

Tackling Corruption and Establishing Standards in Public Life

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Restraint and Enforcement – the Enron Lesson

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Caution is recommended when an argument turns on inductive reasoning. All the more so when the argument is based on a single example. But when that single event is so significant as to be a watershed occurrence; when the enormity of the wrong makes patently clear that systemic faults exist; and when, on reflection, the event falls into a pattern of similar events, it is time to attempt to draw conclusions.

The Enron scandal has not yet snowballed into a political fiasco for the Bush Administration but it nevertheless needs to have a political impact of seismic proportions. It can best be compared to the Recruit scandal. In Japanese politics, the revelation in 1988 that a number of politicians and business leaders had profited from insider trading led to the resignation of several cabinet ministers, including Prime Minister Takeshita, whose closest aide committed suicide, and to the arrest of 20 people. It set in motion the breakaway from the ruling Liberal Democratic Party (LDP) of important factions in 1993 to form the nucleus of the new Shinshintō (New Frontier Party) opposition force and finally caused political power in Japan to alternate according to popular vote and not simply by back room deals (Hutchinson 2000).

The Enron Evidence

The Enron debacle has revealed a dimension to corruption that we may have been unwilling to face. Before attempting that analysis, it is important to look at the size and extent of the wrongs committed by Enron and others.

The measurement of the loss will be an ongoing process but it is not unfair to put it at over \$US70 billion (Greider 2002). That was the value of the corporation on

the stock market a year ago. Its value today is zero. On top of the loss of value to the shareholders will be added another figure in the billions of bad debts owed by Enron. The loss of benefits of employees will no doubt add several more billions to the loss. To put these figures in a global perspective, they are equal to the 2000 Gross Domestic Product of the Philippines, a country of 75 million people (World Bank 2002).

The United States legal process will no doubt attempt to catalogue the legal and fiduciary acts and omissions in terms of specific breaches of the law, but it may be more instructive to look at the wrongs in a more analytical way. I see five systemic issues;

1. Structural Conflicts of Interest

Actors throughout the scandal including the managers, financiers and auditors were motivated in their actions by mixed interests. The Congressional investigation is looking into allegations that Wall Street firms had a vested interest in pumping up the Enron stock. Wall Street experts like Goldman Sachs continued to talk up the stock because they held so much of it (Greider 2002). Among the other companies being investigated are Merrill Lynch and Citigroup (Wayne 2002). Can finance houses be both financial advisers and financial investors? The accounting industry is also deeply conflicted. The audit function is the key to its respectability but the consulting function is its means to profitability. These two aspects of the business are intended to be kept separate but after Enron there must be doubts about the probity of the audit function remaining uncontaminated by the accounting firms' other pecuniary interests. In other words, can we expect auditors like Arthur Andersen to blow the whistle on their biggest clients?

All those in management in Enron including the members of the Board had a financial stake in the continued profitability of the company. The bonus scheme run by the company is similar to many other corporate schemes tying bonuses to the stock price. Enron managers inflated the profit statement by a billion dollars, pushed up the stock price to meet the target and less than a year before the company's bankruptcy paid themselves \$320 million in bonuses (Eichenwald 2002). Little surprise that there were no whistleblowers at Enron until it was far too late to make a difference.

These conflicts of interest do not come about because of personal coincidences. They are structural conflicts of interest built into the systems of the financial market. This is not simply a question of perfidy among those running Enron and Andersen, this is a question of a system that tolerates built-in conflicts of interest

and then is surprised that the safeguards administered by these conflicted corporations failed.

2. Deceitful Personnel Practices

The ability of senior people to move between the private and public sectors is a strength of the American system. But at what point does this process turn into a handicap? Surely the point is reached when decisions in public positions are influenced by personal gain in private appointments. That point seems to have been passed in the case of Wendy Gramm, who, as chair of the Commodity Futures Trading Commission in 1993 permitted a regulatory exemption crucial to Enron's derivatives trading. Five weeks later she joined the Enron Board (Corn 2002). Incidentally, her spouse, the former Republican Senator Phil Gramm, made his name on the Hill as a champion of financial probity.

The list of individuals involved in the public/private overlap in the case of Enron is impressive: former Democrat Treasury Secretary Robert Rubin, Secretary of the Army Thomas White, Bush's chief economic adviser Lawrence Lindsey, Bush adviser Edward Gillespie and Trade Representative Robert Zoellick (*The Nation*, 18 February 2002). The sheer weight of numbers and the level of eminence point to something greater than a coincidence, they point to a revolving door system of deceitful personnel practices.

