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Abstract

The shareholder focused, profit maximisation rationale of the modern firm, which is based overwhelmingly on US values, now faces social, resource based and environmental limits. Responsibility and risk awareness are challenging profit and growth as corporate values

NEW CAPITALISM IN THE 21ST CENTURY

By Dr Andrew Clarke*

The shareholder-focused, profit-maximisation rationale of the modern firm, which is based overwhelmingly on US values, now faces social, resource based and environmental limits. Responsibility and risk awareness are challenging profit and growth as corporate values.

The word 'new' invariably adds the gloss of innovation to any field in which it is used. New politics, new federalism and new capitalism; these are just some of the key contexts in which the term is being used in the new century, and which were adopted in the last years of the former century.¹

New capitalism

Perhaps the most interesting emanation of the 'new' prefix is new capitalism, with its sub-set of new entrepreneurialism. The terms are so fluid that they are not yet 'terms of art', and still generate as many questions as answers. In particular, are new capitalism and new entrepreneurialism co-extensive, or separate and stand alone concepts? We could posit that they are an emerging part, or species, of the 'new economy' model. This model was characterised in its first phase in the mid to late 1990s by the explosive use of new technologies in the commercial context: email, e-contracting, e-commerce, and the internet as a ubiquitous information and marketing source. These key components of this new paradigm are now entering their second phase, as the memories of the internet tech-wreck bubble of 2001 recede.

The phase currently emerging in this field of commercial endeavour is more attuned to 'soft' skills; it is about communication and relationships and good governance with a necessary focus on corporate social responsibility and triple bottom-line (commercial, social and environmental) reporting. There is

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¹ 'Newness' then was heralded by 'New Labour' sweeping to power in Britain in 1997. New Labour remains in office, albeit in a somewhat jaded form. New PM Gordon Brown has indicated that the prefix 'new' is to be unceremoniously dropped. In the Australian context, 'new federalism' is a putative policy framework put forward by a putative Australian Prime Minister, Treasurer Peter Costello. It is rebuffed as a form of top-down centralism, which is inferior to the current model of co-operative federalism moulded by Prime Minister Howard and the six State and two Territory Labor governments in the decade-long praxis since 1996.

an overwhelming need for firms and businesses, and the people who run them, to be connected and to be responsibly engaged with the wider contexts in which they operate. The search, it seems, involves nothing less than the striving for meaning in the pursuit of money-making in the new century. Nowhere is this endeavour more evident than in the sudden and ubiquitous acknowledgment that business must embrace climate change strategies. Recently, for example, hitherto greenhouse corporate skeptic, NewsCorp, announced that it would greatly reduce its environmental impact and look to be 'carbon neutral by 2010, slashing its annual carbon footprint of 641,150 tonnes of emissions to zero'.²

The search for a new business paradigm was also heralded by the recent news that the world's second wealthiest person, fabled US investor, Warren Buffett, is to give away something like US \$31 billion to a foundation run by the world's wealthiest couple, Bill and Melinda Gates. Of course, philanthropy is not new, and big philanthropy in particular, has a proud heritage in the US.³ The most famous 19th century philanthropist was Andrew Carnegie, the Scottish-born shipping and steel magnate, whose donations in terms of their percentage of then GDP even outweigh Mr Buffett's efforts.⁴

The big difference with contemporary gift giving is the vastly more complex and challenging commercial context in which firms now operate. The Carnegie legacies were made in the early years of big capitalism and the phenomenal growth of large companies, where the trajectory of business included exponential and unlimited growth. Philanthropy in the 20th century operated largely in the shadows cast by the Fordist economic model, when the power of companies was little questioned, and social concerns were peripheral.

21st century gift-giving and new business models

The Buffett legacy and the NewsCorp change in strategy, on the other hand, are made in completely different corporate and political times. Corporate law theory is today as much about social theory and political power, as it is about legal principle and the profit motive (motif). It centres on stakeholders, rather

² Rosslyn Beeby, 'Mystery of Murdoch's back-flip on climate change,' *The Canberra Times*, Saturday 12 May 2007, Forum B5.

³ There have been several arguments proffered on why the US market excels at this activity. Why is this the case? Tax? Something more; a particular national *esprit de corps* perhaps?

⁴ Robert J Shiller, 'Do good now, die later,' *The Australian Financial Review* (Sydney) 21 July 2006, 11. The Buffett legacy also poses the question as to the limits of wealth and the meaning of money. When does its mere accumulation lose its interest and fascination for its protagonist champion?

than merely shareholders. We have moved from a simplistic notion of shareholders as owners of firms, to stakeholders as participants in the business, and as legitimate claimants seeking to hold the firm to account, in terms of its social and environmental credentials. The environment is suddenly a game changer for business, as green and responsive models of doing business are tested in new fields of endeavour, such as media and electricity generation. The input of companies as important societal hubs will be more sharply focused than ever by the new perspective, as they negotiate new relationships with governments. As was recently noted:

Business is, by its very nature, decisive. Democratic government is inclusive. Governments like to talk the talk but they are built on a political process that must manage a range of constituencies and ideologies.⁵

In California, for example, the State government has adopted emissions standards and greenhouse gas reduction targets ahead of its national counterpart. The new business paradigm is changing the dynamics of US federalism, and similar evolutions can be expected in Australia.

