

Corporate fads are endangering capitalism

By Janet Albrechtsen, *The Australian*, 19 May 2018

When it comes to corporate fads, there are four types of people in corporate Australia.

First, there are the zealots. Let's call them the Missionaries, those who proselytise about gender targets, diversity, social values, "independent" directors and so on. These people fill the ranks of Chief Executive Women and the Australian Institute of Company Directors and include those patronising Male Champions of Change. Mostly they are mediocre women who need targets to get ahead and men who self-flagellate, and their voices are magnified by their cheerleaders in the media. Not just social engineers, many of them have an overt and covert political agenda to do the bidding of industry super funds, unions and the Labor Party.

Second, there are the Mushies, people who quietly mimic corporate fashions. There are more Mushies than there are Missionaries because it's so easy: if you don't think too much about what the agendas mean and where they lead, it all sounds rather nice. Words such as diversity, gender equality, social values, independence surely can't be bad?

The Cowards are the third group, made up of people who privately mutter about the stupidity of corporate fads. These directors, chairmen and chief executives will tell you stories about being bullied by the Missionaries, mostly on gender targets. Then they will tell you they can't possibly speak out because that would be like putting a target on three-legged moose during hunting season. So they join the fashionable chorus. This group is smaller than the Mushies but larger than the Missionaries.

The last group, if you call it a group, is made up of people who call out the nonsense of corporate fashion — for the sake of shareholders, after all. Let's call them the Corporate Super-Heroes. If you're struggling to think of a name, that's because in corporate Australia there is only one.

Chris Corrigan was in Australia last week and he had plenty to say to *Inquirer* about the harm to shareholders from the latest corporate fads. And why not? Corrigan is no stranger to battles. As head of Patrick Corporation, he made history on the Australian waterfront 20 years ago last month by confronting union intimidation that had crippled Australian ports. Corrigan, with support from the Howard government, reformed port productivity that largely remains to this day.

Years later when Patrick was pursued in a takeover with an underwhelming bid from Toll Holdings, Corrigan coaxed a better bid price for his shareholders after placing full-page advertisements in newspapers that read: "Patrick needs Toll like a fish needs a bicycle."

Betty Friedan, the feminist whose words he snaffled, would be even more horrified at his most recent target. This time it's Corrigan v the Missionaries, the Mushies and the Cowards.

As chairman of Qube, an ASX 200 company that is the reincarnation of Patrick Corp, Corrigan started receiving letters in 2014 from people who fall into the category of gender zealots. Their aim was to force Corrigan to comply with their gender targets on the Qube board, which was an all-male board.

There was a benign letter in April 2014 from Claire Braund, executive director of Women on Boards, wanting to interview Corrigan about how to get more women on boards and into a "C

suite” role. Then, in July 2015, came a letter from the Australian Council of Superannuation Investors, which describes itself as providing the “collective voice on environmental, social and governance issues” on behalf of its 38 members. Requesting a meeting with Corrigan, ACSI boss Louise Davidson informed him of ACSI’s campaign to impose gender targets so women would fill 30 per cent of ASX 200 board seats.

Then, in October 2016, a letter from Ian Silk, chief executive of AustralianSuper, a shareholder, reminded Corrigan that AustralianSuper had a policy towards companies without a commitment to gender diversity to “vote ‘against’ one director seeking re-election each year ... in the following priority: (i) board chair; (ii) nomination committee chair; (iii) longest serving member of the nomination committee up for re-election; and (iv) longest serving member of the board up for re-election”.

In June last year another letter arrived, from Debby Blakey, boss of industry super fund HESTA, another shareholder, informing Corrigan that boards should have a minimum of 30 per cent of female directors.

“Consistent with our proxy voting policy, we will vote in line with ACSI against the most senior director sitting on boards with no female representation,” she wrote.

If it weren’t there already, this put a target on Corrigan’s head. And it didn’t go unnoticed that none of these letters of intimidation, and others too, didn’t place a single caveat about board candidates having the necessary qualifications about the industry or the company.

Soon after the barrage of gender bullying began, Corrigan drafted a paper dated July 11, 2015, for the Qube board. In true Corrigan style, he said: “I am uncomfortable about being bullied to add females to the Qube board irrespective of requirement, suitability and potential contribution but solely on the basis of their sex. In short, there is clearly a public campaign by a pressure group, possibly backed by a select but unquantified number of shareholders, to goad us into behaviour in regard to board composition regardless of need or our judgment.”