3. Deregulating Oversight of the Market

Deregulation is intended to allow the market to work freely, reward or punish on the basis of commercial performance and create efficiencies that benefit the consumer. But the Enron fiasco tends to show that savings achieved from being freed of compliance costs simply get ploughed into lobbying costs. Deregulation has become an end in itself for many politicians but the Enron case shows that it might represent a false economy. Effective oversight of Enron may have come with a price tag in terms of the cost of maintaining regulatory machinery but if that machinery had functioned correctly, it might have saved the jobs, pensions and investments of tens of thousands of people.

The emphasis on deregulation is understandable in certain circumstances. Italy has 100,000 laws and regulations on public administration compared to its neighbour France's 7,000 (Gambetta 2002), yet Italy is a country with notoriously high levels of corruption, so a case for deregulation for its own sake may be plausible. But I would submit that looking at the issue as 'deregulation' is attacking the problem from the wrong end. The issue should be one of determining whether certain actions require oversight, evaluating whether regulations will provide that oversight and deciding whether those regulations

are cost effective. The concept of deregulation as advocated in political manifestos is ultimately a statement of blind faith in market forces. Yet all markets need some regulation and the emphasis should be on effective and affordable mechanisms.

Felix Rohatyn has made a valuable contribution about the need to look at regulation as part of the broad political implications of Enron when he noted:

“American popular capitalism is a highly sophisticated system that needs sophisticated regulation, whether in finance or in other fields. The government itself does not seem to have acted illegally in the Enron case; it is the government's failure to anticipate and prevent what happened that is the problem. Enron's failure was a failure of particular people and institutions but it was above all part of a general failure to maintain the ethical standards that are, in my view, fundamental to the American economic system. Without respect for those standards, popular capitalism cannot survive” (New York Review of Books, 26 February 2002).

4. Money Politics

In light of Rohatyn's injunction to examine the 'general failure to maintain ethical standards', it is worth noting that Enron was a massive contributor to political parties and a particularly large contributor to the Bush campaign (Borosage 2002). The \$623,000 President Bush received from Enron is more than from any other single campaign source (Meek 2002). More than 250 members of Congress from both parties - including 71 out of the 100 senators - have dipped their hands into the \$5.9m in campaign contributions Enron or its managers have handed out since 1990 (Meek 2002). But neither side of politics would be keen on an audit of Enron campaign contributions over the years because it would demonstrate the venality of the entire political system. William Greider calls 'the insidious corruption of democracy by political money' a 'deformity' in the American political system (*The Nation*, 4 Feb 2002).

The challenge posed by the Enron case is whether campaign finance reform will become a serious issue in American politics. The length and costs of campaigns are such that the system either ties the political parties to major campaign donors or encourages candidates with personal fortunes like Perot, Forbes and Huffington (all three, incidentally, are perennial losers). The new Mayor of New York, Mike Bloomberg, spent \$23.5 million of his own money on TV ads alone (Robbins 2001). If candidates don't have a spare twenty million dollars of their own money to spend, they end up in hock politically to companies like Enron. The pay-off to Enron came in the form of deregulation.

5. Minimal Disclosure to avoid Public Exposure

Enron and Andersen understood well that they could not thrive in a situation of market transparency. Instead what they thrived on was complexity, obfuscation and deceit. The basic fact that Enron had transformed itself from an energy company to a trader of financial products was not apparent to many employees and most investors. The fact that it had massive debt was hidden by the creation of 2,832 subsidiaries, with almost a third located in the Cayman Islands and other tax havens (Borosage). Enron's auditors, Arthur Andersen, had a simpler way of hiding the truth; they shredded thousands of documents relating to Enron.

Clearly transparency is what they feared. The problem is that the system did not elicit transparency from the players although that is one of the fundamental underpinnings of the market process. How could the market penalise Enron for moving into such risky business practices if the market did not know. Perhaps the insiders knew but they had a personal stake in not disclosing their knowledge. One of the purposes of regulation is to achieve greater transparency and thus allow the market to work more efficiently.

Another Look at 'Corruption'

Enron is a special case because of the size of the defalcation, but it is far from unique. Other massive companies like Global Crossing and Lucent have gone belly up recently with the one common thread that many of the principals bailed out before the crash and took their winnings with them (Greider). Do we need to start looking at these issues less as caused by the inevitable downturns in free markets and more as caused by corruption?

