

Corporate Governance, Interformance and Legitimacy: A Case-Study of Annual Reports

INTRODUCTION

This contribution to the corporate governance literature is focused on the role played by annual reports in the relationship between top level management and small shareholders. In it we argue that corporations achieve legitimacy in the eye of shareholders and wider society through use of language that provides a representation of the world which demonstrates that the corporation is responsive to matters of public concern that relate to corporate activities. This is not the rational provision of information central to the activities of the 'economic man' who strides through the governance literature. Rather, it is a complex process of exchange in which shareholders agree to the corporate representation of the world provided by top level management and the board as they demonstrate a degree of responsiveness to 'significant' issues. This reassures shareholders who then tacitly assent to further corporate activity. This is not to suggest that either shareholders or managers act irrationally nor do we argue that either ignores pursuit of maximised utility but rather that the notions of rationality and utility should be treated as emergent effects of the embeddedness of firms and managers (Granovetter, 1985; Callon, 1998).

Discussion begins with a description based on Tercorp's reports of actions at their McCoy plant, provided in order to demonstrate that there is more than rational information conveyed in an annual report. It is a tale of convoluted emergent strategy that led nowhere but was always positively and reassuringly described. We then introduce Tercorp in more detail before a discussion of the forming, performance and conformance functions ascribed to central representations of corporate governance. Suggesting they are over rationalised we propose a fourth function, 'interformance', to accommodate the tacit element in the interaction between companies and their shareholders. We argue that this function is as crucial to corporate legitimacy as are the formal requirements of corporate governance. We then use a content-analysis of Tercorp's annual reports since 1970 to demonstrate the effects of interformance in its responses to issues which were highlighted in its account of McCoy but which recur throughout the reports. We conclude that Tercorp has communicated informatively despite the apparently attenuated character of that account, and in a way that maintained its legitimacy in the face of apparent failure.

The McCoy Plant

In 1993 Tercorp announced that it had begun construction of a plant in New Mexico which would operate as the McCoy Co. The company's first greenfield development offshore, state-of-the-art in environmentally responsible design, and 'strategically located to economically deliver product to California and adjacent States', the mill was planned 'to satisfy a strong growth segment of the US market'. Its proving trials were announced in the 1994 report, and its first commercial production in 1995; despite 'a difficult start-up phase' it 'achieved design operating rates in the second half of the year'. The mill nevertheless incurred an operating loss, because rising costs for the waste, which was its raw material had outstripped improving prices for its products. Tercorp then claimed that 'substantially improved results' were expected for the next year. That justified the expansion of the mill reported in 1996. But Tercorp also reported then that McCoy had been 'adversely affected by a sharp fall in selling prices for its products as US demand eased significantly and new capacity came on-line' and had again 'traded below expectations'. Tercorp built its own waste-processing plant to reduce costs, and, with the mill 'operating at close to design capacity and ... maintaining its customer base in an over-supplied market', stated that 'the business is well placed to take advantage of any increase in demand in the year ahead'. Being well placed was clearly not enough, for Tercorp reported in 1997 that McCoy had again incurred large losses, that its value had been written down, that Tercorp saw no prospect that it 'would achieve our expected returns within a reasonable time', and that consequently it had sold the company.

That account of what in retrospect appears to have been a misjudged investment coincided with the formal introduction of 'corporate governance' in Australia. Effective from July 1, 1996, the Australian Stock Exchange has obliged companies to report the mechanisms by which boards ensure that their own and their executives' conduct meets professional, prudential and ethical standards. Corporate legitimacy required that the general information and audited accounts in annual reports be supplemented with this specific information on corporate governance. Now, while Tercorp had clearly met all its statutory obligations in reporting on McCoy, and while the board has not come under question beyond the normal scrutiny of the market, the abrupt shifts from projections of McCoy's strategic location and strong growth to reports of slackening demand, an over-supplied market and large losses do not sit easily with provision of 'information'. Yet the requirements for annual reports are predicated on the existence of actual and potential investors making rational choices on the basis of the information supplied to them. The analysis of Tercorp's annual reports presented in this paper is directed to the puzzling disjunction exemplified by its account of McCoy.

