solving dilemma situations between financial gain and responsible behaviour?
- How do we define '*respect of the protection of internationally proclaimed human rights*' when it comes to economic, social and cultural rights? And so on.

Dialogues with internal and external stakeholders help management to reach well-informed decisions about the content, scope, and limits of corporate responsibilities. They help management become familiar with the plurality of societal expectations, values, concerns, worldviews, and perceptions of corporate obligations that may differ substantially from their own. In the process, corporate management can develop their social skills. Likewise, civil society stakeholders have the opportunity to learn about the mind-set of management, business fundamentals, and how these influence decisions of profit-oriented corporations.

## Making the right value choices—an example from the pharmaceutical industry

Controversy over what constitutes the *right thing to do* generally arises from the fact that different parties base their norms on diverging values, personal experiences and vested interests. What one group holds to be of highest importance, another may dismiss as a minor issue. For example, financial analysts—although increasingly appreciative of the 'triple bottom line' philosophy—still focus predominantly on the profitability data of businesses when determining benchmarks for measuring best-in-class performance. Those who must meet the expectations of financial markets will inevitably question the logic of giving away products at cost or for free.

For civil society groups engaged in the fight against poverty related diseases, in marked contrast, profitability issues are of secondary concern when it comes to ensuring access to drugs for the 2.5 billion people living in absolute poverty. The fact that a business manager has to do what is economically right does not make him or her morally inferior to those requesting free medication for the world's poor. Business corporations and NGOs have different roles in society—both are important for the common good. Sustainable solutions for complex issues involve all relevant stakeholders and their skills, experience, and resources. While striking the right balance is always a sophisticated managerial task, the top management's value mindset and its social awareness are the most important factors for excellence in responsibility performance.

Wherever the top management's personal ethical motivation is the driving force, corporate responsibility culture is more robust than where managers give in to public pressure; wherever social skills and awareness are existent, corporate responsibility cultures are more mature than where managers follow the prevailing 'fashions' in the ongoing debate; wherever the long-term social impact takes precedence over short-termed public relations (PR) visibility, the complexity of responsibility endeavours increases, and wherever corporate responsibility endeavours are seen as investments into the long-term corporate performance, corporate responsibility is thriving more than where such duties are perceived to be an externally imposed drudgery.

## Assessing the facts

Even where there is broad consensus over a given fact, such as, for example, that the quality of human life with good health is a precondition for human development, conflicts may arise over the question of who is in charge to do what. And even if this is clear, *perception* of crucial issues might be different than the *facts*. Take the controversy over patents and their alleged impact on the lack of access to medicines for poor people in developing countries as a case in point. The argument that patents are the main obstacle to access to medicines for people living in poverty is not based on fact. Of the 319 products on the World Health Organization's Model List of Essential Drugs, only seventeen are patentable (5 per cent)—and most of those are not actually patented, bringing the overall amount of patented drugs to 1.4 per cent, of which most are concentrated on larger markets (Attaran, 2004). Those who argue that patents constitute the most important obstacles for poor patients' access to medicines tend to ignore or at least underestimate the importance of other critical access issues: the lack of doctors, nurses, and laboratories for appropriate diagnosis, lack of logistical essentials (e.g. peripheral warehouses and refrigerators), deficits in general health infrastructure (e.g. geographical spread of health centres to reduce walking distances for sick people to reach health centres, quality of peripheral health posts and of the respective staff) and, last but not least, assurance of patient compliance with complex and long-term therapies—especially in cases of stigmatized diseases (HIV, TB, leprosy), where lack of compliance can result in resistance to available drugs.[11] If such crucial factors are not taken into consideration, even drug donations are not likely to reach those poor patients where they typically live: five kilometres beyond the tarmac roads at rainy season (Leisinger, 2009).

## Choosing the right norms

The essence of moral discourse is that it indicates to duty bearers the right course of action. Moral norms are more likely to be filled with practical life if and for as long as they appear self-evident to the party who is expected to act. This also applies to corporate responsibility norms. Corporate management must make decisions about concrete deliverables: What should a company *reasonably* do beyond legal compliance? While some acts such as accepting or committing human rights violations for the sake of increasing profits are clearly morally wrong, most issues arise in a much more subtle, complex,

[11] For an in-depth analysis of the complexity of a poverty-related, deadly disease, see Feachem *et al.* (2009).

and multifaceted way. This is, for example, the case where local legal and judicial culture allows for acts or omissions as a result of a specific cultural environment that might be looked at as 'backwards' by western observers, but also in areas where the problems endured by the 2.5 billion people living in poverty are part of what is perceived to be 'normal'.