While the term has universal application, there is often an unspoken sentiment that 'corruption' occurs mainly in the developing world with a cast of sleazy customs officials and bent tax inspectors. The 1997 OECD Bribery Convention now has 35 parties including all the major trading and investing nations (OECD). It is a worthy treaty tackling a difficult subject in an effective way, yet it contributes to this notion that corruption is an unfortunate aberration that mainly takes place in the developing world and in which western business people get ensnared.

Transparency International's 2001 Corruption Perception Index ranks the Philippines 65th and the United States 16th among 91 countries in the world (TI 2001). But the Enron collapse, equal to at least one year's GDP in the Philippines, dwarfs the total amount of corrupt earnings in the Philippines. It makes even President Estrada's corrupt earnings – four billion pesos (\$US80million) according to the court charges against him (PCIJ 2001) – pale in comparison to

the Enron fraud. Perhaps, then, there is something wrong with the perceptions being measured in the Corruption Perception Index.

Barry Hindess argues that we have too narrowly circumscribed the meaning of corruption by limiting it to economic corruption (Hindess 2001: 9). It is seen through economists' eyes as rent seeking and the use of one's privileged position for private gain. The private gain is invariably measured in dollars. Indeed we have come to see corruption so comfortably under this definition that it almost appears intuitive. Hindess points out, however, that 'corruption' had a far broader meaning in classical thinking as an infection of the body politic. The question we need to pose is whether there is something valuable we can derive from returning to the broader understanding of corruption.

I believe the gargantuan corruption of Enron might hold a clue to the answer. To focus on the economic aspect of corruption in Enron is to look at a small slice of the issues involved. That focus will lead us to look at the dummy subsidiaries, the failed audits and the criminal wrongdoings. But I would suggest that the economic fallout should be seen as a symptom of the far larger problem - an infection in the body politic. Focusing on symptoms is understandable. They are highly visible, they are morbidly fascinating and they demand attention. But we all know that dealing only with the symptoms does not cure the sickness. We need to understand the problem in its broad form as caused by a system of money politics, deceitful personnel practices, ingrained corporate conflicts of interest and the lack of true transparency. Greider's use of the term 'deformity' in describing the influence of money in the American system of democracy comes close to capturing this need to deal with issues on a deep systemic basis.

Of course it is in the interests of those with a large stake in the current system to limit the concept to its economic symptoms. The idea among incumbents in the United States might well be to punish the Enron chiefs, see to it that a partner or two at Andersen get the sack, give an apology to the tens of thousands of people who have been defrauded of their jobs, investment and retirement security, and carry on with the system. The narrow economic view of corruption would validate this course of events. The symptoms would have been identified, measured and dealt with.

The broader holistic view of corruption would insist that the infected system be reformed to try to ensure that the next Enron doesn't occur. At the heart of the sickness in the body politic is the problem of money politics, a problem that exists in all political systems. So in the present case, the test is not whether Congressmen and women return their Enron campaign contributions, as so many of them feel compelled to do; it is whether a serious process of campaign finance reform will be attempted. It is of some encouragement that the Enron

fiasco caused the House of Representatives finally to allow a modest campaign finance bill to be put to the House for vote (Corn 2002). At least this is recognition that the problem is deeper than one of corporate perfidy, and acceptance that underlying the Enron scandal there exists a political problem of massive proportions. The current finance reform bill will, however, not come to grips with the issues unless it is seen as the first of many steps. The question therefore becomes one of whether Enron will eventually be seen as a 'glitch' in the system or will it have the same political impact in the United States as the Recruit scandal had in Japan?

Restraint and Enforcement

The organisers of this workshop have asked me to comment on issues of restraint and enforcement. To do so requires us to pose the basic question: why do people commit certain acts? As judges have learned over the ages, questions of motive and intention are difficult to determine with any certainty. Sometimes the persons committing the acts or omissions do not fully realise what their own motives are. Yet if the requirement is to influence behaviour then conclusions need to be drawn as to the motivation leading to the behaviour and policies need to be elaborated to affect those motives and thus influence that behaviour.

Influencing behaviour is the object of a number of disciplines including ethics, religion and law. Ultimately, concepts of restraint and enforcement flow from these disciplines. All three disciplines use processes of reward and punishment to influence behaviour. They all seek the balance between the restraint and enforcement, reward and punishment, and carrot and stick dichotomies that will be most effective to induce the required behaviour. The breadth of these disciplines makes it difficult to look at restraint and enforcement in a focused or structured way. To distil useful lessons for anti-corruption strategies is particularly challenging.