Tercorp and Changing Times

The period since 1970 is ideal for a study of corporate legitimacy, and Tercorp is an ideal company for a study of its changing character in Australia. It was about 1970 that analysts first argued that welfare capitalist states faced an increasing difficulty in raising the revenue necessary to satisfy the wide-ranging demands placed on them. Since their legitimacy required that those demands be met, so the argument went, this ‘fiscal crisis’ amounted to a ‘legitimation crisis’, for unless there was a large-scale shift in political-economic expectations, citizens would withdraw their consent (O’Connor, 1973; Habermas, 1973). It is conventional to date changes in world capitalism from that time (Harvey, 1989). The winding back of the welfare state amid linked and widely adopted claims that the principal task of government is to maintain conditions of economic growth and low inflation and that citizens are individually responsible for their own economic wellbeing is the most general of these changes. The stress on corporate self-regulation which followed the crash of 1987 is another; corporate governance emerged as a pressing issue at this time, with ‘governance’ to a degree replacing ‘government’. This was consistent with the declining role of national governments due to the opening of national economies to global competition. The rise of such ‘new politics’ as the environmental movement also forced adjustments on national politics (Offe, 1985; Lash & Urry, 1987; Crook, Pakulski & Waters, 1992).

Tercorp exemplifies corporate adaptation to the Australian version of these new conditions. It was among Australia’s largest listed companies in 1970, and while others from that time have fallen by the wayside it has retained its position throughout the floating of the dollar, the general reduction in tariffs, the large-scale privatisations and the increasing deregulation of the labour market which have marked the transformation of the Australian economy. It has become more and more international. In 1970 it operated only in Australia and, through joint ventures, in New Zealand, but by 1998 its businesses in Europe, North America and Asia accounted for nearly one-third of its profit. Amid the individualising effects of recent changes, Australia has become second only to the U.S. in the level of private ownership of shares, and, as shown in Figure 1, the growth in the number of Tercorp’s shareholders reflects that trend:

[Insert Figure 1 here]

The same effect is seen in the distribution of these (predominantly Australian) shareholders. In 1998, those owning 5,000 shares or less held only 20.6% of issued shares, but made up 92.2% of the total shares, while the financial institutions comprising the top twenty shareholders held just over 50%: this too is typical of Australian companies. Finally, since Tercorp's businesses require the use of natural resources, it is implicated in the 'new politics' said to be replacing more narrowly economic concerns.

We have good grounds, then, for taking Tercorp as representative of Australian companies in new times, and since Tercorp claims on its website that its annual report 'is the main source of information for investors' it also warrants attention to this form of corporate communication. But while the company routinely makes proactive use of the reports—it characteristically anticipated the ASX's listing rules, for example, when it included a section on 'corporate governance' in the 1995 report—the McCoy episode shows that the question of what counts as 'information' is less clear. Yet, as we will demonstrate, 'information' is crucial to the concept of 'corporate governance'.

Corporate Governance, Information, and Interformance

In *The Devil's Dictionary* Ambrose Bierce defined a corporation as 'an ingenious device for obtaining individual profit without individual responsibility'. But whilst perhaps the world's wittiest cynic, Bierce missed a key question: 'whose profit and whose responsibility?'. That question is at the core of the principal-agent problem (Eisenhardt, 1989), which in turn is at the core of 'corporate governance' (Tricker, 1984). Given the separation between ownership and managerial control, the 'governance system' is presented as ensuring that managers work on behalf of shareholders. Tricker (1994) has identified three functions of governance:

- The forming function, which involves the shaping of the corporate mission. This is crucial to the formation of strategy and is a key influence in determining whether a firm will heed only its shareholders or stakeholders more generally;
- The performance function, which involves contributing to improvements in strategy;
- The conformance function, which is directed at ensuring that management follows the mission.

Mechanisms for fulfilment of these functions include some mix of the following: a board of directors who represent shareholders, act as overseers of strategy, and network with key stakeholders (Zahra & Pearce, 1989); rules controlling executive remuneration; internal controls whereby business divisions monitor the decisions of senior management;

and, in many cases, the existence of a market for corporate control in which underperforming firms can be taken over (Hitt, Ireland & Hoskinson, 1999).

