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Scepticism, Challenge and Trust in the Boardroom

Trust in business and many companies is at a low level. Despite legislation and codes of practice relating to misleading claims in many jurisdictions, sales and marketing messages and public announcements are often greeted with suspicion. Various corporate communications are perceived as bland and biased, Annual Reports and Accounts are taken with a pinch of salt. Those audited and published prior to companies going into liquidation are invariably produced on a going concern basis and contain forms of wording to suggest any issues mentioned will be resolved.

If investors, customers, employees and other stakeholders are sceptical and sometimes feel disadvantaged because ambiguous material has been issued or relevant information has been concealed from them, what role have executive and independent directors played in this process. Are they complicit or have they also been misled and by whom? Have they exercised the degree of independent judgement and scepticism expected of a competent director? Individually and collectively are they critiquing board papers, questioning assumptions and challenging proposals?

Critiquing Board Papers

Some board papers are presented in such a way as to attribute to them greater standing than they deserve. Introductory comments may suggest that more work has been put into them than is the case. Assumptions upon which numbers are based are sometimes left out, or put in small print and are missed by busy directors. The attached summary of a consultant's report may leave them and certain qualifications out. Board discussions tend to be of what is reported rather than the assumptions behind an underlying investigation or the methodology used.

If directors are to discharge their responsibilities they should approach all board papers with a degree of detachment, objectivity and healthy scepticism. They should look for evidence of whether a document has been produced in a hurry, options have been properly considered and conclusions are balanced and fair. Are there tell-tale signs of bias? Have the root causes of problems been identified and options explored? Has the author of a paper started with a conclusion and recommendation to the board and then assembled evidence and a narrative to support it?

On occasion, what is left out of a board paper can be more significant than its contents. Potentially controversial proposals are sometimes tabled at a meeting rather than circulated in advance to give directors less time to scrutinise them. If positioned late on the meeting agenda there may be insufficient time to assemble a case against. How many directors read the papers again after a board meeting? Most board

members are reluctant to raise concerns after a decision has been taken. Despite misgivings, electronic papers are deleted or filed, while physical ones may be shredded.

Perceptions and Reality

Scepticism is also necessary because one's fellow directors may perceive reality very differently, depending upon their personalities, experience and beliefs. These can act as a distorting lens and in varying degrees influence or determine how a proposal, situation or decision is viewed. A board member who is cautious, conservative and risk averse may assess a proposal very differently from a colleague who is more adventurous, radical and willing to take risks.

When directors collectively recruit as new members of the board people they feel comfortable with in order that they will "fit in", the distorting impact of biased perception can be amplified. It is particularly important that directors are self-aware and acknowledge and address any systematic bias or preference in areas where other approaches and viewpoints might also be valid and deserve to be considered. They should strive to be open-minded and explore alternatives.

Diversity among board members can be conducive of creativity and healthy discussion. So much attention is devoted to gender diversity, that other factors such as age, nationality, personal beliefs, ways of thinking and social and educational backgrounds are often overlooked. A range of profiling tools are available to assess the extent to which a board is homogenous. They can enliven away days. New appointees to a board could be consciously selected to bring in new experiences, introduce complementary viewpoints and increase diversity of perspective and thought.

Understanding Boardroom Games

Some directors play games to get their business past unsuspecting fellow board members. The use of obscure and technical jargon, or introducing a matter as "complex", can deter questions from insecure board members who do not want to appear foolish by asking a question that others may feel is naïve. Has there been a pre-meeting of a cabal of directors to get business through, for example by lining up one or two contributions in support. Words such as "no brainer", "obviously" or "no alternative" may be used in an attempt to close down discussion.

Independent directors should be alert to patterns of behaviour within the boardroom. Are certain executive directors colluding? Have they done deals to support each other's proposals? Are some directors under obligation to others, or keeping in with a CEO because they "know which side their bread is buttered on". Obligations, like loyalties and a

desire to be a “team player”, can cloud judgement. Within a board there may be both overt and hidden rivalries. Some may be content with their current roles, while others are impatient for advancement. Ambitions are sometimes concealed.

Within any group there are likely to be tensions and a certain amount of friction is needed for traction. People have their quirks and their individual likes and dislikes. Some personalities grate while others soothe. Directors should try to avoid self-interests and endeavour to keep issues relating to people and personalities in perspective. They should concentrate upon the merits of proposals and what is in the best longer-term interests of the company concerned. One can sometimes work with those one dislikes if they put the interests of a company first.

Fashions and Fads

Particular scepticism should be devoted to fashionable notions without solid foundations. Many people like to appear current, trendy and “in the know”. They climb aboard band-waggon. They exaggerate and hype developments they are associated with and counsel caution on what is suggested by a rival or someone who is out of favour. They refer to “disruptive technologies” they do not understand in order to appear worldly, without devoting the time that it takes to explore how particular developments, or combinations of them, might impact upon companies for which they have responsibilities. One of two supplementary questions can puncture many a boardroom balloon.

In some boardrooms, bland generalisations and “motherhood” statements abound. Directors try to avoid revealing their ignorance by making responsible sounding statements beginning with “there is not much time to go into detail chairman” or “we need to focus on the bigger picture”. Directors queue up to call for “innovation” without exploring where, when and for the benefit of whom, or exploring its consequences for customers and other stakeholders. Important practical considerations can be avoided by referring to them as “operational matters for the management team”.

The timing of a discussion and of a board response can be critical. One does not want to be too early or too late with an innovation or new offering if customers and the market are not yet ready for it. Some directors have a much better nose than others for when the moment is right to make a move or raise an issue. Communication with key customers, important suppliers and other stakeholders can help to ensure the alignment of priorities, positions and focus.