A good example is child labour: The ethical stance seems clear—but assuming appropriate social responsibility in a given context is inherently more complex. Sometimes 'good intentions' are the opposite of 'good'. Organizations such as Save the Children point to the fact that well-intentioned western efforts to protect children from child labour can, in practice, put children and their families in an even worse situation. Save the Children recommends a differentiated approach that distinguishes work that is harmful to a child's development from work that will contribute positively to its development and perhaps combine the latter with education and training.[12]

Another example is related to the so-called 'sphere of influence'. Should a company refrain from cooperation with a Third Party that is not living up to expected norms or should one initiate transition processes that may require the temporary acceptance of normative deficits?

These difficulties notwithstanding, corporate moral norms have to be established and translated into codes of conduct and corporate responsibility guidelines. The voluntarily assumed obligations have to be treated as if they were formal law—otherwise one faces the risk of an 'à la carte' compliance under financial pressure and in stressful times. Corporate responsibility must be an integral part of the management process, that is, it must be included in target setting, performance appraisals, compliance monitoring, external verification, and reporting.

## A PRACTICAL APPROACH TO CORPORATE RESPONSIBILITY

The Dahrendorf model with its three normative levels is very helpful for the gradation of corporate responsibility areas (Figure 5.2): There is the '*must*' level,' the '*ought to*' level, and the '*can*' level. Each level consists of specific moral duties with its specific grade of liability.[13]

The *must* level covers non-negotiable corporate duties that covers, for example, compliance with national law and regulation. This includes

[12] www.savethechildren.org/

[13] For an approach distinguishing social norms according to different degrees of obligation, see Dahrendorf (1959: 24 et seq.); for a similar differentiation of corporate responsibilities, see Carroll (1993: 35).

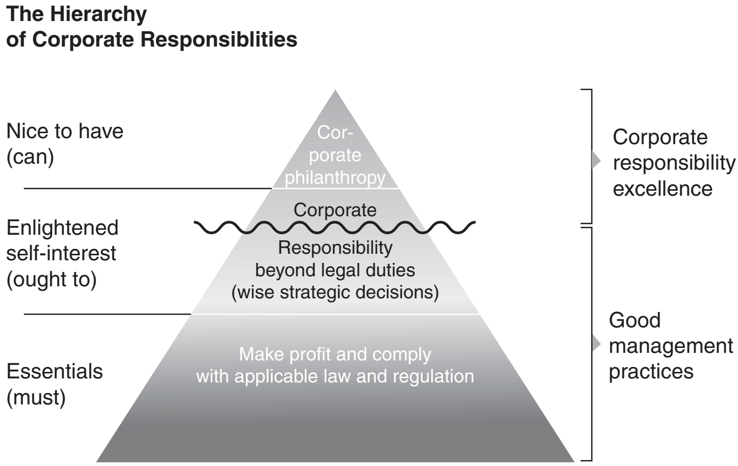


**Figure 5.2.** 'Dahrendorf model' applied to CSR

protection of the environment, as well as the health and safety of employees, customers, and neighbours according to applicable law. Other duties on the 'must' level are to meet the expectations of shareholders and employees. Shareholders expect a fair return on their investment and employees expect fair wages. Corporate responsibility towards society at large includes the creation of jobs, tax payments, and contributions to insurance and pension funds. If companies provide training and further education on the job, employees improve their employability and value in the job market. The goods and services made available through markets provide society with many different kinds of social value—for example in the case of pharmaceutical corporations, medicines that reduce the severity of diseases, protect life by reducing morbidity, improve quality of life for patients (less pain, less disability, fewer side effects), and, last but not least, allow for a (relatively) normal private and professional life.

The *ought to* level refers to responsibility aspects that go beyond legal compliance in a national context by adhering to international norms (Figure 5.3). In countries where the quality of law is state-of-the-art and enforced, legality can be deemed to satisfy in large measure the requirements of responsible corporate conduct. In regions where this is not the case, however, responsible companies will exceed legal minima by applying higher corporate norms, for example through the use of state-of-the-art environmental technology and social policies, even where local law would permit lower standards.[14]

[14] See in this context the old Kantian differentiation between 'legality' and 'morality', Kant, *Introduction into the Metaphysic of Morals*: 'The laws of freedom, as distinguished from the laws of nature, are moral laws. So far as they refer only to external actions and their lawfulness, they

