

Strategic Corporate Social Responsibility in Controversial Industry Sectors: The Social Value of Harm Minimisation

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Abstract This paper examines how it is possible for firms in controversial sectors, which are often marked by social taboos and moral debates, to act in socially responsible ways, and whether a firm can be socially responsible if it produces products harmful to society or individuals. It contends that a utilitarian justification can be used to support the legal and regulated provision of goods and services in these areas, and the regulated and legal provision of these areas produces less harm than the real alternative—illegal and unregulated supply. Utilitarianism is concerned as much with harm minimisation as good maximisation, and both are equally important when it comes to maximising welfare (Bentham 1789, 1970; Mill [1863] 1964). Any adequate theory of CSR must, therefore, have the capacity to handle a business that minimises harm as well as those that more straightforwardly maximise good. In this paper we therefore attempt two tasks. First, we argue that the legal but regulated provision of products and services may be better from an overall utilitarian perspective than a situation in which these harmful or immoral goods and services are illegal but procurable via a black market. Porter and Kramer's (2006) strategic CSR framework is then presented to describe how firms in these controversial sectors can act in socially responsible ways. This model highlights the importance of firm strategy in selecting areas

of socially responsible behaviours that can be acted upon by firms in each industry.

Keywords Corporate social responsibility · Harm minimisation · Utilitarianism · Controversial sectors · Regulation · Strategic CSR

It is possible to assume that if a firm is producing products that are harmful to society, the environment or individuals, it cannot be socially responsible. Similarly, providers of services subject to moral debates, such as abortion clinics and brothels, could similarly be accused of failing to be socially responsible. In this paper we examine five controversial industry sectors: gambling, sexual services, alcohol, cigarettes and abortion, and argue that it is possible for firms in these sectors to be socially responsible. We argue that utilitarian theory should be used to determine whether a society should allow the regulated provision of these goods and services. Our paper concludes by arguing that corporate social responsibility (CSR) in firms in controversial sectors, as within other firms, can be understood and analysed by using an extended version of the Porter and Kramer (2006) strategic CSR framework. This model of CSR makes a relevant accommodation and is a realistic and achievable approach to CSR for firms in both controversial and more conventional sectors.

Our focus is upon a group of firms providing goods and services that are lawful in Victoria, Australia, our state and country, but that may be regarded as controversial due to evidence of their social and public health costs, such as gambling (Hing and McMillan 2002), alcohol (Hemphill 2005) and tobacco use (Public Health Association of Australia 2008). We include also brothels (Consumer Affairs Victoria 2011) and abortion providers (Dwyer

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2008) that are legal, but controversial because some see sex work (see Agustin (2005) for a discussion) and abortion (Cannold 2011) as inherently sinful or morally repugnant. Although the nature of the controversy is different in each case, the common ground is that firms in these sectors are all operating in a legitimate arena of moral disagreement. The different bases for controversy—their social or public health costs or their perceived sinfulness—allows description of a CSR model that can be applied to both types of firms, and which enables firms in these industries to have ‘reasonable socially responsible standards’ (to quote the Call for Papers for this Special Issue).

We acknowledge, however, that problems with starting from a position of controversy, health costs or perceived sinfulness include (i) we cannot think of an industry or business activity that is without controversy, (ii) there are social and health costs for the activities of many firms (consider pollution) and activities that we normally engage in (for example, driving, spending long periods working at a keyboard or over-eating) and (iii) individual judgements of sinfulness are similar to individual judgements of good ethics—perceptions differ across individuals and cultures. People also differ in their beliefs on what benefits, and what does not benefit, society (Hellseten and Mallin 2006).

Therefore, Byrne (2011) suggests, ‘a business characterised as being ethically vile may be ... banned by a particular society because of that society’s idiosyncratic ethical norms. Elsewhere, the business... may be tolerated ... e.g., businesses involved in producing pork, distributing marijuana, charging interest on loans, providing sexual pleasure to paying customers, or even torturing or assassinating anyone targeted by a paying client’ (p. 498). We could add to this list those businesses that educate women, produce contraceptives, mine uranium, manufacture and distribute weapons, undertake research on gene therapy, farm animals for meat or undertake a range of other activities. Few business areas can be considered morally ideal (or responsible and non-controversial) in all respects by all observers. For example, legal drugs save lives, but there are criticisms of ‘big pharma’ for its influence on prescribers and reviews of drug efficacy. There are also health consequences of overuse, intentional misuse and diversion of drugs. Computer and video games are potentially addictive but are not generally deemed to be unacceptable per se (Schwartz 2003).

