Social licence for business
A framework for reshaping the private sector in a post-pandemic world
During the pandemic governments across the globe have stepped in as buyer and lender of last resort for private sector firms, taking on huge debt for future taxpayers. While this support is both welcome and necessary, it should also lead to an urgent conversation about the proper relationship between business and society, exploring ways in which the power of business to do good can be harnessed to help us meet the very significant challenges society faces.

What’s the problem?

For many years, private sector organisations have failed to tackle major failings, including unsustainable financial practices, adverse environmental impacts, and abuses of human rights. These failings have already led to wide-spread calls for changes in the culture and conduct of private sector organisations.

However, the current crisis has thrown these issues into even starker relief, raising questions about the fundamental purpose of business. As governments worldwide step in to provide massive financial support, there is a window of opportunity to reshape the relationship between business and the state, embedding ethical practices in the private sector.

Key findings

- There is a need to ‘build back better’ post-pandemic.
- Current regulatory moves are insufficient to achieve this.
- Steps in the right direction are being taken ...
- ... but reshaping business-state relations requires rethinking the private sector’s social contract.
- The social licence model could provide the necessary framework.

What is a social licence?

A social licence for business is a requirement that firms act in line with their social purpose. This means that firms must act to bring about social value in the course of pursuing legitimate, profit-making activities. To fulfil the terms of their social licence, companies need to show that they take the interests of stakeholders into account when making decisions about activities. They also need to cultivate awareness of, and take responsibility for, the long-term consequences of their activities.
Conditions on government funding show reforms are possible

In an unprecedented reaction to the economic consequences of the coronavirus pandemic and lockdown measures, governments worldwide have released funds to support struggling businesses via stimulus packages, bailouts, or regulatory changes. These economic support measures have required governments – and taxpayers – to take on large amounts of new debt.

Many governments have attached strings to coronavirus support measures. For example, in the UK, companies accessing bailouts through the Coronavirus Large Business Interruption Loan Scheme are not allowed to pay cash bonuses to executives or dividends to shareholders. In France, the government has attached environmental conditions to the Air France bailout. In Denmark, companies based in tax havens are restricted from accessing support.

Conditions on state support for business can help distribute the benefits among those affected by the crisis, and ensure that businesses manage their environmental, social, and governance risks. By designing recovery plans, governments can steer funding in line with society’s priorities.

We shouldn’t stop here: standard regulation will not bring the change we need

While they are a welcome development, conditions attached to business support schemes will not bring about lasting improvements in the ethical standards of businesses. The current patchwork of conditions that differ across support schemes and jurisdictions has several drawbacks.

• **Regulations are short-sighted.** Today’s support schemes are funded with the money of future taxpayers. But conditions attached to government funding are temporary. They are not well suited to reshape the private sector in the long run.

• **Regulations do not inspire best practice.** Conditions attached to support schemes only apply to companies that participate in these schemes. Environmental conditions might be futile if competitors are not subject to the same conditions. Moreover, businesses might try to find ways around regulations, or follow the letter not the spirit of the rules.

• **Regulations do not change the conversation.** Conditions imposed on business by the government do not encourage social dialogue or strengthen the voices of workers and communities. In fact, current support schemes could exacerbate the power of shareholders over workers.

• **Regulations are complex and inflexible.** Current regulations form a patchwork: different conditions apply to different schemes in different countries. When regulations are too complex, they can become difficult to navigate and possibly delay delivery of government funding. On the flipside, even complex regulation cannot take into account every firm’s individual circumstances, leading to binary rulings in areas where more nuanced decision making is needed.
The Covid Corporate Financing Facility (CCFF)

The CCFF support scheme was launched by UK Chancellor Rishi Sunak on 17 March 2020 and offers financing to larger firms. As of 19 August 2020, a total of £17.53 billion of short-term debt, in the form of commercial paper, was purchased through the CCFF (less redemptions). A total of 65 businesses have issued commercial papers to the CCFF.\(^{15}\)

After receiving initial criticism over lack of transparency, the Bank of England announced that figures and recipients would be published weekly. However, total drawings prior to the publication of the list of participants of the scheme remain hidden.\(^{16}\)

Critics have emphasized the lack of fair and green conditions on receiving CCFF money.\(^{17}\) At least ten companies with links to tax havens or tax avoidance have received money via the CCFF, and three of these are from major polluting industries.\(^{18}\) 26 companies receiving financial assistance through the CCFF have cut jobs or announced plans to make layoffs, totalling at least 42,848 UK jobs.\(^{19}\)

On 19th May, the Bank of England announced that any company wishing to draw from the CCFF with a term going beyond 21st May 2021 must sign a letter committing to restraint regarding senior pay and paying dividends.\(^{20}\) However, this did not apply to those who accessed funds before this date. Whether this condition will ensure that future financing benefits workers remains to be seen. There are worries that, in order to avoid the restrictions, firms will cut costs and repay early, which risks jobs being lost rather than saved.\(^{21}\)
The social licence for business framework: a way forward?