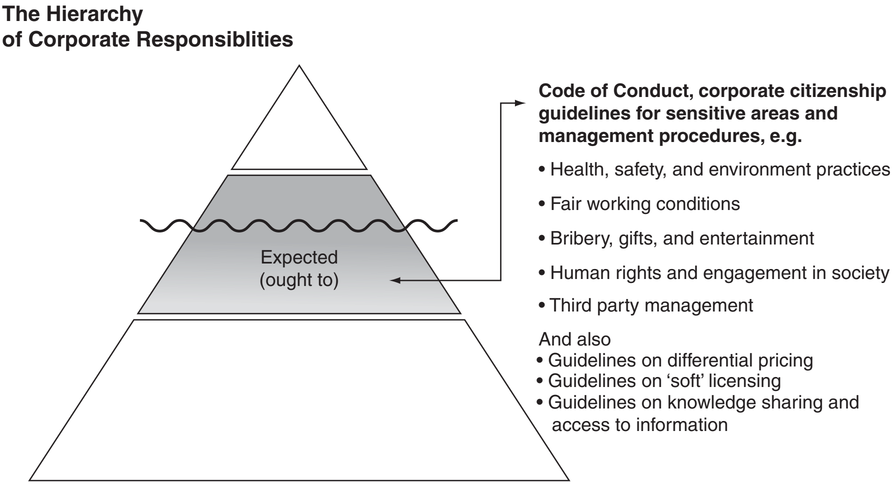


**Figure 5.3.** CSR hierarchies

Additional deliverables on the 'ought to' level of corporate responsibility do, of course, differ from sector to sector.

For leading pharmaceutical companies, the corporate responsibility catalogue goes well beyond the 'do no harm' provision. In the context of the Millennium Development Goals (MDGs), target no. 8 calls upon the international community 'in co-operation with pharmaceutical companies, [to] provide access to affordable, essential drugs in developing countries.' Voluntary corporate services to improve poor people's access to medicines can be classified in either the 'ought to' or the 'can' dimension. Stakeholders and corporations may differ on where exactly deliverables of this kind belong. Most large pharmaceutical companies, however, are already heavily engaged in contributing to MDG 8 (DfID, DoH, and DTI, 2005). The following list reflects many of the services itemized in the 'ought to' and 'can' dimensions (Leisinger, 2009):

- *Differential pricing*—that is, reduced tenders for selected drugs against poverty-related and tropical diseases for use in least developed countries, particularly for single-source pharmaceuticals (those with patent protection or marketing exclusivity).
- *Donations* for disease eradication programmes or emergencies, adhering to WHO Guidelines for Drug Donations.

are called juridical; but if they also require that, as laws, they shall themselves be the determining principles of our actions, they are ethical. The agreement of an action with juridical laws is its legality; the agreement of an action with ethical laws is its morality.'

- *Research and development investments* for diseases affecting predominantly poor people in the developing world (so-called 'neglected' diseases).
- *Support for broader health and development goals* in developing countries.
- *Work with stakeholders* in countries of operation to ensure access-to-medicines initiatives are integrated into national systems and priorities and to avoid 'vertical' and 'parallel' systems.
- *Exploring opportunities for production in developing countries* including through wholly-owned subsidiaries and the use of voluntary licences, where these measures would increase sustainable access to essential medicines.

The totality of the 'must' level and a good part of the 'ought to' level constitute *good management practices*.

The *can* level of corporate responsibility is not obligatory either by law or by industry standards. It encompasses socially desirable activities in which a company engages out of its own understanding of *Good Corporate Citizenship* (Figure 5.4). 'Can' standards, or rather corresponding actions, are always *complementary*. They are *by no means a substitute* for compliance with 'must' and 'ought to' standards. Good deeds in the 'can' dimension cannot compensate for irresponsible acts elsewhere, but they do lead to substantial advantages for the beneficiaries. *Corporate philanthropy* belongs to this level and is usually not bound to produce any direct company advantages or a measurable financial return. Sustainable philanthropic work goes beyond pure