Raising Sensitive Issues

Competent directors have the courage to raise issues that boardroom colleagues may be reluctant to bring to the table, choose to ignore or sweep under the carpet. Until they speak up, concerns that others may share may remain unaddressed and the negative aspects of a situation might continue. On occasion, people are inhibited from bringing up certain topics by perceived social conventions about loyalty and a desire not to be impolite or not to rock the boat.

On some boards there seem to be “no go” areas, such as the overt criticism of a colleague around the boardroom table. Experienced directors try to avoid charges of rudeness and the triggering of defensive reactions by being diplomatic. Rather than saying a proposal is stupid or wrong, they might ask whether certain aspects have been considered or particular risks have been taken into account. What if circumstances change, costs rise, or a favourable trend stops?

Can one be too diplomatic? What if hints are not taken and warnings are ignored? Some people are risk averse and do not like being in a minority or sticking their neck out. Assessing board colleagues in terms of the extent to which they are secure personalities, confident in their

judgements, independent of cabals and free of obligations to others, might enable a director to identify those with whom concerns can be shared. A senior independent director should be accessible on a confidential basis to worried or unsettled board members.

Conflict in the Boardroom

Questioning, providing challenge and exercising scepticism all take time. They can be frustrating for board colleagues who are happy to “go with the flow” and who just want to “get on with it”. They can make enemies of executive directors whose proposals and reports are probed. Even when this is done diplomatically, other board members may be defensive. They may interpret a genuine desire to understand as evidence of ambition or disloyalty. It may be seen as a suggestion that they have been lazy and/or that they have not been more vigilant.

A concerned director should attempt to understand contending viewpoints and the varying perspectives and experiences that may have informed them. Can one identify or uncover their root causes? What factors or interests do their proponents share? Is there scope for establishing common ground among them? Is there a third way? Are there other options? Who else needs to be involved? Are there individuals who would have the trust of all parties and could recommend a way forward?

If left unchecked, conflict in the boardroom can escalate to extreme and unresolvable levels, directly affecting the quality of decision making and the overall success of an organisation. Understanding the conditions in which sound decisions are made and why conflicts arise between directors is vital if they are to be better managed. The independent nature and standing of the roles of company secretaries and other governance professionals means that they might be able to play a critical role in maintaining a healthy tension at board level and reducing conflict.

Making Time Available

When deciding whether or not to take on a new board appointment one should not assume a united and competent board, or that all significant issues have been or will be resolved. Some differences of opinion around a boardroom table can be evidence of challenge and a healthy diversity of opinions. They may reflect wider divergences of view among the members of stakeholder groups or expert communities. Where their implications could be significant for the future of a company, what is at stake may be too important for a director to go with the flow in the interests of harmony.

Some directors take on so many board appointments that they fail to do justice to their duties and responsibilities. They do not have the bandwidth to make extra time available in the event of crises or to make an effective contribution when further thought and/or additional meetings and consultation may be required. Nomination committees should probe candidates who appear to be overcommitted. A long track record of being on many boards could be an indication that the person concerned is the directorial equivalent of political lobby fodder.

Most boards experience disagreements. Directors need to devote sufficient time to their directorial duties to effectively discharge their responsibilities. Just attending board meetings is not enough. Directors should think about external developments and how they might impact upon a company and whether current goals, objectives, policies and guidelines are still valid. Even a vision or mission statement should not be taken for granted if new possibilities emerge.

Escalation Options

Many directors take a quick board decision as the end of a matter, even if they have concerns. Others are more persistent. When they are

troubled about a situation, one or more decisions, particular people, or systemic bias or other deficiency in how a board operates they look for ways of exerting influence. Do other board members feel the same way? Should one try to meet them or otherwise have conversations between board meetings?

Governance arrangements may provide escalation options. Could and should concerns be raised with a Senior Independent Director? Could procedural matters be raised with a Company Secretary? Should directors use their rights to call for evidence and papers or to seek independent legal or other professional advice? At what point should one dissent, challenge a decision, ask for one's opposition to be recorded in the minutes, or resign from a board?

Much will depend upon the extent to which one trusts board colleagues and has expectations of fair treatment. Will certain players feel threatened? Could one become isolated and excluded? The extent to which one has accumulated credit and respect can also be important. Certain directors question so many matters that they become tiresome in the eyes of boardroom colleagues and are felt to unnecessarily prolong boardroom discussions. The determination and nature of challenge should reflect the importance of what is at stake.

Chairing the Board

Directors and boards need to remember that they and their decisions produce outputs, whether a vision statement or various policies that can impact upon many people and communities, Proposals that are not agreed by them may be deferred or adopted elsewhere. A board decision is needed for draft documents to become approved Annual Reports and Accounts. Where there is concern and distrust, and employees, customers and other stakeholders have a choice, they may look elsewhere.

Board meetings should be chaired in such a way as to ensure there is proper scrutiny and appropriate questioning and challenge. The allocation of time should reflect the significance of an item and its possible consequences. Care should be taken to ensure that directors do not spend too much time staying within their comfort zones, or simply agreeing with previous speakers rather than making new points. A chair should consciously seek a range of views and ensure particular viewpoints are not excluded. Where appropriate, a board should explore options.

Sometimes the routine of an annual calendar of monthly meetings and the rituals adopted by a board can act as a straight-jacket and prevent an item from receiving the attention it deserves. This can particularly be the case if there is a degree of urgency and/or a lack of time for preparation. Some flexibility may be required to ensure that there is timely and informed critique. Effective scrutiny cannot be assumed. Directors must work at it, individually and collectively. ■

Prof. Colin Coulson-Thomas holds a portfolio of leadership roles and is IOD India's Director-General, UK and Europe. He has advised directors and boards in over 40 countries.



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