Thus, the discussion is limited to those five areas listed above that, although controversial to some, are legal here. Our paper is a theoretical contribution, and, therefore, our analysis and discussion is also applicable to lawful firms in other areas that are considered controversial. We exclude unlawful enterprises such as piracy (Lansing and Peterson 2011), illegal drug production and distribution, money laundering and illegal operations managed by organised

crime. We also exclude those activities within the nominated areas that could be considered corrupt (see Vogl (2007) for a discussion on corruption). The next section summarises the state of the selected areas in our state and country.

Controversial Sectors in Victoria, Australia: Gambling, Alcohol, Tobacco, Brothels and Abortion

Gambling

An independent report by the Productivity Commission (2010) argues that gambling is strongly regulated in Australia, and State and Federal governments ‘have put in place a vast array of laws and rules about when and where people can gamble, the nature of gambling forms and their modes of delivery, which businesses can supply gambling, and the behaviour and integrity of these suppliers’ (p. 19). On-line casinos are banned, for example, and it is not possible to bet on sporting events that have started, and the government may legislate compulsory pre-commitment on gaming machines (Joint Select Committee on Gambling Reform 2011; Prior Jonson et al. 2012).

The Productivity Commission (2010) highlights that probity is the most important consideration when assessing whether gambling should be allowed and if, and how, it should be regulated. Raising revenue (10 % of State tax revenue comes from gambling), meeting community norms and providing assistance to vulnerable groups are also acknowledged. Additional ‘self-regulatory approaches’ by providers include codes of conduct and duty of care obligations (Banks 2007). Despite this, the official revenue from gambling (excluding from on-line poker and casinos) in 2008–2009 was \$19 billion, or 3.1 % of household consumption. Social costs are concentrated around the 0.7–1.7 % of the adult population identified as ‘problem gamblers’, and include their family members and other significant others, such as employers (Hing et al. 2011). An additional 2.0–3.5 % are directly at risk of ‘moderate risk of harm’ (Productivity Commission 2010) through their gambling, although those around them, such as family members, can bear some cost. Gaming machines take the greatest share of spending (55 %), followed by income from the 13 licensed casinos (18 %), lotteries (12 %) and sports and other wagering (15 %) (Productivity Commission 2010).

Alcohol

The sale of alcohol is regulated by legislation in each State and Territory. Retail sale requires a licence, and planning laws regulate the location of outlets. Legislation in all

states prohibits driving with a blood alcohol reading above a certain level (normally 0.05, and zero for those on probationary licences), and sale to persons who are intoxicated or under the age of 18 (or sale to others to supply them), in some public places and in indigenous communities. Despite this, approximately 8 % of Australians are dependent on alcohol (Teesson et al. 2010) and alcohol sales are approximately \$19 billion/year or 3 % of household consumption (Productivity Commission 2010). Alcohol is an important risk factor for disease, and it has been implicated in birth defects, cases of assault and family violence, alcoholism-related abuse and lower life expectancy (Collins and Lapsley 2008; WHO 2011). Consumption of alcohol is estimated to cost Australian society \$15.3 billion/year in health care, road and other accidents, reduced workplace productivity, violence, crime and for pain and suffering (Australian Institute of Health and Welfare 2011). However, it is also a significant source of income for governments; alcohol taxes and excise raise \$6.1 billion/year (Parliament of Australia 2010). Perhaps this is why the focus of government intervention on alcohol use is preventing intoxication, rather than restricting use across the population, although drinking by young people and use in indigenous communities are recognised as major public health issues (Australian Government, Department of Health and Aging 2011).

Tobacco

State and Federal laws restrict the promotion and sale of tobacco (for a full list of legislation see ASH 2011). For example, tobacco products cannot be advertised anywhere or displayed for sale in stores (with the exception of specialist tobacconists), it is illegal to sell tobacco to people under the age of 18, and it is illegal to smoke in stores, sporting venues, public transport, indoor workplaces, cars carrying children, restaurants or other public places. Tobacco packets must include health warnings and pictorial warnings of smoking-related diseases, and will soon require plain (non-branded) packaging that includes such images (Department of Health and Aging 2011). Sponsorship of events by tobacco companies is also prohibited. Combined taxation on tobacco products is approximately two-thirds the cost of each pack, and contributes approximately 2.5 % of state and federal government revenue (Cancer Council Australia 2011).

Despite this legislation, approximately 17 % of the population is dependent on tobacco (Teesson et al. 2007; Teesson et al. 2010), although this rate has fallen by more than one-third in the past 20 years (Australian Institute of Health and Welfare 2011). Smoking has been nominated as the most significant preventable risk factor for disease in Australia (Mathers et al. 2000), and total smoking-related

costs are now estimated as \$31.5 billion/year (Australian Institute of Health and Welfare 2011).