End-games or new models?

The Buffett gift-giving context also calls into play a series of complex end-games, and theoretical speculation concerning them. Francis Fukuyama, for example, heralded the best known of these in the early 1990s, in the wake of communism's literal, figurative and architectural collapse, when he wrote of the *The End of History and the Last Man*.⁶

In the short time since then, we have become accustomed to, and unquestioning of, the ubiquitous use of the prefixes 'new' and 'end.' For example, we now somewhat begrudgingly accept that we live and drive somewhere towards the 'end' of the oil age, and are a long way removed from the heady days of cheap petroleum on which early Fordism of the new 20th century accelerated. The 'capitalism and oil' economic model has been predicated upon the twin premises of endless supply and endless demand. Unlimited possibility was the keystone and critical component of the resultant entrepreneurial capitalism.⁷

⁵ Matthew Warren, 'Capitalism clears the air,' *The Weekend Australian* (Sydney) 12-13 May 2007, 13.

⁶ Francis Fukuyama, *The End of History and The Last Man* (Penguin, London, 1992).

⁷ John Parkinson, Andrew Gamble and Gavin Kelly (eds), 'The Politics of the Company,' in *The Political Economy of the Company* (Hart Publishing, 2000) 27. An example of the hostility is the quote of Thilo Bode, a Greenpeace International director, who has said that 'the

Opposed to this notion is the argument that new green business models provide a whole new set of corporate opportunities and wealth building. The concepts of 'green' and 'capitalism' can unite into a new hybrid model, rather than be necessarily in conflict.⁸ For example, in the context of environmental concerns, the World Bank has concluded 'that pollution havens have failed to materialise'.⁹ Instead, what has occurred,

is a market for un-polluting. The World Bank estimates \$2.7 billion (\$3.3 billion) worth of carbon offsets were sold last year, abating 374 million tonnes of carbon dioxide emissions.¹⁰

In its wake, some US legal scholars went on to extrapolate from Fukuyama's thesis about wider historical imperatives, and to proclaim the end of firm or commercial history as another US triumph. For example, Harvard's Henry Hansmann and Rainier Kraakman, have gone so far as to suggest that we have reached the end of corporate history, because the US shareholder model has proven itself pre-eminent.¹¹

The Hansmann and Kraakmann argument is a specialized version of Fukuyama's argument that, in simple terms, the collapse of widespread communist political practice represented the final emergence of a sole global superpower, the US, such that its system of political governance would become globally hegemonic. And, so it follows that the US's corporate governance - ie, its 'politics of the firm' regime, seen as a sub-species of its broader political jigsaw - would assume pre-eminence. Hansmann and Kraakman pointed to the shareholder driven values which have made capital markets more like the US in the last decade.

That was then, only a few short years ago. Now we read about peak oil, and the accompanying end of the oil age. The finality of the oil age is rapidly seeping into the lexicon as a *certain* event, not a mere possibility, and only its timing and exact nature, are at this point, unknown. We take into account its demise, just as we factor in the end, sometime this century, of US economic

modern economy is a fire-breathing vampire of petroleum that is slowly cooking our planet.'

⁸ Cassandra Wilkinson, 'The right steps can't be left to the greens' *The Weekend Australian* (Sydney), 12-13 May 2007, 22.

⁹ Wilkinson, above n 8.

¹⁰ Wilkinson, above n 8.

¹¹ H Hansmann and R Kraakman, 'Towards a Single Model of Corporate Law?' in Joseph A McCahery, Piet Moerland, Theo Raaijmakers and Luc Renneboog (eds), *Corporate Governance Regimes: Convergence and Diversity* (2002) 56-82.

and political hegemony. As a result, the narrative of the modern firm (based overwhelmingly on US values) needs increasingly to negotiate innate social, resource based and environmental *limits*. Responsibility and risk awareness have replaced profit and growth as totemic corporate values. Awareness of context, of competitors, of customers, and of commerce tempered by broader responsibility, has become the heavily networked three-dimensional structure through which firms work. This *zeitgeist* has replaced the simplistic one-dimensional shareholder fiction championed in the 1960s by US scholars such as Milton Friedmann¹² and prolonged by Hansmann and Kraakman.

