The State Owned Enterprise Sector and the News Media

State Owned Enterprises are companies.

State Owned Enterprises (SOEs) are one of a number of forms that board-governed government agencies may take. State Owned Enterprises (and government-owned companies[i]) are, however, deemed to be of greatest importance within the group as they may form the greatest risk for the owners (and the greatest financial return) than other forms of governed institutions. The quality of the corporate governance in SOEs is therefore of considerable importance.

A government may see the news media as a means of better informing the community of its business objectives – but it behoves the government to ensure that it has best practice in place in its ownership strategies and in its SOEs lest the media identifies faults and failures.

SOEs are companies, generally incorporated in accordance with the company legislation of the country they are owned in. In some cases, there may also be supporting SOE-specific legislation to strengthen a government's ownership interests. And, of course, there could be additional governance complications if the government does not hold all of the shares in the SOE.

Governance of SOEs

Boards of directors are the owner's agents and, at first look, appear little different from the boards of private sector-owned companies. But there are other pressures on governments not necessarily reflected in private sector boards. These pressures may include a constraint on the extent investments may be made outside non-core business. Another is that the board (and management) need to be aware of the impact poor decisions can have on their political owners.

Of course, the quality of governance should be as high as possible in both public and private sector jurisdictions but this is frequently not the case. Indeed, a government's attention to corporate governance in its own companies can equally lead to improvements within the private sector as it may from the other direction.

A government's own stakeholders may place pressures on board appointments not found in the private sector. At their worst, there may be expectations for governments to reward political allies with appointments to boards, not necessarily consistent with a board's skills needs. Civil servants (whose appointments should be discouraged) may also be appointed as a means of supplementing civil service remuneration. Civil servants may also be placed in a conflict-of-interest situation.

On the positive side, governments have the means to implement positive influences on the boards of their companies. They can require board charters, board codes of ethics which, in turn, demand a level of conformance by their boards and directors. Encompassed in this is board evaluation, long resented in private sector boards in some jurisdictions. Director appointments are an important method for influencing good governance. Besides appointing appropriately skilled and sector-experienced directors, governments have the means of widening the community reflection within boards – sometimes known as diversification. Where private sector shareholders are disinclined to appoint women and ethnically-diversified directors, governments have the power to do both.

The comments in the previous paragraph assume, of course, that there is a will to promote good governance within the relevant government. A well-informed news media can go some way towards encouraging this philosophy.

The SOE Business Environment

Governments need to create and maintain the economic environment in which the SOEs function. Competitive neutrality is a fundamental situation – SOEs should not enjoy protection from competitors, such as tariff protection, purchase obligations by Ministries and other government agencies. Where an SOE has a monopoly, it should operate within a regulatory environment aimed at protecting consumers from predatory and/or monopolistic pricing by any company. And it is appropriate for the media to comment where it identifies private sector business being placed at a disadvantage through an SOE's seemingly having a protection from competition.

It must be incumbent on an SOE that it operates to be as successful a company as comparable companies in the private sector. It is therefore important that the SOE's performance be monitored.

Monitoring the SOE Business Performance

Performance monitoring is as important to government shareholders as it is to those in the private sector. This is much more that a periodic reading of public documents such as annual reports. Sound performance monitoring will be conducted on the shareholder's behalf by appropriately qualified officials or contractors, best based in a unit directly responsible to the Minister shareholder, and not conflicted by being attached to a regulatory or purchasing agency. The unit will work to a prescribed monitoring regime that encompasses the expected financial and economic indicators for the business sector in which the SOE is located. The same unit also manages board appointments, because of the synergy between governance and company performance.

Although the performance monitoring regime's focus will be on business outcomes, because SOEs are government-owned there is an additional duty placed on boards; that of not creating political difficulties for the government. This is not to say that SOEs should be instruments of government political agendas – indeed, they should not – but are expected to be run on fully commercial grounds without creating time-expensive political embarrassments for the government owners. In some jurisdictions, this is known as the "no surprises" rule.

In this area, the news media has an important place. Without a well-informed media, the community can only depend on government and company sourced information. This is not to say that governments and SOEs set out to deliberately under-inform the community but the wider community is not generally literate in the issues of company performance. Indeed, the same may be said of some Members of Parliament although they generally have the means to seek information – if they know what to ask.

What might the media have with which to monitor an SOE?

Most ownership strategies will have a public document that outlines the owner's expectations for each SOE, generally with a rolling three-year focus. Sometimes called the Statement of Intent, this document will outline the SOE's core business (beyond which the SOE should not go, without the shareholder's approval), its accounting and dividend policies. The SOE will be monitored against this "contract". The media will not have access to the SOE's operational reports or its detailed business plans. If made public, the information could give comfort to the SOE's competitors. But the media will receive SOE announcements and annual reports. And a competent media will monitor the business environment the SOE delivers in and should be able to make comparisons with non-SOE providers.

In an ideal environment, media will assign business-skilled journalists to the SOE "desk" for, although there may well be political issues, a business-skilled journalist with a knowledge of corporate governance as well as company performance indicators will better serve the media and its community users.

SOE Board Appointments

As referred to above, board membership is important. Ensuring the SOE is led by appropriately qualified directors is vital to the sound running of the company. In addition to their having the requisite governance competencies, directors should be drawn from industry and skills areas directly relevant to the SOE's business. This applies irrespective of whether the board is single-tier or two-tier. They should be current in their experience and should not have unmanageable conflicts of interest.

A director's first duty is to the company and he/she does not and cannot represent any community or special interest. Nor should an SOE director – or his/her parent organisation undertake work for the company. Rare exceptions may be approved provided there are clear accountability protocols in place, which have the concurrence of the shareholder. A board charter would normally encompass this too.

As director appointments are recorded in the government's Companies Office (or its equivalent) and in the annual reports the news media will know who has been appointed and, if there are concerns, are able to challenge on grounds or competence or perceived conflicts of interest.

Political cronyism may be a concern but it needs to be remembered that all appointments to fully-owned SOEs are made by politicians, for shareholding Ministers are also politicians. The fundamental issue is whether the persons appointed to an SOE board are competent and relevant for that particular business.

It is a generally accepted practice for SOE chairs to be separately appointed, unlike private sector boards, where they are elected by their fellow directors. This need not preclude the board initiating an annual vote of (no) confidence in the chair.

Because boards are appointed by the Minister shareholder, appointing the chief executive to the board has a complication not found in the private sector. That is, if the board wished to remove the chief executive (on say grounds of poor performance) they would also need the concurrence of the Minister to remove the chief executive as a director. Conversely, the Minister's not reappointing the chief executive as a managing director can undermine that appointee in the chief executive role.

There are two schools of thought about combining the roles of chairman and chief executive. In general, this is discouraged in countries based upon the UK governance environment.

Owner and News Media Alliance

Finally, there is merit in the government shareholder regarding the media as an ally in promoting sound SOEs and assisting the media participants to better understand the drivers in SOEs. SOEs can, similarly, encourage the media to become familiar with their operations. This is not merely an issue of transparency but one which can have economic benefits to all parties. A confused media can create costly distractions as Ministers and SOEs seek to resolve badly-reported issues. Periodic briefings of major issues can go some way towards this. In addition, there may be media-oriented "induction" programmes aimed at equipping journalists and commentators with an appreciation of the SOE sector and its drivers.

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[i] These are also incorporated as a company but may not be required to be as "successful as comparable companies in the private sector". That is, the shareholders may not require a comparably commercial return on investment.