Brothels

Brothel prostitution was legalised in Victoria in 1984 (Jeffreys 2003). Regulation has taken the form of licensing brothels, and sex workers must be registered, but only those premises employing more than two women need to be licensed, in which case the women themselves do not need to be registered. Consumer Affairs Victoria regulates the legal sex industry and provides information and advice to brothel owners and managers and support and advice to sex workers (Consumer Affairs Victoria 2011). However, there remain problems with people trafficking for sex work (Roth 2011).

Abortion

The Abortion Law Reform Bill (Parliament of Victoria 2008) decriminalised termination of pregnancy and set out guidelines for when abortion can take place. A woman of any age can access an abortion until she is 24 weeks pregnant. Abortion after 24 weeks is legal, but is not commonly performed. Abortions are publicly subsidised by the national health insurance scheme that applies to all citizens. Although they may only be undertaken if there is some danger to a woman's physical or mental health (Parliament of Australia 1998–1999), this is loosely applied. Surgical abortions must be undertaken in public hospitals or in sites registered as private hospitals or day procedure clinics under the *Health Services Act* (Parliament of Victoria 1988). This legislation mandates minimum requirements for the quality and safety of care delivered to patients.

Community views strongly support a women's right to access abortions (Public Health Association of Australia 2005), and it is estimated the outcome of one in four pregnancies is abortion (Victorian Law Reform Commission 2008). Despite this, Catholic hospitals refuse to perform abortions on the ground it is a grievous moral wrong (Cannold 2011), specialist clinics providing abortion services are often picketed, and women are harassed as they attempt to enter their doors (Medew 2011).

Corporate Social Responsibility in Controversial Sectors

To us, CSR exists on a continuum. Like de Colle and York (2008), we believe 'it is nonsensical to define what socially responsible behaviour is on the basis of the particular product that a firm produces' (p. 94), although it is easier

for firms in some sectors to be ‘better’ at CSR than it is for firms in other sectors. We also agree with Porter and Kramer (2006) that ‘the prevailing approaches to CSR are ... fragmented and ... disconnected from business and strategy’ (p. 80). Firms may be socially responsible in many ways, and CSR is not an ‘all or nothing’ situation. An aluminium-producing firm will, for example, always use a large amount of energy. Oil companies collect and refine a polluting material. However, in both cases, firms in these industries are able to be socially responsible in particular areas of their operations.

We are not suggesting exemplary social performance in one area offsets valid criticisms of social performance in another, or that we are particularly sympathetic to the firms in the controversial sectors nominated for discussion. Rather, firms within controversial areas can take some actions that are socially responsible, and they should do so, particularly in those areas that relate directly to business strategy. Evidence for this is provided in a recent paper by Cai et al. (2012), who report (i) CSR behaviours are found in firms in controversial sectors (alcohol, tobacco, gambling, defence-related weapons, nuclear, oil cement and biotechnology), and (ii) that CSR behaviours in these firms are associated with firm value, suggesting that many firms tie their CSR behaviours to business strategy.

What is CSR?

One problem with attempting to discuss responsible standards or CSR in controversial sectors is there is no consensus on the definition of CSR (Shum and Yam 2010; Taneja et al. 2011), probably because it is a normative concept connected to issues that are inherently moral in nature (Wettstein 2009). Freeman and Hasnaoui (2010) further remind us that definitions of CSR differ both within and across countries, and its orientations, meanings, applicability and relevance are also culture- and country-bound (Matten and Moon 2008). Yet an understanding of CSR behaviours requires some conceptualisation and definition of CSR. Rather than assuming that our understanding of CSR is consistent with that of our readers, we suggest a common theme that corporations have responsibilities to society.

The social responsibility framework of Carroll (1979, 1998; Schwartz & Carroll 2003) gives further guidance. It suggests all firms have economic, legal and ethical dimensions. Carroll argues business institutions first have ‘a responsibility to produce goods and services that society wants and to sell them at a profit’ (1979, p. 500). Firms operating in controversial sectors are not excluded from this responsibility. People want their goods and services. Moreover, the financial performance of such firms seems to contradict the ‘bad ethics is bad business’ thinking that

permeates much of the writing on CSR. Gambling, tobacco and alcohol producers and providers are profitable enterprises, as are brothels.