Those functions clearly operate within severe limits. In a competitive market, for example, companies are constrained in how far they can disclose the details of their strategies. But even allowing for that, we hold that such accounts of governance do not go far enough to be applicable to empirical puzzles such as Tercorp's account of McCoy. Despite, say, Tricker's (1984) grounding of corporate governance in the messiness of cultural traditions, they are restricted by the assumptions of pre-given rationality evident in Eisenhardt's 'agent' or Zahra and Pearce's 'stakeholders'. We prefer to treat rationality as emergent. In practice, corporate boards are a crucial venue for its emergence.

Within the general statutory regulation of corporate activities, the board is arguably the key mechanism of corporate governance in Australia; this factors shows considerable national variation (Tricker, 1994). Specifically required to oversee their companies' activities on behalf of shareholders, boards are crucial to the creation and maintenance of legitimacy. But boardroom representation of the small shareholders forming a numerical majority of the owners of all large listed companies is limited: executive (management) directors, with their 'insider' knowledge, typically make up almost half of the boards of Australian companies; and non-executive positions are all but universally taken up by nominees of the large shareholders (usually institutions) who form a numerical minority but a voting majority. Although shareholders do have a nominal opportunity to exercise control at annual general meetings, the rubber-stamping elections of board-members nominated from within the boards themselves suggest that formal voting within a company is more symbolic than substantive.

The result is that small shareholders lack both representation and inside knowledge. Dependent in their decision-making on 'information' provided by insiders, and restricted in their action to a simple choice whether to buy or sell, this large and growing group can make little direct contribution to the forming, performance and conformance functions of governance. Rather, they are expected to rely on such official pronouncements as their company's annual reports to judge the firm's strategy, mission and performance. The financial press and the burgeoning industry of share analysis do contribute to what small shareholders can or do know, but journalists and analysts also ultimately rely on formal information.

Small shareholders are then in much the same position as citizens in a liberal democracy. Companies are certainly more unitary than democratic polities: they do not have formal opposition parties, for example; and although there is some evidence that shareholders are willing, at least in the short term, to trade lower dividends for such benefits as job-creation (Callaghan, 1999) or environmental protection (Miller, 1992) there is at least fuzzy agreement on profit as an overriding goal. But small shareholders are like citizens in that they are formal participants in processes of which they have little knowledge and over which they have scant control. Against that background, we suggest that companies, like governments, do not so much communicate the information enabling small shareholders to reach the rational decisions assumed in discussions of governance as that they strive to achieve consent, or, minimally, avoid dissent, by attending to issues assumed to be of concern to shareholders. The absence of any large-scale objection to corporate practice indicates success in that attempt. Whether this legitimation entails the alignment of a company with a Parsonian 'superordinate value system', the exercise of hegemony, or any of the other processes which social scientists have proposed, the effect is necessarily interactive. Matching a board's striving for consent, we suggest that shareholders do not seek information, since the technicalities of neither a company's business nor the auditing whereby its performance is opened to public scrutiny are matters of lay knowledge. Instead, they require a less formalisable reassurance that their companies are being competently managed and that management recognises issues of public concern. The expectations of boards and shareholders then overlap in a legitimacy assumed on the basis of tacit consent and granted on the basis of tacit knowledge. That, we suggest, is one means by which the potentially problematic relations between managers and owners and between boards and shareholders are rendered unproblematic.

To describe that fuzzy articulation of the tacit, we propose a fourth function of governance, which we call interformance. In an old distinction (Merton, 1949), this is a latent function as against the manifest functions which Tricker set out. Interformance involves the mutual shaping of the representations of a company's share-issuers and share-owners through the company's achievement of an appearance of responsiveness to issues of common concern. This effect is only partly deliberate. Interformance is an outcome of a company's scanning of its environment and of its conscious attempts to satisfy the various publics comprising it. Apart from shareholders, these include consumers, the market, regulators, the press, trade union officials, pressure groups, present and potential employees, suppliers and competitors, each of which may include shareholders, each of which may be in conflict with the company and with each other, and each of which may be countering the company's 'information' with its own. But

since the demands of these publics will be at least potentially incompatible, and since the language which companies use to meet them will inevitably be entangled in the common sense of the day, interformance is neither unitary nor formalisable. It cannot be reduced to the strictly rational.