Corrigan set out three options open to the board:

“1. Placate the objectives of this pressure group and acquiesce to their objectives in breach of our own code of conduct and irrespective of a quantification of the level of support for these objectives within our shareholder group. We can dress this up, as no doubt many companies are doing, by conducting a ‘needs’ survey, reach the ‘appropriate’ conclusion and make a decision to appoint one or more females solely to avoid controversy and placate the social engineers.

“2. Don’t engage and proceed as we consider appropriate and let shareholders vote at the AGM, via the annual ballot, on the desirability of our proposed board composition. In other words, let the cards fall where they may.

“3. Make a case that the approach we are being pressured to follow is not an appropriate one and suggest an alternative course.”

Accustomed to confronting bullies, Corrigan preferred the third option. He explained, in the paper, that the gender agenda of activists would mean Qube breached its anti-discrimination policies and its code of conduct. He added: “At a personal level, I find the objectives of the campaigners demeaning to women as it suggests they would be unsuccessful in their own right unless assisted by quotas.”

Corrigan also put the gender push in context as part of a broader corporate fashion to shape companies as having a social role and somehow being representative of the community at large.

Then came the real sting. Corrigan said the third option “provides an invitation to the social engineers to put up or shut up”. In other words, given corporate law makes shareholders the final arbiters of board composition, these shareholders should embrace their responsibility: nominate at an annual general meeting the directors they want and stop behind-the-scenes bullying of board members and chairmen.

In an exclusive interview with *Inquirer* in Sydney last week, as the AMP furore continued to unfold, Corrigan makes the point that others won't make publicly about the appointment of 47-year-old Catherine Brenner to chair the AMP board.

“The comment the other day that criticism of Brenner was sexist is so ridiculous. Can you imagine that a man with moderate investment banking experience at a second-rate investment bank would have got to be chair of the AMP?” he says.

“It's demonstrably the case that Brenner was there because she was a woman. You can't come to any other sensible conclusion.”

Corrigan says the push to appoint board directors using gender targets “is affecting the quality of people on boards. And it's based on some very flimsy studies.”

He is right. University of NSW finance professor Renee B. Adams has debunked claims that had Lehman Brothers been Lehman Sisters there wouldn't have been a financial crisis. Adams finds that while there is correlation, there is no evidence of cause for claims that women on boards make for better-run companies. In other words, the best boards appoint the best people with the best skill-set — regardless of gender.

What, then, was the reaction to Corrigan's plucky board paper? Let's just say the Qube board joined the ranks of Mushies. Corrigan tells *Inquirer* the board sentiment was “that ship has sailed”. In other words, the board capitulated quietly, avoided fuss and appointed a woman to keep the super funds off its back.

There were a few reasons Corrigan announced his resignation from Qube in 2016 but he says “this was not an insignificant reason”. He departed a year later and a woman was appointed to the board. The problem for that woman, Sue Palmer, and every woman appointed today, is she will never know if she is there because she is a woman or because she is the right person with the best skill set for the board seat.

The same question certainly will haunt Brenner after she announced on Wednesday she would not seek re-election to the board of Coca-Cola Amatil. Though Brenner has been on the Coca-Cola board for 10 years and renewal is needed, her boardroom career is in free fall.

“They have blood on their hands,” one boardroom veteran told *Inquirer* this week, pointing the finger at the gender activists at Chief Executive Women, the AICD, particularly under present boss Elizabeth Proust, and the patronisingly named Male Champions of Change, whose members eagerly promote women such as Brenner even when they lack the proper skill set for the big jobs.

This senior corporate director, who must go nameless because he is a self-described Coward, agrees that a man of Brenner's age and lack of experience would never have been appointed AMP chair. But he can't say that publicly because the backlash is fierce and unforgiving. He

also points to the hypocrisy of ACSI. The same body that bullied Corrigan to appoint women to the Qube board signalled it would vote against two female AMP directors up for re-election at AMP's recent AGM.

And then, in a case of not learning from its mistakes, ACSI had the audacity to demand more female directors be appointed to the AMP board and, once again, no mention of having right qualifications for this troubled company.

Corrigan suspects that with more exposures such as AMP's underqualified board, this frivolity with gender targets rather than skills eventually will lead to targets becoming less fashionable. "But that will take time," he laments. Meanwhile, shareholders will suffer the consequences with inept boards reflected in diminishing shareholder wealth.

Corrigan puts the long silence from corporate Australia down to the directors' club. "They all want to be shaking hands and patting people on the back, being nice and following the mood of the moment, and the mood of the moment is that we have to have gender equality.