Carroll (1979) also argues that organisations have legal responsibilities, and must operate within the framework of the law. The Australian Corporations Act (Australian Government 2001) stipulates ‘A director or other officer of a corporation must exercise their powers and discharge their duties in good faith in the best interests of the corporation; and for a proper purpose’ (Sect. 181). As mentioned above, this paper focuses only upon those firms that operate with this ‘proper purpose’ within the law.

Carroll (1979) further argues that CSR requires creation of wealth not only in compliance with the law, but also in an ethical manner. It is this dimension of ‘an ethical manner’ that is the core of this paper. Can firms that operate in this sector maintain socially responsible standards? Moreover, if it is theoretically possible, how can it be done?

Ethical Standards in Controversial Areas

Matten and Moon (2008) highlight the role of ethics: “CSR ... entails conformance with the law ... and with ‘customary ethics’” (p. 407). In contrast, Byrne (2011) suggests ‘one might better reinstate the old-fashioned approach to morally bad businesses, namely outright bans’ (p. 500). Such an approach precludes evaluation of issues relating to legal differences and customary ethics, let alone how to determine if a business is ‘morally bad’¹. The ethics of the situation must, therefore, be considered.

Economic theory (Adam Smith 1776) is no help, as it appears to equate ethical behaviour with what society wants, consistent with the law. Clearly, many individuals in our society want tobacco, alcohol, gambling, brothels and abortion, yet others condemn them, ‘making ‘society’s standards’ difficult to pin down’ (Burton and Goldsby 2009, p. 150). Similarly, in Adam Smith’s marketplace, those firms that exist within society’s expectations should prosper more than those that do not. However, the disconnect between ethical behaviour and economic performance (think of organised crime and drug dealing) suggests two things. The first is that ‘regulation is necessary as fewer incentives to act in acceptable ways ... exist’ (Burton and Goldsby 2009, p. 153). The second is that an external standard of ethical behaviour (as suggested by Carroll 1979) should be provided. As Byrne (2011) suggests, in the absence of regulation ‘business ethicists in effect constructed a normative dimension by giving meaning and substance to such previously superficial

¹ It also sidesteps the issue of whether prohibition will result in reduction in the use of the banned goods or service.

concepts as stakeholder theory and corporate social responsibility' (p. 498). Such a normative dimension is problematic if it is not placed within a clear ethical framework for CSR. However, a regulatory framework is also needed.

Stakeholder theory is also deficient for a number of significant reasons documented by Sternberg (1997) and Boatright (2006). First, the theory is incompatible with legal requirements that business has a particular fiduciary duty to shareholders and must prioritize their interests. Second, balancing stakeholder benefits is an unworkable objective as there is no algorithm to prioritise the claims of different stakeholders. Third, the theory undermines the distinction between the private and public sectors, and requires businesses to put aside their profit focus to achieve public good. Fourth, shareholders may be disadvantaged relative to other stakeholder groups, most of whom already enjoy legislative protection of their important interests (e.g. minimum wages, workplace health and safety, fair trading, environmental legislation, etc.). In terms of the focus of this paper the theory is notably deficient when applied to firms in controversial sectors, as it seems to automatically relegate such firms to 'non-responsible' status, whatever their specific actions in particular areas. For example, it would appear that a cigarette company cannot be socially responsible when smoking will cause the death or at least poor health of many of its customers. Similarly, abortion will lead to the certain death of a foetus whom it would be difficult to exclude from stakeholder status in the abortion transaction.

We, therefore, argue that firms should conform to three constraints if they are to be socially responsible and contribute to the welfare of society as a whole. First, there should be appropriate regulation and governance of firm activities. Second, legislation relating to firms should be guided by the principles of utilitarian theory, which uses the 'greatest good to the greatest number' as its benchmark. Third, within firms in controversial sectors (as indeed with all firms) CSR activities and decisions should be integrated with firm strategy. Each of these areas will be discussed below.

Governance of Corporate Activities

Societal governance is 'the various ways through which social life is coordinated' (Heywood 2001, p. 6). Frynas (2010) highlights the need for governance of corporate activities, and suggests that 'current CSR and policy initiatives are entirely insufficient in addressing governance challenges' (p. 163). Although Frynas was referring to oil and gas companies' reluctance to intervene in the countries in which they operate to ensure good national governance

(that is, a politically stable, transparent and corruption-free society), he raises the issue that a narrow focus on CSR has diverted attention from 'broader political, economic and social solutions for such problems' (p. 177). CSR as generally recognised places responsibility for change on the corporation, and this is inappropriate.

