Ernst & Young

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28 May 2012

European Commission
DG Justice / D1
LX 46 – 1/101
'Consultation gender balance'
B-1049 Brussels
BELGIUM

By post and email: JUST-GENDERBALANCE-CONSULTATION@ec.europa.eu

Dear Sirs,

Gender imbalance on corporate boards in the EU

Ernst & Young welcomes the opportunity to offer its response to the European Commission's ("EC") *Gender imbalance in corporate boards* ("the Consultation"), issued by the EC on 14 March 2012.

We applaud the EC for highlighting this important issue and launching a Consultation on whether there is a need for EU-level measures to enhance female participation in economic decision-making.

Over the next decade the impact of women on the global economy - as producers, entrepreneurs, employees and consumers - will be at least as significant as that of China's and India's one-billion-plus populations, if not greater. Women represent tremendous untapped business potential as 'The Third Billion.' This phrase is used to brand an alliance of global businesses, including Ernst & Young, which launched in February 2012.[1] Our aim is to help empower women as a means to drive economic growth, based on the notion that there are a billion women not participating in the global economy who should be.

Indeed, by 2028 women will control nearly 75 percent of discretionary spending worldwide. Companies also recognize that women represent half of the global talent pool, but are not equally represented in leadership roles. We believe that a proper balance of women on boards is no longer a luxury but a corporate governance issue

[1] 'The Third Billion', Beth Brooke, Global Vice Chair Public Policy, Ernst & Young, interviewed by Forbes.com

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In our prior comment on the UK's Lord Davies report[2] *Women on Boards* (via an consultation issued by the Financial Reporting Council), we recommend that boards set their own gender diversity targets against which they publicly report their progress using a minimum 25% benchmark. To this end we also encourage companies to prioritise board-level mentoring and sponsorship networking and training, to help women attain board positions. We believe that one of the obstacles women face as they seek senior management/board positions is the absence of proactive support and mentoring from members of company boards. Therefore, senior leaders, both male and female, should take concrete steps to minimize gender disparities and help advance women into leadership positions in their organizations.[3] The combined effect of these initiatives should allow companies to apply the principle of gender diversity in a way and to an extent appropriate to their particular circumstances.

We would be pleased to discuss, at your convenience, our response to the Consultation which we send to the EC with our approval for its publication on the EC's website. Our letter and response also includes various references which the EC should find helpful, and to this list we add the GMI Ratings 2012 *Women on Boards Survey*.[4]

Our replies to the questions are included in the appendix to this letter, and any correspondence on this should be sent to Fleur Bothwick, Director of Diversity & Inclusive Leadership for Europe, Middle East, India and Africa (tel: +44 (0) 20 7980 0659). We appreciate the opportunity to engage on this matter of importance, and we send the EC our best wishes for the successful completion of the Consultation and policy outcome.

Yours faithfully

Fleur Bothwick
Director of Diversity and Inclusive Leadership - EMEIA

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[2] Ernst & Young response to the Financial Reporting Council 2011. Called *Gender diversity on boards*, the consultation referred to various recommendations by Lord Davies in his report *Women on Boards*, published in November 2010.

[3] The Ernst & Young initiative, the *Sponsorship shortage*, advocates the sponsoring of women to success, and outlines how to put sponsorship into practice.

[4] The GMI Ratings Survey 2012 *Women on Boards* includes data on over 4,300 companies in 45 countries around the globe. The results show incremental improvement in most measures of female board representation since the 2011 report. For the first time ever, women hold more than one in ten board seats globally.

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Appendix

Responses to the Consultation questions

Q1. How effective is self-regulation by businesses to address the issue of gender imbalance in corporate boards in the EU?

We believe that "self-regulation" is an effective way of ensuring that companies address the imbalance of gender on their boards, but measures are also needed to ensure accountability. A balance must be found where companies apply principles of gender diversity in a way and to an extent appropriate to their particular circumstances, yet real progress is made regarding an increased number of women on boards.

Based on the UK's progress, we would advocate a self-regulatory approach where company boards are required to account for themselves publically (in the annual Report & Accounts) in terms of whether (or to what extent) they have achieved their objectives to address a gender imbalance on their board. The UK has a principles-based code on corporate governance, and board room diversity is one of the codified requirements highlighted and promoted in 2011 in an independent report commissioned by the UK Government[5]. The author, Lord Davies, recommended that FTSE 350 boards should aim for a minimum female representation of 25% by 2015.

As of the end of February 2012[6], within the UK's FTSE 100:

- Women now account for 15.6 per cent of all directorships, up from 12.5 per cent.
- 47 female appointments have been made since the publication of Lord Davies's report last February
- 27 per cent of all board appointments have been taken up by women, up from 13 per cent
- Just 11 all-male boards remain, down from 21.

Within the FTSE 250:

- Women account for 9.6 per cent of all directorships, up from 7.8 per cent.
- 26 per cent of all board appointments have been taken by women
- For the first time ever all-male boards are in the minority, 112 companies, or 44.8 per cent, down from 52.4 per cent
- 53 female appointments have been made since publication of the women on boards report last February

Cranfield School of Management noted that if this momentum is maintained, a record 26.7% female representation on boards should be achieved by 2015.