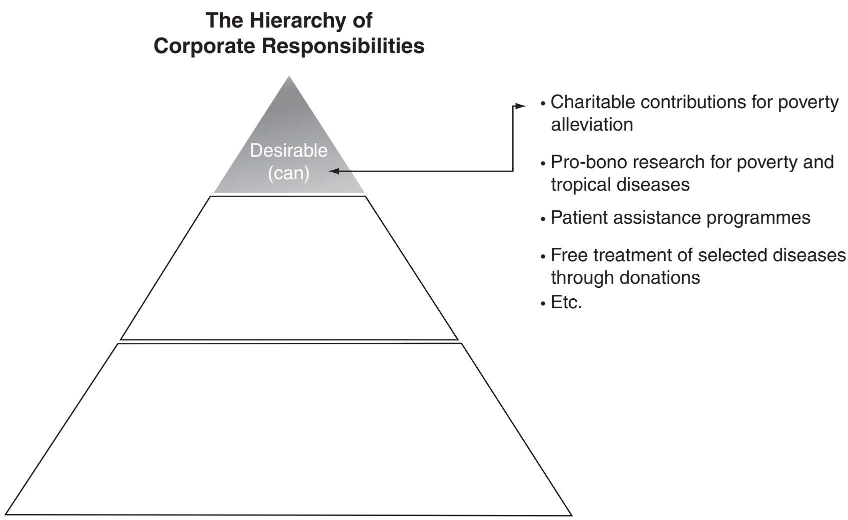


**Figure 5.4.** CSR hierarchy—'Desirable'

donations of money or medicines and is often complex and difficult. It hardly ever leads to visible success in the short term—it is therefore not suitable for superficial PR efforts. Many civil society personalities or institutions regard donations as being a 'buy-out' of necessary reforms of 'Big Pharm's' business model and dismiss it. Others—for a variety of reasons—completely deny the justification for corporate philanthropy; others again see corporate philanthropy as an indispensable contribution to broader social goals such as the MDGs. Corporate management will have to decide on the basis of their value mindset what is the right thing to do.

If the decision to enact corporate philanthropy has been taken, the deliverables must be predictable and sustainable—Novartis, for example has been engaged in corporate philanthropy for more than 30 years.[15] In the face of widespread poverty throughout the world and the associated suffering and injustice, any contribution to the fight for the achievement of the Millennium Development Goals ought to be considered as welcome (see, Leisinger, 2007a).

## CORPORATE RESPONSIBILITY CODES ARE AS GOOD AS TOP MANAGEMENT WANTS THEM TO BE

As mentioned before: any corporate responsibility framework is as good as the top management's value mindset: some will take an 'easy way out'—others will strive for sophistication and excellence. For example: some companies have already used Human Rights assessment tools such as those developed by the Danish Institute for Human Rights long before John Ruggie's 2008 report—others didn't and some don't even today. Those who strive for excellence will deal with the inherent complexities, as for example with the issue of 'discrimination': discrimination at work is a violation of a human right that entails a waste of human talent, has a detrimental effect on productivity, generates socio-economic inequalities, and undermines social cohesion. Seen through a human rights lens, discrimination can affect all aspects of employment, that is hiring, placement, remuneration, training, discipline, retirement, and termination decisions within the company that are not exclusively based on objective factors and are not connected to gender, age, nationality, ethnicity, race, colour, creed, caste, language, mental or physical disability, opinion, health status (incl. HIV/AIDS), marital status, sexual orientation, birth or civic, social, or political characteristics of the employee. Corporate responsibility excellence will deal with discrimination in this comprehensive manner.

[15] See www.novartisfoundation.org

To give another example: good companies will want to look at *competitive* remuneration to attract the most competent and educated employees. In emerging economies, they might be confronted with *minimum wages* imposed by the state, for example for workers in production facilities, on farms, or in particular industrial sectors. Appropriate reflection on corporate duties in the context of economic rights, however, will lead management to the concept of *living wages*, raising an entirely new set of questions:[16]

- What is a reasonable definition of a 'living wage' and who determines what should be included in the 'basic needs basket' in a particular social, cultural, and economic context? Should this basket contain savings or contributions to social security institutions and pension schemes?
- Which parts of a social package considered as 'normal' in the corporation's home country (e.g. corporate pension fund) should a company 'export' through its business practices to developing countries with very different average income levels and institutional settings?
- What fringe benefits (e.g. free or subsidized meals, transport or health services) are to be offset against the cash wage—if at all?

In many cases the discussion of such issues will not only make poor people better off, but also raise the social awareness of a corporation's management team. There are no one-size-fits-all solutions; corporate management will in many cases have to reflect on what is appropriate in a given situation. The process by which corporate management reflects on what to do and where to set limits will bring up a variety of highly specific issues that would otherwise probably not come to light. If properly done, an open-minded SWOT analysis can bring elements to management's attention that otherwise might be considered marginal issues beyond the purview of the corporate 'silo.'

[16] Living wages, even as a dynamic concept, refer to a 'basic needs' basket, which is defined along relatively narrow parameters. Whatever remuneration goes beyond these parameters must be justified by corporate desire to hire better than average workers and employees and not by social idealism. Although critics will argue otherwise, several UN World Investment Reports have established that as a rule, transnational corporations with their headquarters in Europe or the US pay much higher salaries and wages and offer substantially more benefits. This could also be viewed as a problem, as it attracts the best national talents and hence puts national firms at a competitive disadvantage. Another argument to be taken seriously in this context is the fact that most workplaces in the industrial sector pay substantially higher incomes than those in subsistence agriculture or local handicraft—hence caution must be applied when comparing remuneration packages. See as a company specific case study: Brokatzky-Geiger *et al.* (2007).