Others have warned of the 'myth' of CSR (e.g. Doane 2005), and highlight that companies are political actors who use their influence to pursue corporate objectives. CSR and annual reports have become vehicles for influencing society, rather than 'mechanisms for companies to demonstrate that they were being influenced by their stakeholders' (Henriques 2007, p. 150).

If it is in the interests of a firm to attempt to influence regulation that will affect it, then it can be expected that the firm will do so (Hoffman 2007). Tactics include employing the media, public relations firms and professional lobbyists to attempt to modify legislation or have it retracted (Schaffer and Hillman 2000). Firms also organise into interest groups with the aim of influencing policy, and using political donations to bring into power those whom they believe will be most responsive to their interests (Hillman and Hitt 1999). Paid advertising also helps firms advocate their interests, and influencing technical specifications helps firms and industry bodies to be seen as equal partners in policy shaping, and can lead to negotiation of standards that are favourable to them (Frynas 2010). Indeed, any company that fails to press for advantages to itself could be said to be neglecting its legal fiduciary duty to its shareholders, and in a worst case scenario may risk litigation by aggrieved shareholders.

We are, therefore, left in a situation in which 'Many of the world's largest corporations and business associations actively promote CSR while simultaneously lobbying forcefully for macroeconomic, labour market and other social policies associated with other forms of labour market flexibilisation, deregulation, and fiscal 'reform' that can result in the weakening of institutions and systems of social protection' (Utting 2007, p. 701). In addition, 'despite the very powerful theoretical arguments in support of the market mechanism as a controlling device, current empirical evidence ... suggests that society cannot rely solely on the market mechanism and that additional corporate governance measures are required' (Kirkbride and Letza 2003). 'Cause-related marketing' improves corporate 'reputational capital' by promoting a view of the firm as honest and socially responsible (Richter 2010), but it does not necessarily lead to good corporate behaviour.

External governance is, therefore, required, although it is acknowledged that current legislation of the nominated controversial areas is not perfect. Banks (2009), in reference to gambling laws, suggests that this should not be an argument against regulation (or for regulating totally

against the practice), but an impetus for ‘doing this better’ (p. 11). Litigation and public pressure are also important in achieving appropriate regulation. Similarly, it is acknowledged that multinational corporations are in a position to effectively escape some local (state and national) regulations by ‘playing one legal system against another, by taking advantage of local systems ill-adapted for effective corporate regulation, and by moving production sites and steering financial investments to places where local laws are most hospitable to them’ (Shamir 2004, p. 637). Von Nessen and Herzberg (2011) also highlight several limitations of Australian Company Law in dealing with corporations. However, whatever the differences in regulation across jurisdictions, and limitations within particular jurisdictions, regulation is better than no regulation.

This is particularly the case in controversial business areas. In addition, as Lansing and Peterson (2011) state in their discussion on the business ethics of paying ransom to Somali pirates, a utilitarian approach should be used to guide such regulation to ensure that practices are ‘in the interest of society as a whole’ (Lansing and Peterson 2011, p. 514).

Utilitarian Theory and the Existence of Firms in Controversial Sectors

The first issue is whether firms should be allowed to operate in the identified controversial areas. Our starting point is that pluralistic democratic societies work within a framework of law and regulation enacted to protect citizens’ welfare. Laws are ‘based on and subject to ethical reflection: ethics is both their foundation and their critique’ (Wettstein 2009, p. 146). However, unlike Wettstein, who argues for a justice view, we argue that the primary justification for social and commercial laws and regulations should be of a utilitarian kind (Aguilera et al. 2007); that is, any regulation should produce more good consequences and fewer bad than would occur if the regulation was not in place. There may be groups or individuals who suffer or lose out but, on balance, the overall outcome will have the best net overall benefit.

Society today countenances practices and behaviours which at other times and in other places were, and are, prohibited by law. For example, in our country legal abortions are procurable and brothels are legal. In each case the activities are highly regulated, but the justification for decriminalizing these practices fits the utilitarian model, in which the ethically correct action in any circumstance is the one that maximises positive outcomes and minimises negative outcomes, or has the best net benefit of positive outcomes relative to the alternatives (Bentham [1789] 1970; Mill [1863] 1964). The case for legalised

abortion is that there will be fewer bad outcomes (maternal injuries and deaths) if abortions can be procured legally than if women who do not wish to continue with a pregnancy are forced to procure an abortion illegally (World Health Organization 2005). Legal abortions in industrialised nations are ‘one of the safest procedures in medical practice’ (Grimes et al. 2006, p. 1908). In contrast, illegal abortions are the greatest cause of maternal death (Kahn et al. 2006). Ideally there would be no need for abortion as there would be no unwanted pregnancies. However, that situation, while recognised as theoretically the best choice, is also recognised as totally unrealistic (see Grimes et al. 2006). So Australia, like many other countries, has opted for second best—legalised abortion—over third best—illegal abortion.