Taking the discipline of law as an example, if we look at corruption as simply a sub-category of crime, then we have a vast criminology literature on which to draw. The literature has passed through many phases beginning with an initial focus on the person committing the crime including an examination of the physical characteristics of 'criminals', reliance on hereditary factors, and association with illnesses such as epilepsy, before moving to sociological factors, looking at the environment in which the person grew up, the character of friends and associates and the moral code of the sub-culture to which the person belongs (Reckless 1967). Recent thinking has now gone even beyond the direct sociological context by questioning the boundaries in which criminology finds itself. It has tried to put criminology into a far broader social context noting that "poverty, malnutrition, pollution, medical negligence, state violence, corporate

corruption and so on carry with them widespread and damaging consequences but are rarely if ever included in assessments of the 'crime problem'. Notions of 'crime' also seem to offer a peculiarly blinkered version of the range of misfortunes, dangers, harms, risks and injuries that are a routine part of everyday life" (Muncie 2000). Thus beginning with what was thought to be a simple question of motivation, the issue can easily be transformed into a massive and complex question of how society works. This suggests that it may be best to narrow our focus to the specific issue of corruption rather than the broad issue of crime.

Corruption has been the subject of a specific literature focusing on cause and motivation (Di Tella 2002). The initial view that low wages were the key cause of corruption has not found sufficient empirical support and recent work has focused on the impact of detection. As Di Tella points out "when there is no risk of getting caught, everybody will be corrupt regardless of the wage they receive." The focus on detection puts a premium on the Accountability aspect of Klitgaard's famous formula: $M + D - A = C$, Monopoly plus Discretion minus Accountability equals Corruption. Yet Klitgaard's formula tends to maintain the focus on corruption as an economic phenomenon or rent seeking. There is value, from this perspective, in looking at each part of the formula. Clearly, strengthening competition and contestability, limiting discretion and putting in place effective accountability mechanisms will have a strong impact on economic corruption. The Enron case, however, shows the limits of Klitgaard's formula. In the Enron case we do not have a corrupt customs official accepting a bribe, we have a corrupted political system allowing corporate giants to defraud the public. Echoing Hindess' perspective, Di Tella notes that corruption should not simply be measured in monetary terms and that politicians in particular may have overriding non-pecuniary incentives such as power, patronage and popularity.

Klitgaard's formula places emphasis on accountability but does not have a specific place for restraint. It might be argued that under the heading 'Discretion' there is a rather sad presumption that officials will not demonstrate self-restraint when exercising unfettered discretion. It would probably be argued by rational choice theorists that restraint is simply the flip side of enforcement under the Accountability heading. This tends to minimise the role of restraint. It also tends to lead anti-corruption strategies to focus on the other aspects of Klitgaard's formula. But there needs to be a fuller discussion of restraint in the anti-corruption literature to explain why most people act honestly most of the time. Restraint is hard to quantify and therefore hard to factor into our definitions.

Perhaps one modest conclusion we can offer is that both restraint and enforcement are necessary ingredients to reduce corruption. Enforcement is of critical importance but it is not possible to rely on enforcement alone because of the enormous costs of full oversight. Enforcement can only be episodic, random and haphazard because it is not possible to undertake oversight of every financial and decision-making transaction in public and corporate life. The haphazard nature of enforcement may be minimised by processes such as intelligence gathering, profiling and procuring relevant evidence but a certain randomness must remain such that there can be no certainty in the mind of the individual of getting caught. Restraint thus comes into play as the reason why most transactions are non-corrupt. The restraint may in part be the result of socialisation through family, schools and religious institutions or it may partly be caused by fear of getting caught. Whatever the underlying reason for restraint, it is an effective force.

Continuing the Enron case study, it might therefore be instructive to speculate on where the failures in enforcement and restraint occurred.

Enron Beyond Enforcement

How did Enron escape the regulatory net? With the losses in the tens of billions of dollars, American taxpayers could be forgiven for believing that systems were in place to provide effective oversight. With hindsight, the 'Cayman Islands' strategy employed by Enron should have been a red light to investors and regulators alike. Yet all the shonky practices and unsustainable debt went under the official radar.

One explanation might relate to size. Was Enron too big to be effectively regulated? Size can be measured in a number of ways. Enron revenue in the year 2000 was \$101 billion. It had almost 20,000 employees. It had 33 offices around the world undertaking huge energy projects such as the controversial Dabhol \$3billion power plant in Mumbai. 23% of total revenue in 2000 was generated from foreign projects (Nichols 2002). Just one year ago Enron was named by *Fortune* magazine as 'America's Most Innovative Company' and 18th on the list of 'Most Admired Company' (Enron 2002). As noted above it was also the biggest corporate contributor to political coffers.