Policy makers have already recognized the need for fundamental reforms. For example, in April 2020, European Commissioner for Justice, Didier Reynders, announced plans for European legislation on mandatory human rights and environmental due diligence. However, fundamental reforms require a shift in the way we think about business. The aim of the research project ‘Reshaping relations between the state and the private sector post-COVID-19?’ is to explore a ‘social licence model’ for business. This model could inform public discourse and underpin new legislation aimed at reshaping the relationship between business and society.

Which reforms would the social licence model support?
Steps towards a social licence framework include:

- **Mandatory implementation of a social licence strategy.** Companies should be legally required to implement a social licence strategy and disclose key environmental, social, and governance risks. Such strategies would look different for different businesses, they are not ‘one size fits all’ – but they should reflect a move away from corporate governance models based on shareholder primacy.

- **A social licence board to broaden the voices being heard.** The terms of a social licence need to be determined in a collaborative and ongoing dialogue with governments, employees, further stakeholders and the broader public. Multinational companies could be required to install an additional board that operates alongside the corporate board, to formulate social licence terms and hold the executive to account for meeting these terms.

- **Identifying and building institutions** to mediate and adjudicate. In order to deal with disputes around corporate governance, institutions should be identified or designed that offer mediation and adjudication. Examples of institutions that offer services along these lines include the Workplace Relations Commission and the labour court in Ireland, and the Enterprise Chamber in the Netherlands. Accountability mechanisms could be guided by the criteria for the National Contact Points for responsible business conduct (RBC).

Get involved in the conversation!

We are interested in hearing your thoughts on these issues. If you have questions or comments, or simply want to connect:

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Endnotes


3 For a call for green economic renewal, see Institute for Innovation and Public Purpose (2020, July 25). The International Labour Organization presents social dialogue as one of four pillars of the Global Policy Package. Where are the Conditions for the Billion £ Bailouts? For a call for better standards of tax compliance post Covid-19, see Taxwatch. https://www.taxwatchuk.org/paying_in_equally/


5 For the blog of the New Economics Foundation, Alex Chapman suggests different frameworks for bailout conditions, depending on size of business and business area. Chapman, B. (2020, May 19). Banks that take bailout loans can’t pay bosses. https://www.smf.co.uk/publications/returning-favour/


7 For example, in the case of environmental conditions for airlines, a worry is that competitors that aren’t subject to conditions will just fly low cost. Catanese, G. (2020, June 19). Strings attached? Environmental conditions and state aid. Global Counsel. https://www.global-counsel.com/insights/blog/strings-attached-environmental-conditions-and-state-aid


18 The Positive Money report also mentions another worry, namely that there is no strong enforcement mechanism for compliance with the commitments.


21 For a call for better standards of tax compliance post Covid-19, see Taxwatch. https://www.taxwatchuk.org/paying_in_equally/#sdfootnote1sym


23 For the blog of the New Economics Foundation, Alex Chapman suggests different frameworks for bailout conditions, depending on size of business and business area. Chapman, B. (2020, May 19). Large firms that take bailout loans can’t pay bosses. https://www.smf.co.uk/publications/returning-favour/

24 For the blog of the New Economics Foundation, Alex Chapman suggests different frameworks for bailout conditions, depending on size of business and business area. Chapman, B. (2020, May 19). Large firms that take bailout loans can’t pay bosses. https://www.smf.co.uk/publications/returning-favour/


26 For example, in the case of environmental conditions for airlines, a worry is that competitors that aren’t subject to conditions will just fly low cost. Catanese, G. (2020, June 19). Strings attached? Environmental conditions and state aid. Global Counsel. https://www.global-counsel.com/insights/blog/strings-attached-environmental-conditions-and-state-aid


34 The OECD Guidelines for Multinational Enterprises (http://mneguidelines.oecd.org/mneguidelines/) are the only multilaterally agreed and comprehensively code of responsible business conduct that governments have committed to promoting. National Contact Points (NCPs) for Responsible Business Conduct (http://mneguidelines.oecd.org/mneguidelines) are agencies established by governments. They serve to promote the OECD Guidelines and they also handle cases as a non-judicial grievance mechanism.