## WHY BECOME INVOLVED IN CORPORATE RESPONSIBILITY COMMITMENTS BEYOND LEGAL COMPLIANCE?

While management has no option when it comes to adhering to laws and regulations, and while economic 'good management practices' are driven by enlightened self-interest, social, ecological, and human rights-related corporate citizenship, deliverables above and beyond a certain standard (demonstrated by the wavy line in Figure 5.3) remain at the sole discretion of management. From a purely economic point of view it could be argued that every dollar spent on corporate responsibility beyond the legal requirements and basic standards is a dollar diverted from potentially profit-generating activity. In other words, there are opportunity costs associated with corporate responsibilities that go beyond legal compliance and even more so beyond conventional *good management practices*. They could become quantified in the form of benefits not realized through alternative investments. Doubt over the question of whether companies should go out of their way to define and promote wider self-chosen objectives is part of the standard CSR literature. Why should a company consider corporate responsibility criteria in addition to laws, conventions, and the pursuit of the company's own interests? From a moral point of view, quite simply, because it is the right thing to do.

### It is the right thing to do

Morally speaking, it is right that corporate citizens show good and fair behaviour in terms of socially and environmentally responsible standards and by respecting the principles of the Universal Declaration of Human Rights within their sphere of influence. It is right that companies and managers give categorical—not hypothetical—priority to all corporate responsibility aspects. They ought to set their own higher standards if and when the law in a specific cultural setting is insufficient. Enlightened companies also practise restraint with regard to activities that are morally ambivalent. If this leads to increased costs or to a loss of sales or market share, if it leads to additional investment, and in the end maybe lower profits, this will be accepted out of the value premise that illegitimate (or even illegal) activities as a matter of principle are not an option. They will also engage in dialogue with relevant stakeholders. They do this to become aware of the needs of others and to test the acceptability of their own claims through consensus-oriented discourse. For the same reasons, these companies create a corporate culture that is well disposed to constructive criticism. Constructive and reasonable dissent is appreciated and fostered as an internal learning experience. Such companies are aware that corporate responsibility has 'process' character as opposed to 'project' character.

The motivating power to keep a company consistently improving usually comes from a corresponding internal attitude and value mindset of the top management. Applying a responsibility philosophy is in most cases not a 'free lunch': companies doing 'the right thing' for intrinsic reasons may encounter incomprehension and rejection in an environment focused exclusively on financial quarterly results. They are willing to live with the problem that the 'costs' of morally motivated efforts are usually relatively clearly quantifiable. Any benefit that may occur later as a result of responsibility driven efforts is measurable only in rare cases, and often not at all in the short term. The avoided cost burden due to accidents, strikes, public criticism, or additional political regulation is just as difficult to measure as environmental damage prevented as a result of relevant investments. Share prices, too, can mostly be explained more by general bullish or bearish movements on the US stock market and sector-specific preferences than by the moral quality of specific corporate activity. Of course, it is possible, with *ex post* reference to concrete (and criminal!) cases such as Enron, WorldCom, and Tyco, to argue that 'if you think compliance with ethical criteria is expensive, try non-compliance'. Nevertheless, it would be dishonest not to admit that the return of ethical investment is difficult to quantify.

But there are also plausible arguments that suggest that responsible corporate activity—at least in the long term—is advantageous for business. These arguments make moral actions and self-interest compatible; in other words, ethically reflected action is also *strategically the right choice*.

## The 'business case' of corporate responsibility

As moral philosophy is usually not part of management education, nor part of the 'codes' used in the 'management silo' one often argues that there is also a 'business case' of corporate responsibility. But the statement '*good ethics are good business*', often used by well-meaning proponents of corporate responsibility, is more easily articulated than proven empirically.[17] One thing is certain: the *business case* is most often not evident or visible in the short term, otherwise there would be no necessity to motivate companies, as all of them would act responsibly for the sake of higher profits.

[17] E.g. Good Ethics Equals Good Business (www.destinationcrm.com), Good ethics = good business (www.charteredaccountants.com.au), but also, in a more sophisticated way. I have also argued along these lines in Leisinger and Schmitt (2003).

The arguments that are commonly brought forward to prove the hypothesis that 'competing with integrity'[18] makes good business sense are avoided costs due to accidents, strikes, public criticism, or additional political regulation—all prevented by responsible corporate conduct. Opportunity benefits due to costs not occurring as a result of responsible conduct are not easily measurable. Wise corporate leaders look at them in terms of insurance premiums against accidents or public criticism and just as 'costs' occurring. No rationally thinking manager would cancel the fire insurance just because there was no fire for some time.