So was Enron simply too big a revenue generator, too big an employer, too big a foreign investor and too big a political contributor to be effectively supervised? Did its size make the task of supervision too complex, too opaque and too politically sensitive? There are many other big global companies in the world and if the size of Enron made it 'unregulatable', then there is potentially an enormous problem with the global market system. The problem may be seen

narrowly in terms of the difficulty of regulating Enron itself or it may be posed in far larger terms concerning the absence of effective regulation over the transnational corporate globalisation process.

One is perhaps tempted to fall back on the comforting notion that market forces were responsible for Enron's collapse and that company failures are simply an inevitable aspect of the market process. That may have been a valid viewpoint if Enron had not relied so heavily on influencing governments to ensure its profitability. It had as much as \$2.4 billion in loans from the US taxpayer, it used the United States diplomatic muscle to influence governments in India, Brazil and Mozambique and it had considerable sway on US government policy in the debate on trade in services at the WTO (Nichols 2002). Its influence over US energy policy as developed by Vice President Dick Cheney is yet to be fully investigated (Scheer 2002). This is not to speak about its 'normal' lobbying effort to minimize regulation by the Securities and Exchange Commission and other domestic regulators. The ability successfully to influence government seems to be the major comparative advantage Enron held over its competitors. This goes well beyond traditional notions of market forces and it brings us back to the issue of the government's responsibility for regulation.

It is Enron's relationship with government and "the extraordinary success Enron had in influencing policy" that particularly interests US Representative Henry Waxman (TomPaine.com). Waxman provides some evidence in support:

- 17 policies that Enron advocated were incorporated in the White House energy plan including trading in energy derivatives
- Kenneth Lay convinced Vice President Dick Cheney to oppose price caps in April 2001 at the height of the California energy crisis
- Enron successfully lobbied for the repeal of the Alternative Minimum Tax
- (Perhaps most disturbing in hindsight) the Bush Administration reneged on a Clinton Administration acceptance of the OECD negotiations for greater disclosure in offshore tax havens, thus having the incidental effect of protecting Enron's 'Cayman Islands strategy.'

The structural conflicts of interest undermined the various strata of regulation and oversight. The regulators answered to politicians in Enron's thrall. The Wall Street boosters had locked themselves into support for Enron because of their own investment portfolios. The auditors were more interested in selling their expertise and risk analysis than in checking the books. The managers profited from their inside knowledge to unload stock before the company's true situation emerged. The employees' financial security was tied to the stock price thus discouraging whistle blowing. And when the rumours began and the market

needed reassurance, the right words were found by Vinson and Elkins, Enron's regular lawyers (Atlas 2002).

The Congress is now starting to grapple with some of these issues including the problem of structural conflicts of interest. It is considering a requirement that share dealings by executives be subject to prompt disclosure, it is looking at a rule precluding auditors from selling consulting services and it is investigating a new regulatory body for auditors to replace the self-regulatory body that currently exists (Editorial, Washington Post 20 February 2002).

So perhaps enforcement is making something of a comeback and the appeal of deregulation is diminishing. The Enron case study demonstrates the inevitable results where rules are revoked and enforcement of the remaining rules is not pursued. But as previously noted, enforcement of rules can never be the full means of gaining compliance, there needs to be an element of restraint. Why was this element missing at Enron?

"We are such a Crooked Company"

Larmour and Wolanin (2001:xx) argue in favour of a concept of restraint based on organisational integrity. They quote Zipparo (1998:10) noting "the ability to behave ethically in the workplace may be related more to aspects of the organisation than to attributes of the individual" and conclude that this is the inverse of 'the rotten apple theory', which blames corruption on the individual. This suggests that the ethical culture of the organisation is the key determinant. I like to think of it as the 'the rotten barrel theory'. This rather mirrors the historical trend in criminology to look beyond the individual and to investigate the context in which that individual operates. In our case study, it leads us to look at the culture within Enron, America's Most Innovative Company.

Our glimpse into Enron comes courtesy of Sherron Watkins whose 15 August 2001 memo to former Chairman Kenneth Lay warned that Enron would "implode in a wave of accounting scandals" (Oppel 2002). She appeared before a Congressional Committee and described a culture of intimidation at Enron where there was widespread knowledge of the company's financial practices. Her testimony portrayed a company whose President was too removed from operations to know what was going on and whose Board was pliant. She described how the effective managers of the company intimidated others to accept the system of deceitful accounting.