This kind of reasoning can be used in justification of many controversial but legal practices within our society. Legal brothels are to be preferred to illegal ones because there is good empirical evidence that they minimise harm (Abel et al. 2010; Jeffrey and Sullivan 2009; Shaver et al. 2011). The harmful effects of a black market in unregulated prostitution include organised crime and police corruption, public health risks from sexually transmitted diseases, social amenity concerns from street prostitution and the safety of (normally female) sex workers. Thus, the government rationale for the legal sex industry in Victoria is

‘Harm minimization ... which aims to protect children ... reduce the impact of sex work-related activities on the community, ensure criminals are not involved in the industry, ensure brothels are not located in residential areas, or in areas frequented by children, ensure no one has multiple interests in brothel licenses or permits, protect sex workers and clients from health risks, protect sex workers from violence and exploitation, ensure brothels are accessible to inspectors, police, health workers and other social service providers, promote the welfare and occupational health and safety of sex workers’ (Consumer Affairs Victoria 2011, *Introduction*).

Legislation requires brothels to safeguard the sexual health and physical safety of their employees by ensuring that condoms are used and security is provided, and sex workers operate with high levels of lighting. The sale, supply or consumption of drugs or alcohol on brothel premises is also prohibited.

Similarly, the heavily regulated but legal sale of cigarettes is to be preferred to the real alternative of a ‘black market’. Their legal provision ensures food and product safety standards and occupational health and safety requirements are met, and organised crime is not involved in their production, sale or distribution. The taxation on cigarettes sold (currently approximately two-thirds of their

cost; Cancer Council Australia 2011) is also an income that can be used on smoking prevention programs and health care, and would not be available if cigarette production and sale were illegal.

In the case of gambling, the Productivity Commission (2010) notes ‘The objective of policy should be the well-being of the community overall. This means measures aimed at addressing the adverse impacts of legalized gambling need to be balanced against the sizeable benefits of gambling for recreational gamblers and the industry’ (p. 3.1). The Commission, therefore, argues a utilitarian public health and consumer policy framework that analyses and reduces detriments provides the best basis for coherent and effective social policies on gambling. Banning gambling is unlikely to be effective, and regulated gambling providers are in a position to undertake strategies for harm minimisation, such as early intervention to detect problems and provide access to treatment, notices that provide patrons with indicators of problem gambling and treatment centres, limiting access to cash within venues and limiting the amounts that can be bet (Hing 2001). Regulated providers can also train staff to identify the signs of problem gambling in customers and subsequently direct them to appropriate support services. They can also be required to provide players with information on the chances of winning and losing, and support for gambling treatment centres (Hing 2001). Such actions are unlikely to occur in unregulated settings that are open to organised crime.

Alcohol consumption, although a problem to some, also does no harm to many consumers. Australians are consuming less of their alcohol from beer (it has dropped from 76 to 43 % of alcohol consumption in the past 50 years), and more from wine (from 12 to 37 % of alcohol consumed) and spirits (12 to 19 %) (Australian Bureau of Statistics 2011a). The dangers associated with the consumption of spirits, especially by young drinkers in what are called ‘alcopops’, is well recognised by the government, which is committed to changing the culture of binge drinking through its National Binge Drinking Strategy (Department of Health and Aging 2010). Wine production supports a large number of small winegrowers and wine makers, as well as many larger firms, and a large tourism industry. To the producers and many others in the alcohol production value chain, such production can be considered a ‘good’ in the utilitarian sense. It can also be a source of enjoyment and is not physically harmful to most of those who use it in moderation. Regulation of the sale of alcohol and funding of treatment programs for those negatively affected by its use may reduce some of the possible costs.

The generic argument supporting legal access to the nominated controversial areas is that the real alternative arrangements would produce even worse consequences. Utilitarianism is just as concerned with limiting the

downside as it is with promoting the upside. In each of the cases outlined above, potentially undesirable practices are legally tolerated because independent statutory bodies within the relevant jurisdictions have judged that provision in a legal and regulated form is preferable in terms of the balance of good and bad consequences to the real alternative, which is that the practices will occur in an illegal and unregulated form. In many cases legislation has been designed to have a deterrent effect, such as the prohibition of tobacco advertising, restriction on places in which smoking is allowed and sale of tobacco products and alcohol to minors. In contrast, the success of these products and services in countries where their provision is totally illegal ‘amply illustrates how demand can create its own supply, often against substantial adversity’ (Wilson and West 1981).

