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Mandating Benevolence:
Can Companies Be Incentivized to Do Good?

September 2019

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In September 2015, the United Nations General Assembly introduced the Sustainable Development Goals, with the aim of addressing global issues such as economic inequality, poverty and climate change. While we have seen progress in the last four years, it is evident that we still have a long way to go when it comes to meeting these goals. In order to achieve them, all sectors of society must unite in working towards a more equitable, sustainable, and peaceful future.

According to the United Nations Development Program, achieving all 17 of the Sustainable Development Goals will require between $5 trillion and $7 trillion worth of investments. Unlocking this capital and closing the funding gap that currently exists will require the private sector to be an active participant in working towards the sustainability of the planet.

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While many areas of the private sector — including financial institutions, investors and the media — have roles to play in the struggle to achieve these goals, this paper will focus on the role of the corporation — a private sector actor. Corporations, on the one hand, are often thought to have a fiduciary duty to maximize profit for shareholders in the short term. On the other hand, they may have a variety of motivations to act in ways that benefit wider society. While there are potentially many ways to incentivize corporations to act for the betterment of society, I have identified three key actors who each play a critical and specialized role in influencing the behavior of companies — government, investors, and consumers.

Governments' Role

Governments are unique in their ability to implement laws and regulations that can mandate corporations to behave in a specific way. They also can confer benefits on corporations that neither investors nor consumers can provide. A pertinent example is their ability to provide tax incentives and related benefits. Governments can, for example, incentivize charitable giving by corporations by allowing companies to deduct donations made to charities from their taxable income before paying tax. Certain countries have already implemented this policy, such as the United Kingdom and the United States.

Moreover, government regulations that prohibit certain harmful behaviors are plentiful. Common examples would be regulations that limit pollution or laws that prohibit anti-competitive behavior. Less common, though potentially equally powerful, are government regulations that attempt to mandate beneficial behavior by corporations. One example of a government mandate designed to encourage firms to act in the interests of society is a requirement that firms practice Corporate Social Responsibility (CSR), a concept whereby companies integrate social and environmental concerns into their business models and their interactions with shareholders. CSR is often described as a method by which a company achieves a balance of "economic, environmental and social imperatives." In fact, many companies already incorporate CSR into their business models, and several countries provide benefits for companies that do so. In 2013, India went further, becoming the first country to make Corporate Social Responsibility mandatory through an amendment to the Companies Act which requires large firms with revenues exceeding 10 billion Rupees (USD$145 million) to spend at least 2% of their pre-tax profits on CSR.

The purpose of this law is to incentivize corporations to undertake a wide range of socially beneficial activities — either directly or through collaborations with non-profit organizations. However, some critics are skeptical of the idea of "forced philanthropy" arguing that it leads to tokenism at best and in many cases to corruption as firms seek ways around the law. In India, while donations from corporations to charities undoubtedly increased, from 33.67 billion Rupees (USD $490 million) in 2013 to approximately 250 billion Rupees (USD$3.6 billion) in 2016, this does not necessarily indicate the policy's success. According to *The Guardian*, 52 of the country's largest 100 companies failed to comply with the law and were not held accountable for failing to do so. In addition, some companies that had technically complied with the law found loopholes and ways around the law, such as donating the required amount to a charity which then returned the money after keeping a small commission. Thus, it is important to recognize that, even when something is written into the law, it is not always put into practice, nor is it always feasible for it to be enforced, making this a significant weakness for government policies and regulations as means to incentivize companies.

Benefit Corporations are companies whose charter documents enshrine legal obligations committing them to "higher standards of purpose, accountability and transparency."

A unique way in which some countries, most prominently the United States, are attempting to incentivize corporations to integrate social and environmental practices into their business models is through encouraging companies to apply to become Benefit Corporations. Benefit Corporations are companies whose charter documents enshrine legal obligations committing them to "higher standards of purpose, accountability and transparency." Firms that are recognized as Benefit Corporations are held accountable not just to their shareholders, but to their employees, the environment, and the wider community. Because firms take on binding commitments as part of registering as a Benefit Corporation, they are legally assuring both their investors and their customers of their dedication to their mission and to the values that they champion. Government endorsement of Benefit Corporations includes establishing the legal framework for this new form of corporation and sometimes also includes certain preferences over ordinary corporations.

Another form of incentive that the government can offer is to make available subsidized public funding at a low cost (for instance, by way of a low-interest or zero-interest loan) or at no cost (by way of a grant) to be used by corporations to meet certain specified social needs of the community. In the United States, the largest example of this is the provision of low-cost loans for the development of low-income housing. Grants and low-cost financing have also been made available as incentives for corporations to move offices or other facilities to neighborhoods that need revitalization. This practice, which has been pursued on an ad hoc basis for a while, has now been formalized in the United States through the creation of "Opportunity Zones."