Taken together, these limiting devices for firms herald a new form of corporate awareness. Firms, even the largest of them, are not immune from the society they operate within. They form part of the habitat, and are connected to a larger set of forces and dynamics, often somewhat simplistically captured under the banner of globalisation. The stark point for firms and for workers is that globalization has been argued to carry within it, fundamental changes about the nature, role and existence of work. As Robert Shiller notes:

Insecurity about jobs is a defining characteristic of our age. Two worries arise most often: globalization, which makes jobs migrate to poorer regions; and computer technology, which can make them disappear altogether. These worries plague people of all incomes, ages and all nations.¹³

This analysis is in line with John Dixon's assertion that,

Much of the discussion of these globalization forces has been framed in economic and technological terms, with debate often being centred on who are, or should be, globalization's winners and losers.¹⁴

However globalisation as a difficult conceptual framework has also resulted in increased environmental awareness. For example, Wilkinson notes that:

One criticism of globalisation is that there will be a 'race to the bottom' on environmental standards. In fact, few big corporations have fled stable government, skilled workers and public infrastructure to defile the developing world.¹⁵

¹² See, for example, Milton Friedman, *Capitalism and Freedom* (Chicago Press, 1982).

¹³ Robert J Shiller, 'Human Redundancy has barely begun' *The Australian Financial Review* (Sydney) 19 March 2004, 10.

¹⁴ John E Dixon, *Responses to Governance: Governing Corporations, Societies and the World*, (Westport Connecticut: Praeger, 2003) 167.

¹⁵ Wilkinson, above n 8.

Decision-making for firms, just as for wealthy individuals, has become more complex, more challenging and more elusive. As recently retired WA Premier, Dr Geoff Gallop puts it, 'life needs to be meaningful, as well as productive and relational'.¹⁶ This sentiment captures some of these paradigm shifts in why firms do business today, and how the business landscape will inevitably contract and become more complex and challenging. As Kendall & Kendall, for example, note:

The view that the purpose of an organisation is solely for making profits is, in this day and age, very limited and in many ways idealistic. The corporation has other obligations besides those to its shareholders. Indeed, the shareholders must share in the responsibilities the company has towards its other stakeholders. 'Corporate Social Responsibility' is now the keyword. This means not just abiding by the local laws and regulations and so on, but active support and involvement in the individual communities in which the company is an important wealth and employment generator.¹⁷

The end of US hegemony in the Asian century?

So, does the Buffett gift-giving and the Newscorp change of tactic herald a new way of doing business, or merely the final chapters of extraordinary entrepreneurial careers? In all likelihood, 'meaning seeking' on the Buffett scale will continue to be a peripheral, wealthy person's aim; ultimately, it will not change mainstream commerce, as much as the imperatives outlined above.

What we can safely conclude is that the various prefixes, 'old,' 'end' and 'new' will remain central. For example, old Fordism is in the process of giving way to new IT-driven, socially responsible models of doing business. Fukuyama's end of history, and Hansmann and Kraakmann's end of the firm, theories already appear decidedly shaky. Fundamentally new ways of doing business are emerging; it just so happens they are no longer US-dominated. As Dixon notes, focusing on a simplistic default or US-version of globalisation,

hides, however, what is perhaps the most significant, and potentially enduring, development: the creation of new forms and patterns of relations and interdependencies between the state and non-state policy actors in international arenas.¹⁸

¹⁶ Paige Taylor, 'Political life so shallow, says Gallop' *The Australian* (Sydney) 31 July 2006, 3.

¹⁷ N Kendall & A Kendall, *Real-World Corporate Governance: A Programme for Profit-Enhancing Stewardship* (FT Pitman Publishing, London, 1998) 64, 17.

¹⁸ Dixon, above n 14, 167.

A clear example of the new paradigm noted by Dixon is the fact that the US behemoth, Wal-Mart, is, after many years of compounding success, now making fundamental changes to its business model, to accommodate Chinese cultural and social norms. For example, the firm has for the first time anywhere in the world, allowed trade unions at its just opened store in the southern province of Fujian¹⁹ and, more importantly, sanctioned the establishment of a Communist Party committee at its new store in Shenyang, in the north-east of China.²⁰

New commerce in the 21st century looks set to display a distinctly Asian emphasis, just as US commercial values dominated the 20th. The fascinating point will be to see whether the emerging economic superpowers of the 21st century, such as India and China, also produce their own versions of grand-scale philanthropists, such as Andrew Carnegie and Warren Buffett, and how, as they grow, they embrace emerging green models of investing capital and carrying on business.

¹⁹ Rowan Callick, 'Wal-Mart allows first union shop in China,' *The Australian* (Sydney) 31 July 2006, 12.

²⁰ Richard McGregor, 'The party comes to Wal-Mart in China,' *The Weekend Australian* (Sydney) 26-27 August 2006, 41.