Other arguments are that a flawless reputation commands a premium from those who buy a company's products and services, fills employees with pride and motivates them to work even harder, increases customer's loyalty, attracts ethical shareholders, and last, but not least, avoids additional regulation. Empirical studies estimate that about half the consumers in Denmark want to see ethical criteria being met when they make their purchasing choices (Hjulmand, 1997; Pruzan, 2001).

But then, it also seems to be true that the majority of customers make their purchasing choice dependent on the price or the cost/performance ratio—regardless of how it was produced. Even if customers care about fair labour, responsible environmental stewardship, and other features of corporate responsibility—there is still insufficient transparency to guide those who care. With regard to employee loyalty and workplace preferences, the crisis will show whether the usual argument also applies under conditions where the job market does not absorb all candidates with excellent qualifications. It would be intellectually dishonest to disregard the vagueness of a business case of applied corporate responsibility if analysed in isolation. It cannot be proven with mathematical clarity; it could well be that what is usually measured in terms of 'good ethics' or 'high corporate responsibility' is simply the result of the totality of outcomes of 'good management'—which includes but is far more than only the partial, normative aspect of it. Nevertheless, there are plausible arguments for a business case.

### *Damage to corporate reputation and the costs of friction with society*

In the era of information and communications technology any corporate responsibility deficit—even if it occurs in the furthermost corners of the earth—will become globally known in a short time span and lead to great damage for the company's reputation. A good reputation is built up over years and can get destroyed almost overnight. Illegitimate corporate activity

[18] To use another synonym for responsible corporate conduct, see De George (1993).

whether it is illegal or not, usually results in financial compensation and legal costs, as well as in friction with society. Whether a critically engaged public demonstrates in front of factory gates, whether NGOs set up 'wailing walls', or the media exert pressure through critical reporting—for the company concerned it always creates a reputation issue and often a decline in social acceptance. Criticism from outside also means that management capacity is tied up in defensive activities and that the 'heads' are not free to take advantage of opportunities on the market and to shape the future. Where the negative impression is created that the culpable 'Goliath' is treating an innocent 'David' in a contemptuous manner, sympathy for the company is lost and can only be regained in the long run and at very high cost.

There is evidence suggesting that the reputation of a company can become a competitive advantage because a positive coefficient is created in the form of a sympathy affinity. This can become an important competitive advantage where a company offers products and services that are comparable in quality, price, and usefulness with those of other companies (me-too products). Morally conscious citizens take CSR into account when making their product choice (Pruzan, 2001). In this logic it is plausible to assume that negative headlines have negative business consequences.

### *Motivation of employees and competitive advantage on the jobs market*

When a company is perceived as acting illegitimately, this usually also has negative effects on company morale and job satisfaction.[19] In the medium and long term, this can result in valuable, talented, quality-conscious employees looking for job opportunities elsewhere. Since talented employees are the most valuable asset of a company, unethical behaviour is not in the company's interest. Evidence also suggests that for the best graduates of universities, the good reputation of a company plays an important role in the choice of their future employer (Bradshaw, 1998; Larsen and Sørensen, 2001; Pruzan, 2001). Job satisfaction and the identification of the employee with the company increase in a good working atmosphere; both have a measurably positive effect on company performance.

Job motivation increases in companies with a moral corporate identity, which gives employees a positive sense of 'us'. People in their jobs are working for something with which they can personally and totally identify and about which they can talk with pride to their families and friends. These employees will release different kinds of energy from that which keeps employees working at their job

[19] In Singapore, there were above all three factors that played a role: the support of top management for ethical activities, the 'ethical climate' in the organization, and the association of ethical activity and career success (Koh and Boo, 2001).

for purely financial reasons. The efficiency of a company also increases when employees can normally trust in their colleagues and managers to act morally instead of trying to find clever ways around the rules. From my point of view, the human resource related business case is the most convincing.

### *Attractiveness of the company for ethically oriented investors*

Even at times when the 'bears' dominate the stock markets, companies are no longer measured exclusively by what they produce, but also by what they represent. There are periodicals that deal with best practices in the context of the ethical performance of companies[20] and thus set transparent standards for competition in this respect. Principles for responsible investment become increasingly part and parcel of financial allocation decisions:[21] a large and ever-growing number of pension funds and other institutional investors look no more exclusively at short-term gains, but also at how these gains are achieved.[22] Estimates of the financial power of ethically oriented investors today run to over $10,000 billion—with otherwise equally good business performance investment, sums of this order of magnitude can make a significant difference in the share price.