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[5] Lord Davies' report, ***Women on boards***, was published in February 2011.

[6] Lord Davies' ***Progress report***, was published in March 2012

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Q2. What additional action (self-regulatory/regulatory) should be taken to address the issue of gender imbalance in corporate boards in the EU?

Based on the UK's progress, we would advocate a self-regulatory approach where company boards are required to account for themselves publically (in the annual Report & Accounts) in terms of whether (or to what extent) they have achieved their objectives to address a gender imbalance on their board.

Explaining progress against a diversity benchmark engages the interest of shareholders and other stakeholders, which can have a positive influence on boardrooms. For example, the Australian Securities Exchange (ASX) Corporate Governance Council made a recommendation in 2010 for companies to disclose their policies on gender diversity in their board composition. The Australian Council of Superannuation Investors (ACSI) then announced that it would allow the full three year board electoral cycle for companies to increase the number of women on their boards, recommending a benchmark of two women directors per board by 2014.

In the event that companies fail to take the issue seriously, ACSI has announced that it will consider recommending against the re- election of those board members. If inadequate voluntary progress is made on this issue before 2014, ACSI will push for policy reform to address the issue.

Q3. In your view, would an increased presence of women on company boards bring economic benefits, and which ones?

We agree with the academics, policy-makers and business leaders around the world who assert that long-term economic growth requires the expanded participation of women in the workforce, at a corporate level and national economic level. Our own research in this area, *Groundbreakers, using the strength of women to re-build the world economy*[7], reached the same conclusion.

Several studies from a broad spectrum of organizations including Catalyst, Columbia University, McKinsey, Goldman Sachs and The Conference Board of Canada, have examined the relationship between corporate financial performance and women in leadership roles. Their undisputed conclusion is that having more women at the top improves overall financial performance. Indeed, research conducted by our German business analysed Europe's 300 biggest listed companies, and those with female board members performed better between 2005 and 2010 (in terms of revenue and profit) compared with companies with no women on their boards.

Economic analyses by the World Bank, United Nations, Goldman Sachs and other organizations also show a significant statistical correlation between gender equality and the level of development of countries. The evidence is compelling that women can be powerful drivers of economic development.

[7] Ernst & Young ***Groundbreakers*** initiative

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Q4. Which objectives (e.g. 20%, 30%, 40%, 60%) should be defined for the share of the underrepresented sex on company boards and for which timeframe? Should these objectives be binding or a recommendation? Why?

We suggest that boards set their own gender diversity targets against which they report their progress publicly, using a recommended minimum 25% benchmark. Solving the issue of gender imbalance requires cultural change led by those at the top of companies: chairmen who believe that boards are fit for purpose when they have an appropriate mix of skills, nationalities and gender. We do not recommend a binding quota because it can create unintended consequences.

For example, in Norway a law (enacted in 2004) required that 40% of Norwegian company directors should be women when, at the time, only 9% of directors were women. Independent research found that the quota led to younger and less experienced boards; increases in leverage and acquisitions; and deterioration in companies' operating performance consistent with boards that lack experience. It also led to a large number of companies de-listing from the Norwegian stock exchange (e.g., 100 companies delisted in 2006 when the law became effective).[8]

Q5. Which companies (e.g. publicly listed / from a certain size) should be covered by such an initiative?

Considering the influence of Public Interest Entities[9] on the economies of EU member states, it would seem reasonable to encourage this category of company to take the lead in terms of achieving a reduction in board room gender imbalance.

Q6. Which boards/board members (executive / non-executive) should be covered by such an initiative?

The initiative should apply to non-executive directors.

Q7. Should there be any sanctions applied to companies which do not meet the objectives? Should there be any exception for not reaching the objectives?

The consequences for a company that "fails" to meet its gender objectives should be determined and applied by the owners of that company i.e. the institutional investors. This is because a board's gender imbalance, without good reason and an explanation, should be regarded as a corporate governance weakness. However, the degree of imbalance and its potential effect on governance and economic performance will vary between companies, so it is appropriate that investors of individual companies intervene and take whatever measures they think appropriate under the circumstances.

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[8] *The Changing of the Boards: The Impact on Firm Valuation of Mandated Female Board Representation*, Kenneth R. Ahern and Amy Dittmar, University of Michigan, Ross School of Business May 20, 2011.

[9] Refers to the EC's definition of Public Interest Entity in the ***Explanatory Memorandum*** (Section 1) of the Draft Regulation on Statutory Audit of Public Interest Entities

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A report by Catalyst, *The Bottom Line: Corporate Performance and Women's Representation on Boards (2004–2008)*, found that companies which achieve diversity and manage it well attain better financial results, on average, than other companies. Three measures used in the report cover: return on sales; return on invested capital; and return on equity. [10]

[10] Catalyst, ***The Bottom Line: Corporate Performance and Women's Representation on Boards (2004–2008).*** Companies with the most women board directors (WBD) outperform those with the least on ROS by 16 percent. Companies with the most WBD outperform those with the least on ROIC by 26 percent. Companies with sustained high representation of WBD, defined as those with three or more WBD in at least four of five years, significantly outperformed those with sustained low representation by 84 percent on ROS, by 60 percent on ROIC, and by 46 percent on ROE.