But can legally operating cigarette manufacturers, abortion clinic operators, those involved in alcohol production and sale and casino and brothel owners claim they are socially responsible providers of their particular goods or services? In the next section we present our view of CSR that makes it possible for controversial firms to be ‘reasonably socially responsible’ within the constraints of their industry.

CSR Within Firms in Controversial Sectors

No business can solve all of society’s problems or bear the cost of doing so (Porter and Kramer 2006). Nor can any business meet the different value positions of a great range of groups and individuals. Business will remain focussed first and foremost on profit maximisation, and continue to operate with a singular fiduciary duty to shareholders that over-rides any non-legal duty to other groups. Good corporate governance demands this, and investors will not invest if they do not have assurance that businesses are well managed and profitable (Mallin 2010).

Porter and Kramer (2006) argue that society is best served when a firm selects a social issue that intersects with its particular business interests, and creates ‘shared value—that is, a meaningful benefit for society that is also valuable to the business’ (p. 84). They argue that companies should focus upon the group of activities that ‘Transform value-chain activities to benefit society while reinforcing strategy ... and strategic philanthropy that leverages capabilities to improve salient areas of competitive context’ (p. 89). Companies should be good corporate citizens and mitigate existing or anticipated adverse impacts of the business, but, more importantly, should ‘mount a small number of initiatives whose social and business benefits are large and distinctive’ (p. 88). These strategic initiatives are ends-focussed: a company that wishes to exercise CSR in

this way will attempt to profit maximise and solve a societal problem concurrently. The classic example here is Toyota's development of the Prius hybrid car, which arguably simultaneously reduces pollution and increases firm profits (Porter and Kramer 2006).

Porter and Kramer's (2006) strategic CSR model may clearly be applied to businesses in the controversial industry sectors which are the focus of this paper. This can occur in two ways. In the first, the existence of the firm will reduce social problems associated with illegal provision of the goods or service. In the second, the firm will undertake activities that benefit some elements of society whilst reinforcing strategy.

For example, a legal brothel may solve some of the problems associated with the illegal provision of sexual services. It thus has targeted a social problem whose solution may provide it with a competitive advantage in the marketplace; the legally regulated brothel may provide a service that minimises harm in comparison to the alternative of unregulated and illegal provision of sexual services (Consumer Affairs Victoria 2011). Similarly, a legally operating casino or abortion clinic and the regulated alcohol and cigarette industries may provide realistic solutions to the social problems created by illegal or unregulated services, thus 'creating shared value' in Porter and Kramer's (2011) terms. Although it is theoretically possible that banning a product or service may be the optimal solution in terms of harm minimisation, the history of social policy is one that, in general, runs contrary to this. For many years prostitution and abortion were illegal in Australia, and these prohibitions were justified primarily in terms of their deterrent effects. However, research has revealed that prohibition of abortion, for example, does not produce fewer abortions, but greater costs associated with their illegal procurement (Victorian Law Reform Commission 2008).

The strategic dimension of the Porter and Kramer model of CSR requires businesses to produce social goods consistent with their primary purpose of profit maximisation within the law. Thus appropriate regulation is important. Profit maximisation and the provision of a service is, in itself, not enough to make a company socially responsible. Firms in controversial sectors provide a solution to a social problem in their 'core' activity. But, as in more conventional sectors, they should also be good corporate citizens and mitigate existing or anticipated adverse impacts of the business, and seek to provide specific benefits to society whilst reinforcing strategy.

This second element of the Porter and Kramer (2006) model focuses upon ways or means of achieving a strategic goal. The means to be preferred is the one that produces collateral benefits for some other societal group. Most firms could be argued to 'solve a problem within society'—even

one as superficial as meeting a perceived need for designer shoes. Using this definition alone even those firms that would normally be considered poor citizens because of other corporate actions (for example, aluminium smelters that consume large amounts of energy) could be considered to be socially responsible as they provide a good that solves a construction problem. In order to move along the continuum of social responsibility, firms need to go the next step; they need to strategically seek ways to benefit society. For example, an alcohol production company may produce a solution for reducing pollution by their plant that simultaneously increases production and profits (Galbreath 2011).

The Porter and Kramer model has benefits beyond its ability to accommodate businesses in controversial sectors. Its most powerful feature is that it enables socially responsible actions by any real businesses in the real world. It allows a business to be selective of particular worthy groups in society, particularly those along its value chain, which it is in a position to benefit. Ideally, each business should ensure that all its activities result in 'the greatest good to the greatest number'. But such a strategy may not be profitable, and thus be non-achievable (or non-sustainable). Therefore, *any* action that creates social good by a legally operating firm, whether in a controversial or non-controversial sector, should be seen as preferable to the absence of any such actions by that firm.