American management consultants such as Charles Fombrun (the Reputation Institute[23]) estimate that up to 30 per cent of shareholder value can be attributed to the good reputation of a company—other estimates (e.g., Cummings, 2000; Moore, 2001) are considerably more conservative. The question of whether it is possible to achieve a brilliant performance both in financial and in social and ecological terms has been answered.[24] We will see whether this is still the case in the financial crisis—but so far ethical investment funds perform at least no worse on the equity markets than funds that apply wider-ranging investment criteria (Murphy, 2004). Both provide evidence of at least the medium-term and long-term business compatibility of ethically legitimized corporate activity (Cummings, 2000).

The reputation of a company, defined as the sum of perceptions of all stakeholders, is a complex construct and builds up over many years. It can be ruined by a few determinedly inappropriate activities. When members of top management are led away in handcuffs in front of television cameras, 'business' problems are secondary. Once a company appears on the list of the Ten Worst Corporations that US critics such as Russell Mokhiber and Robert

[20] Ethical Performance—Best Practices, available at publisher@ethicalperformance.com
[21] See: www.unglobalcompact.org/docs/issues_doc/Financial_markets/PRI_Brochure_electronic_version.pdf
[22] For the discussion on criteria, see Mackenzie (1998).
[23] See www.reputationinstitute.com and *Corporate Reputation Review* Vol. 1, No. 4 (New York 2001).
[24] See e.g. King (2001); see also in this context the performance of Novartis.

Weissman publish every year, or shows up in the publications of *Corporate Crime Watch*,[25] huge problems of legitimacy and reputation emerge—with direct consequences on the product markets, regardless of whether the perception within the company matches the perception outside or not. As long ago as in Ancient Greece stoic philosophy pointed out that it is not the facts that unsettle people, but opinions about the facts—this still holds true.

### *Preserving corporate freedom*

It is to be expected that the financial institutions—appearing as culprits behind the financial crisis—will face much more state intervention and political regulation that anybody would have imagined two years ago. Irrespective of the complexity of reasons that led to the crisis, those who need huge financial resources from the state for their very survival will have to accept political interference as the price to be paid for their survival. There is no better moment to call for more political controls, stricter legal requirements, and thus also more state bureaucracy than when there is a wave of outrage among people about evident corporate wrong-doing. The argument that overregulation can also be very costly will not be heard at this moment in time. Reminding discriminating citizens that there are such examples as the bureaucracy of the European Union, which found it necessary to define standards for the curvature of bananas or the size of toilet seats will not help in a time where billions of public moneys are needed to bail out major banks, insurances, and car companies.

Let us not forget that the price that all social actors—including companies—have to pay for their relative freedom of action through less interference by the state must not be anarchy. There is a middle path between an excessively dense jungle of regulations, with laws, directives, and legal requirements, and total absence of regulation (as seemed to be the case with some of the leveraged structured financial products). There is a case for ‘prudent’ regulation and entrepreneurial freedom: entrepreneurial freedom within the constraints of responsibility towards the common good. Anyone who wants to avoid farther-reaching regulation of business activities and wants to help avoid overregulation has to behave responsibly in a sustainable manner.

### *Corporate responsibility can create competitive advantages*

Innovation, efficiency, effectiveness, and the ability to make the most of market potential and to interpret the signs of the times correctly, as well as the art of cutting costs and spending at the right place and at the right time, will retain their immense importance in the future as indispensable business

[25] See www.corporatewatch.org as well as www.polarisinstitute.com www.ethicalconsumer.org or www.publiccitizen.org

virtues. An additional element, however, will become increasingly important: the ethical quality of entrepreneurial activity. It could become a new, solid basis for future competitiveness. The greater the prosperity a society achieves, the more important immaterial values become—and the more customers there will be who take an interest in the social, ecological, and political quality of the actions of a company whose goods they purchase. Such arguments will gain importance in the course of the financial and economic crisis—and beyond.

## CONCLUSION

For enlightened companies at least, corporate success today involves more than simply quarterly profits. Profit-making is to a company what food is to a human being—an absolute necessity. No reasonable person will define his or her purpose in life as exclusively the intake of food. By the same token, enlightened companies seek legitimacy for their profit-making not only on the basis of a value-added for society. The reputation of a company is increasingly becoming one of its most valuable assets, even if it does not appear directly in the balance sheet—but this is likely to change in the very near future in view of the substantial efforts being made in the field of social responsibility reporting. The judgement of society that gives justification to a company's reputation depends essentially on whether that company is perceived as contributing to the realization of social values—as being 'part of the solution' and not 'part of the problem'.

There is a lot of empirical evidence to support the theory of Niklas Luhmann (1999), according to which people react to what they perceive as insecure and risky by demanding greater morality. The current crisis is likely to strengthen feelings of insecurity. For this reason, too, applied business ethics in the sense of a good corporate responsibility performance will, to a growing extent, become a new and solid basis of corporate competition and in the process will transcend the boundaries of classical markets.