"Well, there's nothing wrong with that except that it means we don't necessarily have the best person for the job. And we've only examined the banking institutions. You don't have this much trouble surely if we are appointing the right person to the job."

Corrigan is not talking out of his hat. His background is banking. In the heyday of banking deregulation, in the 1980s, he helped build BT Australia virtually from nothing. He recalls that the investment bank was worth \$4 million when it started out and it eventually was sold for about \$3 billion. Given it was one of Australia's greatest banking success stories, I ask how many offers Corrigan has received to join a bank board in Australia?

"Zero," he tells Inquirer.

He adds that while he would have said no to any offer, "it strikes me as bizarre that somebody who actually understood banking from the ground up, that you wouldn't be considered as someone who might be useful on a bank board. It's odd that no one thought of it."

Mediocrity in corporate Australia is not just about underqualified women, according to Corrigan. There are plenty of male board members who are overloaded in their commitments and lack the requisite competence and skills, too. And mediocrity has been embedded into boardrooms by a set of Australian Securities Exchange governance rules set down by the ASX Corporate Governance Council, which is made up of, you guessed it, the Missionaries, including those at the AICD.

In addition to a new 30 per cent gender target, the ASX corporate governance rules have long imposed rules that most directors be "independent". And independence is defined as having fewer than 5 per cent of shares in the company and having no direct executive experience in the company. While the rule is on a "if not, why not" basis, in reality it has meant boards regularly have 80 per cent of "independent" directors who have no inside knowledge of the company and no real alignment with shareholders.

"All this talk about independent directors is a complete misunderstanding of the functions of a company and the functions of capitalism itself," Corrigan says.

"If I am a director of a company and I own 4.9 per cent, I am 'independent', but if I own 5.1 per cent, I am now not independent according to the ASX. What's wrong with me owning 5.1 per cent? Do I think differently? I do think differently because the more I own, the more I think

like an owner. I think we need more people on boards to think like owners. These rules about independence are complete nonsense.

“The guy who has got no shares, the ‘independent director’ — what’s his motivation? It can go both ways. His motivation is, ‘I don’t want to make a mistake, so let’s be conservative.’ Alternatively, perhaps he thinks, ‘Well it’s not my money, so let’s blow it.’”

“I think the ASX is completely off-base with this need for so-called independent directors.”

Corrigan’s finely tuned corporate antennae about mediocre boards are reflected in research by Peter Swan from UNSW that confirms more “independent” directors have delivered poorer, not better, corporate governance.

Swan points to the ASX and the AICD directors as the culprits for cementing into ASX rules the non-alignment of directors with shareholder interests. Indeed, the non-alignment is entrenched further by ASX governance rules that require most “independent” directors to be on board nomination committees that end up choosing more “independent” directors for the main board.

Curiously, the latest draft of the proposed ASX governance rules includes this new idea: “A listed entity should have a board of an appropriate size, composition, skills, commitment and knowledge of the entity and the industry in which it operates, to enable it to discharge its duties effectively and to add value.”

The absence of this rule tells you that corporate fads have dislodged the core purpose of a board, and pity help the shareholders. Corrigan takes a swipe at another frolic by the Missionaries at the ASX, the AICD and various industry funds. Requiring directors to follow “social values” — set to be included in the newest ASX corporate governance rules — will dilute only further a director’s ability to look after shareholder returns.

“I’m not sure it’s even legal,” says Corrigan. “A director is not elected on a platform of social values. Directors have a legal responsibility to maximise profits of a company within the confines of the law and within acceptable risk parameters. So if somebody comes along and says we’d like you to consider social values, the question is, ‘Whose social values?’ We’re not politicians. We’re not elected by socio-economic groups en masse.

“We’re elected by shareholders. So where do you get the mandate to decide what social values you’re going to ascribe to your shareholders? And what’s the method for doing that?”

Corrigan’s observations highlight a truly dismal state of affairs. The corporate rule-setters fight for every cause except the one that delivers prosperity: capitalism.

Having thrown down the gauntlet to corporate Australia to reconsider the folly of its fads, Corrigan strolled out into Sydney’s glorious autumn morning sun, hopped on his moped and disappeared down the street, his comments threatening to reverberate long after he flies out of the country for his home in Switzerland a few days later.

Maybe a few more will be emboldened to question the rooted mediocrity on Australia’s biggest corporate boards? Maybe the membership will rise up to demand better leadership of the distorted AICD?

Will the Missionaries, the Mushies and the Cowards be exposed as overseeing corporate governance rules that dumb down and disconnect directors from shareholders?

It's a safe bet that Corrigan's battle with corporate fashionistas isn't over.