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Opportunity Zones were signed into U.S. law in 2017 and aim to use tax incentives to encourage investment into less developed areas. These incentives promote development and investment within areas that would otherwise be left economically disadvantaged as companies and venture capitalists tend to channel most of their money to major cities, leaving significant "untapped potential" in many other regions. However, due to the relatively recent implementation of this program, it is difficult to assess whether the plan has leveraged investment in areas that really need it and whether long-term investments into these communities have brought about substantial change.

Another unique incentive implemented by the United States Patent and Trademark Office in 2009 was the Green Technology Pilot Program, which was formed to expedite applications pertaining to "environmental quality, energy conservation, development of renewable energy or greenhouse gas emission reduction." The initiative was largely heralded as a success for its role in allowing "innovators in the green technology sector to bring inventions to market more quickly" and to "accelerate solutions to environmental challenges, while also growing the economy and creating new jobs." According to the USPTO's 2012 Green Petition Report Summary, the USPTO granted more than 3,000 petitions for participation in the green technology pilot program and issued some 1000 patents in fields related to green technologies. While the program has since been replaced by the Prioritized Examination (Track I) program and the accelerated examination program, the program was largely successful in achieving its goal of encouraging innovation and investment in green technologies for the betterment of society.

Despite their best efforts, many government incentives are still limited, few and far between. This is because governments that have the largest gaps to bridge to achieve the development goals are often less developed nations which lack the fiscal resources to meet public spending needs let alone incentivize the private sector. In other words, the governments would much rather use tax revenue to meet social needs themselves rather than offer corporate tax benefits to incentivize corporations to meet those needs. Additionally, some may argue that with so many urgent calls on government expenditure, should support for corporate charitable practices be a high priority? Is incentivizing corporate investment, say, in clean energy more important than spending funds to improve life-saving capabilities at public hospitals? The thought here is that priority should reflect urgency. Yet, what this argument fails to recognize is that when governments adopt this attitude, all policies become focused on the short-term, failing to come up with robust, long-term solutions to complex issues that can't be solved overnight. Incentivizing firms to act for the betterment of society rather than for short-term economic gains may seem costly and of a low priority now, but these investments are necessary to ensure a sustainable future for a country and its citizens.

Investors as a Force for Good

Apart from governments, investors are another group with the ability to influence companies to do good. Investors are traditionally defined as an individual or an organization who allocates capital with the "expectation of receiving financial returns." Interestingly, in recent years many investors are beginning to shift their goals from purely receiving financial returns to receiving these returns while also promoting social welfare. This can be seen through the rise of Socially Responsible Investing (SRI); the consideration of Environmental, Social and Governance (ESG) factors in investment; and most recently, the emergence of Impact Investing.

According to the World Economic Forum, a significant portion of major institutional investors are already integrating ESG factors into their investment strategies, at least to some extent. The 2016 Global Sustainable Investment Review reported that $22.89 trillion worth of assets were "being professionally managed under responsible investment strategies" worldwide, up 25% from 2014. SRI focuses on avoiding investment in corporations that are deemed to have socially undesirable characteristics, for example, companies that pollute unduly, produce demerit goods such as cigarettes or alcohol, or mistreat workers. Other forms of SRI focus on investing in companies with "best in class" social or environmental sustainability records for their industry — so, for instance, investing in companies with a relatively low carbon footprint in their product supply chain. Impact investing goes one step further. Impact investments are investments made in companies whose mission is explicitly to create some positive social and/or environmental impact — by, for instance, providing clean energy, affordable education or access to healthcare to underserved communities or by undertaking sustainable agriculture.

The impact investing space has been steadily growing over the last ten years; however, if it is to grow to a scale at which it can really move the market, it will have to achieve widespread adoption among institutional investors — this would include pension funds such as CalPERS, sovereign-wealth funds, and insurance companies. To successfully meet the sustainable development goals, institutional investors, which account for a significant portion of investment in public companies, must impel corporations to act in a socially responsible way.

Investors arguably have the greatest ability to influence a company to act sustainably when it is still starting out and needs capital. Young, growing companies require capital from equity investors to develop and expand, and are, therefore, much more beholden to their investors and shareholders. If investors refuse to invest in a firm that is just getting off its feet unless it incorporates ESG, for example, into its operational fabric, this is arguably the greatest incentive for the firm to do so. Additionally, investors can influence a company's decisions through the exercise of their voting rights as shareholders. Shareholders can use their voting power to influence corporate policy by voting onto the board of directors members who support sustainability and by proposing, and supporting, shareholder resolutions on sustainability policies. "Activist investors" exercise this voting power to encourage corporations to act in a way that they believe is best for both society and — in the long run — for the company and its shareholders.