## REFERENCES

Attaran, A. 2004. 'How do patents and economic policies affect access to essential medicines in developing countries?' *Health Affairs*, 23 (3): 155–66.

Bradshaw, D. 1998. 'Family values replace the dash for cash', *Financial Times*, 25 May.

Brokatzky-Geiger, J., Sapru, R., and Streib, M. 2007. 'Implementing a living wage globally—the Novartis approach', in UN Global Compact / UN High

Commissioner For Human Rights (eds), *Embedding Human Rights in Business Practice II*. New York / Geneva: UNHCHR.

Carroll A. B. 1993. *Business & Society. Ethics and Stakeholder Management*, 2nd edn. Cincinnati: South-Western Publishing Co.

Cummings, L. S. 2000. 'The financial performance of ethical investment trusts: an Australian perspective', *Journal of Business Ethics*, 25: 79–92.

Dahrendorf, R. 1959. *Homo Sociologicus*. Cologne: Opladen.

De George, R. T. 1993. *Competing with Integrity in International Business*. New York: Oxford University Press.

Department For International Development (DfiD), Department Of Health (Doh), Department of Trade and Industry (Dti). 2005. *Increasing People's Access to Essential Medicines in Developing Countries: A Framework for Good Practices in the Pharmaceutical Industry*. A UK Government Policy Paper, London, March.

Feachem, R. G. A., Phillips, A., and Targett, G. A. 2009. *The Malaria Elimination Group: Shrinking the Malaria Map. A Prospectus on Malaria Elimination*. San Francisco April 2009; available at: www.malariaeliminationgroup.org

Friedman, M. 2002. *Capitalism and Freedom*. Fortieth Anniversary Edition. Chicago/ London: University of Chicago Press.

Hjulmand, K. 1997. *Det umuliges kunst: Politikog den politiske forbruger* (The Art of the Impossible: Politics and the Political Consumer), esp. ch. 2. Copenhagen: Jyllands Postens Erhvervsbogklub.

Kant, I. *Introduction into the Metaphysic of Morals*. I., *The Relation of the Faculties of the Human Mind to the Moral Laws*, available at: http://etext.library.adelaide.edu.au/k/kant/immanuel/k16m/k16m6.html

King, M. J. 2001. 'Sustainability: advantaged or disadvantaged? Do organisations that deliver value to all stakeholders produce superior financial performance?' *Journal of Corporate Citizenship*, 3 (Autumn): 99–125.

Koh, Hian Chye and Boo, El'fred, A. Y. 2001. 'the link between organizational ethics and job satisfaction: a study of managers in Singapore', *Journal of Business Ethics*, 29 (4): 309–24.

Larsen, T. and Sørensen, M. 2001. 'Top leaders boycott unethical companies'. *Borsens Nyhedsmagasin*, 1: 14ff.

Leisinger, K. M. 2007a. 'Corporate philanthropy: the top of the pyramid', *Business and Society Review*, 112 (3): 315–42.

Leisinger, K. M. 2007b. 'Capitalism with a human face'. *Journal of Corporate Citizenship*, 28 (Winter): 113–32.

Leisinger, K. M. 2009. 'Corporate responsibilities for access to medicines', *Journal of Business Ethics*, 85 (1): 3ff.

Leisinger, K. M. and Schmitt, K. M. 2003. *Corporate Ethics in a Time of Globalization*. Colombo: Sarvodaya Vishva Lekha Publication.

Luhmann, N. 1999. *Die Gesellschaft der Gesellschaft*. Suhrkamp. Frankfurt am Main, 2. Auflage, pp. 396 ff.

Mackenzie, C. 1998. 'The choice of criteria in ethical investment', *Business Ethics A European Review*, 7 (2): 81–6.

Moore, G. 2001. 'Corporate social and financial performance: an investigation in the UK supermarket industry', *Journal of Business Ethics*, 34: 299–315.

Murphy E. 2004. 'The best corporate citizens perform better financially', *Business Ethics*, 16 (2): 8–13.

Pruzan, P. 2001. 'Corporate reputation: image and identity', *Corporate Reputation Review*, 4 (1): 50–64.

Ruggie, J. 2008. 'Protect, respect and remedy: a framework for business and human rights'. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. Available at: http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf accessed 16 March 2011.

United Nations. 2004. *The Global Compact: Who Cares Wins. Connecting Financial Markets to a Changing World*. New York: United Nations. Available at: http://www.unglobalcompact.org/docs/news_events/8.1/WhoCaresWins.pdf accessed 16 March 2011.