

Should Corporate Social Responsibility be Legislated?

By Junie del Mundo



EON CEO Junie del Mundo weighs the financial implications of having CSR mandated by legislation, and gives support to the position of the Management Association of the Philippines and the League of Corporate Foundations regarding the pending bills on CSR being discussed in Congress. (Originally published as an EON Insight article last 14 June 2011)

To do good and to do well are the two biggest aspirations of organizations. In pursuit of these goals, many Filipino companies have freely embraced CSR as part of their commitment to support their community, and in keeping with the larger goal of nation building.

CSR transcends corporate giving, its most widely known form. CSR is all about operating in a sustainable manner—behaving ethically and contributing to economic development while improving the quality of life of one's employees, as well as the environment and society.

In recognition of the value of CSR, legislators are finding ways to institutionalize it. House Bill 4575 and Senate Bill 2474, now pending in both chambers, aim to make CSR a required part of the operations of Philippine companies.

While the intent behind these bills is definitely laudable, the truth is that they may create more constraints that would, in the end, hamper business enterprises from executing meaningful CSR programs.

Ethics, just like morals and taste, cannot be legislated. The proposed bills may be unnecessary considering that most local companies go beyond mere compliance with existing laws to ensure a healthy business environment for their stakeholders.

For this reason, the League of Corporate Foundations (LCF), and the Management Association of the Philippines (MAP), stated their position that the practice of CSR should be a voluntary commitment to ethical business principles, guided by government agencies and existing laws that already reward and regulate compliance. These include:

Bureau of Internal Revenue (National Internal Revenue Code of 1997) Securities and Exchange Commission (Corporation Code of the Philippines, Code of Corporate Governance) DTI (Consumer Protection Laws, 2007 Investment Priorities Plan) DOF DOLE (various labor- and employment-related laws) DENR (various environmental-compliance laws as well as those in relation to the protection, conservation, preservation and management of natural resources) DSWD (Registration, Licensing, and Accreditation of Social Welfare and Development Agencies (SWDAs)

All companies vs. large taxpayers

The bills have differing stands on coverage: House Bill 4575 envisions CSR as a requirement for all business organizations while the Senate version covers large taxpayer corporations only.

It is safe to surmise that lawmakers behind the Senate version believe that among local companies, large corporations are the ones with the resources and know-how to organize and conduct CSR activities. The House version, on the other hand, requires the same from SMEs, which make up majority of Filipino enterprises.

It is a fact, however, that many SMEs have resource constraints that prevent them from expanding their businesses. In fact, a number of them have difficulty complying with government laws. To impose CSR on them could be an unnecessary burden that may threaten their viability. Instead of imposing CSR on them, SMEs should be encouraged to grow their businesses in compliance with existing government regulations, which is what ethical business is all about. In doing so, they contribute to society, by creating demand for goods, providing jobs, and paying taxes.

The Management Association of the Philippines, in a statement, recommended that it would be better to monitor SME's corporate citizenship responsibilities such as paying taxes correctly and on time. "Like all companies that start small, they will eventually grow into the corporations we see today and then, realize the importance of proper CSR efforts."

Financial aspects of both bills

The bills also offer differing formulas of crediting expenses on CSR activities.

Under the Senate version, the incentives favor large companies or taxpayers that spend substantial amounts on CSR projects and activities. This allows CSR expenses to be reflected against the taxable net income, resulting in income tax savings and a better net profits. Large taxpayers will thus have an incentive to conduct more CSR activities, knowing that these would enhance their corporate reputation while bringing down income taxes at the same time.

While this is definitely attractive to large companies, it remains to be seen if this proposal will be approved by the Executive

branch, considering that it will affect the government's revenue streams while the budget deficit remains unplugged.

The House version, on the other hand, does not provide for any tax deduction or adjustments in the company's taxable income. The CSR expenses will instead be adjusted against a company's unrestricted retained earnings, which implies a one-size-fits-all model that is inapplicable to many CSR practitioners.

To illustrate, a company with net profit before taxes of P10 million that appropriates P1 million for CSR will pay an income tax of P270,000 and report a net profit of P6.3 million under the Senate Bill; or pay income taxes of P 300,000 and report net profits of P7 million under the House Bill.

If the same company has beginning retained earnings of P15 million, it will end up with retained earnings of P21.3 million under the Senate bill and P21 million under the House bill.

However, different companies have different financial needs at different times, which makes it hard to choose between the above proposals. Instead of this approach, it might be more useful if existing regulations are reviewed to help develop incentives that are tailored for various business entities, where they are publicly-listed corporations, micro-small-medium enterprises, corporate or independent foundations, or social enterprises, as advocated by the LCF.

Having said all these, it would still be best if CSR was left as a voluntary practice that organizations can take on. What government can do to help CSR initiatives flourish is revisit and strengthen existing structures that promote an environment conducive for growth and development of businesses.

Article originally appeared on EON The Stakeholder Relations Firm (<http://www.eon.com.ph/>).

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May 18, 2012