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The Power of Consumers

The third, and arguably the most important group of influencers, are consumers. Businesses will produce goods and services when they believe a market for the products exist. Put simply, if consumers indicate that they are willing and able to pay for a certain product, then companies are most likely going to begin to produce or increase production of those goods or services. The same logic can be applied to incentivizing a company to act more ethically. If consumers demand goods and services that are produced in a sustainable, ethical manner, businesses are likely to respond to this demand by producing products of this nature. While this interaction between consumers and businesses has existed for as long as transactions have taken place, the development of technology and the introduction of social media has led to a significant shift in the relationship between consumers and businesses.

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In the past decade, social media platforms have developed from networking sites to robust instruments to foster communities to bring about social change. Consumers can now directly communicate with companies through various social media platforms, engaging with them in an inherently personal and unprecedented way. While critics of social media sites argue that they provide solely trivial information, and lack the credibility that large organizations can provide, there are several notable examples of social media sites bringing about tangible change. The recent Fridays for Future movement, inspired by Greta Thunberg's August 2018 protests demanding action against climate change, largely gained traction due to Greta's ability to share and highlight the cause she was championing with a wider audience. Greta credited social media for its large contribution to her movement, stating that "that is how I first got attention." Moreover, in 2018 the #MeToo movement grew into an international phenomenon, with social media became an invaluable tool for victims of sexual assault to share their stories and for supporters to demand justice for sexual assault victims. This ultimately resulted in at least 200 men facing charges after these public allegations of sexual assault, and in several cases their companies had to bear the burden of their act.

These events, among many others, have demonstrated the leverage that social media gives the public and shows how for the first time, businesses can be held to a higher standard by consumers. Individuals and groups are recognizing that social media can be used to find people who care about similar issues in order to organize social and political movements. With the new generation of customers being those who are having to live with the negative ramifications of previous generations' actions — such as global warming, deforestation and pollution — consumers are more concerned about a company's commitment to sustainability than ever before.

When companies act in ways that disregard the environment or individuals in favor of financial benefits, younger consumers have the newfound ability to hold these companies accountable. A recent example was when a video recorded undercover at Fair Oaks Farms' dairy farm in Indiana went viral, depicting visceral scenes of calves being abused and treated inhumanely. The video was shared across social media, with hundreds of thousands of individuals expressing their disgust and horror at what they witnessed. The ability for this video to be shared across multiple networking sites and people's ability to express their thoughts on the issue on a public platform, removed any chance the Fair Oaks Farms had at maintaining their brand or customer base. While the Fair Oaks Farms incident is an extreme case, it serves to represent the capacity of social media to inform millions, generate discourse and shape public opinion in a way that few organizations, groups or individuals can.

Conversely, if consumers support a company's mission, that offers an incentive for the company to continue to act the way they already are and has the potential to inspire other companies to meet this growing demand. An example of a company that many consumers support for its mission is the apparel company 4Ocean, which pledges to remove "one pound of trash from the ocean and coastlines" for every bracelet purchased. The company has gained popularity in the past year, with consumers actively purchasing the bracelets in support of the company's mission. According to Mike Marcellin, CMO of Juniper Networks, an engineering firm, "People are looking for a worthy purpose or vision that they can believe in." This thinking resonates not just with consumers but with employees as well. When employees feel they are working towards a goal that has a positive impact on society while also receiving financial returns, they are much more likely to be motivated and productive.

While consumers are arguably those who have the largest hold over companies, particularly in today's interconnected social media age, it is a risk that governments take when they rely solely on consumers to incentivize corporations. Many consumers, particularly in less economically developed countries, struggle to pay for the most basic resources. They can't afford the cost of goods and services that are more sustainably produced. Moreover, many consumers are uninformed about the negative ramifications of supporting certain companies, and as such, will not feel the need to hold certain companies accountable due to this lack of knowledge about the company's unethical or unsustainable practices. This is not to say that these consumers do not care about acting ethically or supporting the environment; they may sometimes just not have the means to do so. Thus, it is crucial that consumers are not only informed by companies of their mission but also of the positive long-term benefits they receive by investing in businesses that aim to benefit the environment, individuals and communities.

Conclusion

Governments, investors and consumers each play a unique role in incentivizing corporations to act sustainably. Ideally, not one, but all three actors should work together to provide multiple incentives for corporations to work towards the betterment of society. In writing this paper, I have realized that while investors and governments are traditionally thought of as having the greatest influence over a company, the real power lies in the hands of the consumer. The consumer is ultimately the foundation for any business, charity or organization's success. With a new generation of socially conscious consumers compounded by the rise of social media, consumers have the best ability to hold companies to the highest moral, ethical and environmental standards.

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This paper was written by Diya Kraybill, a Knowledge@Wharton student fellow in 2019. The author would like to thank David Musto, professor of finance at the Wharton School, and John Squires, chairman of IP and emerging company practice at the Dilworth Paxson law firm, for their guidance on this paper.

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