That is not a claim that boards and managers are irrational in attempting to achieve the complex responsiveness required for their legitimacy. To the contrary, fulfilment of interformance function demands ingenuity, calculation and strategic choices. We do claim, however, that for empirical purposes companies' presentations of responsiveness are better read as rhetoric than as vehicles of rationalised 'information'. The term 'rhetoric' is used in Aristotle's technical sense as the counterpart of the strictly rational rather than in the pejorative sense of 'mere rhetoric' (Perelman, 1970). Here, rhetoric implies the epideictic achievement of consent rather than the apodeictic closure of formal logic. It is, then, consistent with the emergent rationality we have imputed to embeddedness and have identified with interformance. On that basis, we consider first that the language which boards and managers use in communicating with shareholders fulfils the interformance function, and then that since annual reports are the principal means of such communication they are also a crucial mechanism of governance. That is, we take a diametrically opposed line to that of the Australian Shareholders Association, which dismisses the 'pretty pictures and the words that go with them' as 'the brainwashing section of the annual report' (Stock, 1998). It is precisely those words which give us empirical access to the puzzling disjunction in communication such as Tercorp's account of its investment in McCoy.

Information and Issues

At first glance, Tercorp's terse reports on McCoy appear to breach the informational requirements of corporate governance. While Tercorp had flagged in earlier years the forming of its international ambitions, it could not be said to have given its shareholders the details needed for assessment of either its performance in the realisation of those prospects or its conformance to an agreed direction. But beside giving prima facie support for treatment of annual reports as 'the main source of information for investors', Tercorp also made its exercise of interformance all but explicit. When it included the aim to be 'aware of attitudes on important social and economic issues' among its objectives in 1992, for example, it flagged its recognition of the need for at least an appearance of responsiveness. The McCoy episode entails several social and economic issues. First of all, it raised a puzzle over the meaning of the 'information' required under 'corporate

governance', and since we have taken the emergence of 'corporate governance' as an effect of the declining role of government proper, one issue is the link between government and the economy. A related question arises over the 'new politics' which have supposedly replaced the class compromise of welfare capitalism; Tercorp hinted at this when it stressed McCoy's environmental responsibility. The linked issues of the global and the local are also important; the former is given in McCoy having been Tercorp's first greenfield investment offshore, and the latter in the embeddedness implied by corporate governance. Finally, globalisation is widely associated with 'risk', and the prudent management of risk is one element in corporate governance; that was a subtext in Tercorp's account of McCoy. If our concept of interformance holds, then we should find evidence of responsiveness to those trends in the language of Tercorp's reports.

Specifically, we propose that the language in the reports will show:

- a decline in attention to governmental control of the economy;
- a trend away from the 'old politics' based on labour to the 'new politics' of issues such as the environment;
- an increasing stress on both the global and the local; and
- a similarly heightened emphasis on the responsible management of risk.

We tested those propositions through a content-analysis of the reports.

METHOD

We adopted a minimalist form of the content-analysis which is a standard method in the study of annual reports (Bowman, 1984; Salancik & Meindl, 1983). On the principle that key words are in themselves indices of responsiveness to the conditions and concerns subsumed in interformance, we took words as basic units of analysis, and, after the original selection, paid no attention to contextual variations in their 'meanings'.

'Meanings', after all, emerge in use rather than being inherent, and we do not have access to the process by which the reports were written, to what the writers intended, or to the sense which shareholders make of the reports. For our purposes, then, the words are simply markers of issues. Since issues might be suggested by more than one word, we assembled repertoires of related terms, and used them for analysis. White (1998) has shown that the deferral of interpretation in this apparently austere focus on the mere fact that a particular language is used does yield reliable indicators. More generally, Stinchcombe (1984) has pointed to the strengths of research methods dismissed as weak by the methodologically sophisticated.

On that basis, we first stripped the reports of tables, captions, headings and the like, and then counted all instances of terms relevant to our propositions; we selected these partly through a priori expectation and partly through observation of recurrences. We took each term to include its derivatives; ‘environmental’, ‘environmentally’ and ‘environmentalists’, for example, were all counted under ‘environment’. To enable comparison between reports of varying lengths, we expressed raw scores as occurrences per thousand words, and then summed those standardised frequencies in a series of repertoires. We derived two of these for each of our four hypotheses. The repertoires and the terms comprising them are shown below:

<i>Economy:</i>	Economy, inflation, recession;
<i>Government:</i>	Government, regulation, tax.
<i>Old politics/labour:</i>	Employee, labour, strike, union, work;
<i>New politics/green:</i>	Conservation, environment, nature, recycling.
<i>Global:</i>	Global, international, offshore, overseas, world;
<i>Local:</i>	Australia, community.
<i>Risk:</i>	Risk, safety;
<i>Ethics:</i>	Ethics, obligation, responsibility.