It is in her 15 August memo that Watkins quotes an unnamed colleague as saying "I wish we could get caught. We are such a crooked company." These two little sentences tell us a great deal about both enforcement and restraint. The first

confirms the view that in the eyes of the insiders, Enron was beyond enforcement. The speaker wishes it were possible for Enron's corruption to be found out but he knows it is not, that somehow Enron could not be caught.

The second sentence tells us about the corporate ethics of the company. While CEO Ken Lay was undertaking his philanthropy and lobbying activities, presenting the human face of Enron, the operational insiders were basically gambling away the company's assets in the unregulated financial derivatives market and hiding their losses through fraudulent accounting. The fraud was widely known but there were no whistleblowers. Watkins' memo was an internal document. All the players were locked into a process of protecting their jobs, fees and assets. It was not in their interest to act ethically.

A 'crooked company' does not provide individuals with the context to support ethical conduct. A 'crooked company' beyond the reach of enforcement has no reason not to act corruptly. The individuals have no incentive to correct the behaviour. There is neither restraint nor enforcement. There is the rotten barrel, Enron.

Returning to Rohatyn's comment that the Enron scandal demonstrates "a general failure to maintain the ethical standards that are, in my view, fundamental to the American economic system. Without respect for those standards, popular capitalism cannot survive." Fear of enforcement alone appears to be insufficient in Rohatyn's view, he calls for the transnational corporate world to exercise restraint by means of maintaining ethical standards.

Lessons Learned – First Thoughts

We are still too close to the events to draw all the lessons. Perhaps the overriding lesson is that there is an infection in the body politic and Enron is simply the most glaring symptom. The lesson applies not only to the United States but to all states aspiring to be market democracies. It is about money politics and conflicts of interest distorting the will of the people. It is about the insider cheating the outsider. This infection needs to be dealt with at the political level as well as at the regulatory level.

Enron also poses a dilemma for globalisation. While we can accept that the arbitrary, xenophobic or shortsighted constraints on the movement of trade and investment are not beneficial to either industrialised or the developing nations, Enron makes us ask whether global financial movements and currency speculation are presently under-regulated. The size of these transactions is such that even a miniscule tax on them will finance sizeable oversight machinery. One of the problems in the Enron case was the global nature of the company and

the global ways it found to defraud the community. There may be instances where a supranational regulatory response is required or, probably more often, the best solution will be found in internationally coordinated domestic responses. The OECD's attempt at regulating money laundering by requiring greater transparency from banking safe havens is just such a response deserving of support. One of the tests of whether the lessons from Enron are being learned will be to see if the Bush Administration reviews its rejection of the OECD initiative.

One of the most important requirements missing in all the fraudulent transactions was transparency. The market did not have accurate information, regulators did not extract it, politicians preferred not to know it, and insiders were committed to protecting it. Clearly we don't want to re-enact an Italian comedy of 100,000 unenforced rules. We know that the cost of enforcement is ultimately passed on to the taxpayer and the consumer and so we want smart rules that are responsive to the market's needs. We live in an information society and we should not fear adding to the mountain of information by requiring relevant facts to be declared. We see this trend in the ever-greater recourse to the practice of requiring declarations of assets by public figures. The principle of corporate disclosure of the information necessary to allow the market to make its judgements in an informed manner is universally accepted. The need now is to extend the disclosure provisions to broader issues that will tell us more about conflicts of interests and about deceitful practices. Disclosure requirements have the value of forcing fraudulent parties into telling lies on the public record. It is then up to the processes of politics, media and civil society to ferret out these lies. This establishes a workable division of responsibilities that generally limits the role of governments to establishing and enforcing binding disclosure rules. Once corporate disclosures are made of share trading, contracts entered into, personnel changes and the like, there should be sufficient competitors, investors, journalists and civil society activists pouring over the records to blow any whistles if necessary.

It is also clear that both effective enforcement and self-restraint are essential. The former can only be achieved by investing public money in oversight regimes, cooperating internationally and enforcing the resulting rules. The latter will only come about through a corporate culture of ethics. Both influences failed in the Enron case and both areas need urgent attention.

To date Enron has not become Recruit. Perhaps the public sees Enron as an unfortunate exception, one of the rotten apples. Inductive logic gets stronger the larger the sample. Let's hope the sample need not become too large before we accept that there is something wrong with the barrel.

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