Thus, tobacco companies may reward those farmers who produce tobacco with minimum pesticide or herbicide, thus reducing environmental harm. They can work directly with small farmers and local suppliers in developing countries to source the raw tobacco and pay them fairly. They can ensure that manufacturing plants do not rely on wood for curing, as this leads to deforestation. They can ensure that their manufacturing process goes beyond legislative requirements in pollution control where this is not costly.

Gambling venues can provide benefits to their local communities. Many gaming machines are situated in local venues belonging to community and sporting clubs. As many are located in remote or rural communities, they constitute the only social venues available. A proportion of their profits go to the club or sporting organisation involved (Productivity Commission 2010). Venues can, therefore, focus strategically on ways in which they can specifically benefit their local community.

There are opportunities for socially responsible behaviour along the whole of the alcohol value chain from the agricultural production associated with the grape vines, hops, barley, sugar cane or other raw materials, through the manufacturing process to marketing, sales and distribution. For example, Galbreath (2011) reports on the actions taken by a large beer and wine producer to reduce carbon emissions and establish environmental performance targets.

In addition to the specific benefits of particular CSR activities, generic CSR activities can be seen as a form of strategic investment; they differentiate firms and their products by building their reputation and so creating a competitive advantage (McWilliams and Siegel 2001). It now seems almost compulsory for large firms to emphasise CSR in their marketing. There is a collateral advantage to these activities—‘As stakeholders observe a firm’s socially responsible behaviors, they will deem the firm a more favourable party with which to conduct their own transactions’ (Barnett 2007, p. 800). This may explain Husted and de Jesus Salazar’s (2006) finding that both firms and society are better off when firms use CSR strategically. Socially responsible behaviours do not just have direct strategic benefit, but are likely to increase trust in a firm, and so contribute to its long-term interests. This may be a particular strategic opportunity for tobacco companies, which have ‘lost credibility due to their strategy of denying risks and manipulating information’ (Palazzo and Richter 2005, p. 388).

Conclusion

This paper suggests that firms in controversial sectors are able to contribute to the social good in many of the same ways as firms from more mainstream areas. Some social good is better than no social good, and all companies, whatever their sector, should, therefore, be encouraged to find Porter and Kramer’s (2011) ‘shared values’, and strategically build on these to act in socially responsible ways. Moreover, the principles of utilitarianism, harm minimisation and benefit maximisation, should be used to decide if businesses should be prohibited, operate under strict regulation or left to operate without regulation. If society is seriously concerned about aspects of firm actions or their produced goods or services, then it is the role of government to commission appropriate evaluations of the costs and benefits, and regulate if necessary.

Theoretically, we encourage development of models of the characteristics of firms or industries that make them controversial. Our own examples included those firms whose products may have negative social or health consequences (alcohol, tobacco and gambling), and those that may be considered ‘sinful’ (brothels, abortion providers). Byrne (2011) highlights some of the problems of defining firms as socially responsible, and, as touched on in the introduction to this paper, there are similar problems with defining valid dimensions of ‘controversy’. Further theoretical development is, therefore, needed.

In addition, we encourage researchers to empirically examine the role of CSR in controversial industries. Cai

et al. (2012) have done so with a limited list of industries (alcohol, tobacco, gambling, defence-related weapons, nuclear, oil, cement and biotechnology), but this list could be expanded to other areas. It could also be framed using yet to be developed theoretical models of dimensions of ‘controversy’, which would help answer questions such as whether there are intrinsic differences in the CSR behaviours of firms whose products have negative health consequences and firms in industries to which some have a moral objection, and what are the predictors, such as national cultural dimensions, of such behaviours. In addition, although this is a theoretical paper, empirical work could examine the specific strategies of firms in particular controversial areas, whether firm strategies include value-chain activities that benefit society whilst reinforcing strategy, and the predictors and outcomes of such strategies.

In conclusion, we believe that regulated firms in controversial industry sectors can make a contribution to society by solving particular social problems in ways that minimise the harm that would be caused if the industry was unregulated or banned outright. In doing so, their social contribution may exceed that of other mainstream businesses whose contribution to social welfare is trivial or insignificant. However, they can, and should, do more, and select socially responsible actions that are aligned with their corporate strategy. If the societal benefits outweigh societal costs then such firms in controversial sectors may be seen as exercising CSR.

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