To enable comparison between repertoires we divided the total score for each by the number of terms in it, and finally averaged these scores across five-year periods (since we have twenty-nine reports, our last period consists of four rather than five years).

Our small sample means that statistical analysis of our findings is not justified. Preferring the potential conflation of correlation with causality to the ‘fallacy of misplaced precision’ (Coser, 1975), we show only a graph of each comparison, with a brief discussion of each issue.

Repertoires of Interformance

Broadly, the content-analysis supports our four propositions: the relation between ‘government’ and ‘economy’ shows the expected trend; the reports raggedly match accounts of a shift from the ‘old politics’ of ‘labour’ to the ‘new politics’ of which ‘green’ issues are typical; an increased focus on the ‘global’ is matched by a heightening attention

to the ‘local’; and Tercorp’s stress on ‘risk’ was roughly consonant with its claims to ‘ethics’.

Government/Economy

Since we have suggested that ‘governance’ has partly replaced ‘government’ in the economic deregulation marking the shift away from welfare capitalism, we expect that Tercorp should show a decline in attention to the linked issues of government and economy. As seen in Figure 2, we do find a pattern of ragged fall, but with interesting peaks in the mid-1970s and early 1990s.

[Insert Figure 2 here]

The coinciding peaks in ‘government’ and ‘economy’ in our second period coincided as well with both the impact in Australia of the crisis in global capital and the 1975 constitutional crisis. This was the end result of a complex pattern of events. Gough Whitlam led a reformist Labor government which was elected in 1972 after twenty-three years of liberal/conservative Coalition rule. After well-publicised disputes within government and parliament, Whitlam’s government was controversially dismissed in 1975 and an election was called. It was won by the Coalition, led by Malcolm Fraser, who then governed until 1983 (Freudenberg, 1977; Ayres 1987; and Kelly, 1995 give different perspectives on the events). Tercorp took up a partisan position in the 1975 crisis. After stressing concern in 1973 and 1974 over the inflation which it attributed to Labor’s sympathy for escalating wage and salary claims, the board stated in 1975 that it was ‘gravely concerned about the economy and the future of Australia under the present Government’. It claimed that ‘the Government has largely removed the rewards for effort, enterprise and thrift and is apparently trying to make everyone dependent upon government hand-outs’, and declared its opposition to ‘socialism with its stifling controls over business and individual initiative’. In that polarised time, such views were orthodoxies among those who formed the great majority of share-owners, even if they were highly contested among Tercorp’s other publics. The same could be said about the company’s welcoming, in 1976, of the way that the newly-elected Fraser government ‘has introduced measures which already are starting to restore confidence in business and growth in the economy’.

The second coinciding peak in ‘government’ and ‘economy’ occurred during the recession of the early 1990s, when Tercorp looked to further deregulation. In 1991, for example, it wrote that:

Recent reductions in Australia’s inflation and interest rates are welcome. However, we still have much to achieve as a nation, especially in areas such as industrial relations, transport costs and the efficiency of the wharves and our telecommunications systems. (Tercorp: 7)

Holding that governmental taxes and charges were ‘negating much of the excellent performance of [our] management and workforce’, Tercorp found it ‘discouraging that the benefits of company-initiated programs to reduce costs and improve efficiency have been largely offset by factors beyond our control’.

While an inconsistency might be noted, between Tercorp’s expectation that government should control inflation and recession and its call for a reduced role for government, the point here is that the ragged decline in the repertoires of ‘government’ and ‘economy’ is consistent with a more general shift in Australia’s political economy. The explicit attention to political and economic issues is expressed through an implicitly embedded language. A similar effect appears in the ‘old’ and ‘new’ politics of that embeddedness.

Old politics/new politics

As one of Australia’s leading manufacturers, which means it has been open to the demands of organised labour, and as one of Australia’s leading users of natural resources, which leaves it vulnerable to charges of environmental harm, Tercorp straddles the ‘old politics’ of ‘labour’ characteristic of much of the country’s history and the ‘new politics’ typified by the ‘green’ issues so prominent more recently. Our proposition was that Tercorp would mirror the shift from ‘old’ to ‘new’. As measured by our ‘labour’ and ‘green’ repertoires, and as seen in Figure 3, that expectation is raggedly supported:

[Insert Figure 3 here]

Tercorp’s use of the ‘labour’ repertoire does show the decline expected from accounts of, say, the ‘death of class’ (Pakulski & Waters, 1996). Its attention to ‘labour’ peaked during the turmoil of the Whitlam years, declined during the corporatist settlement of the 1980s, and then rose slightly amid the calls for increased deregulation during the 1990s.

Economic problems allowed a chance to adjust work practices. Thus in a context of growing unemployment, Tercorp held in 1991 that:

There will not be a better opportunity than during the current economic recession for management of Australian industry to reach a common understanding with the workforce on ways to reduce costs and improve efficiency and productivity. (Tercorp: 7)

But despite that settling of old scores, political-economic change is even more evident within the 'labour' repertoire. Reference to strikes and unions were frequent in the early reports but rare in the later. Speaking more of its labour force as employees than as workers, Tercorp appears at first glance to reflect social scientists' accounts of fundamental change. Whether the declining intensity of and the shifts within the 'labour' repertoire mark an end to the 'old politics', however, is still moot, given its late convergence with the 'green' repertoire.

The pattern of Tercorp's responsiveness to 'green' issues was set in the claim in 1970 that 'your company management is fully aware of, and will fulfil, its responsibilities to the community and is well abreast of world technology to combat water and air pollution'. But while the repertoire is a regular feature of the reports, the shifts in its usage are interesting. The dramatic rise to a peak in the early 1990s is consistent with the increasing and widely analysed salience of the environment as a political issue in Australia (Papadakis, 1993; Dutton & Connors, 1999). Amid that trend, Tercorp typically presented itself as a proactive leader in environmental concern. As it claimed in 1989, for example, the company had:

...a long-standing commitment to protect the environment and conserve natural resources. Throughout our long history, well before the environment became a topical community and political issue, companies in the Tercorp group have been creating Australia's largest private forestry plantation resource, recycling and conserving materials, producing unbleached paper and investing in environment friendly processes and products. (Tercorp: 14)

But just as it echoed public expectations over the importance of environmental matters, Tercorp also echoed an apparent decline in public interest in them. Consistently with what Pakulski, Tranter & Crook (1998) called the 'routinisation' of the environment, the company retained attention to 'green' issues in the latest period, but at an intensity reduced virtually to the level of its attention to 'labour'.

This is not the place to assess social scientific arguments over 'old' and 'new' politics. The point here is that once again the language in Tercorp's can be seen as mirroring public

concern over 'labour' and 'green' issues. Both sets of issues, furthermore, are entangled in the widely diagnosed trends towards both globalisation and localisation.

Global/Local

Tercorp suggested both these effects in its account of McCoy. The global is given in the investment itself, which was undertaken in part fulfilment of the company's objective to maintain its position among the top ten companies in the world in its industry. The local is given in the overwhelming majority of Australians among the shareholder to whom Tercorp was reporting, and suggested further in the appeal to national pride in the 1994 observation that McCoy employed 'a true effluent-free process developed in Australia' (emphasis added). As shown in Figure 4, the reports confirm those trends. Tercorp's attention to the global increased five-fold throughout the period, and its focus on the local more than doubled.

[Insert Figure 4 here]

Although one of Labor's misfortunes in the early 1970s had been to assume office during the crisis in world capitalism, Tercorp downplayed the effects of international factors in its criticism of the government at that time. 'The troubles which affect Tercorp and industry in general', it said in 1975, 'are mainly the result of government policies and actions ... and do not stem primarily from causes in other countries'. But Tercorp's quarantining of the Australian economy from global forces became increasingly impossible to sustain, and the company itself developed a strategy for international expansion. As we noted above, it now derives around one-third of its profit from businesses outside its traditional base in Australia.

But Tercorp has also increasingly insisted on that base. Our claim that it is embedded in the 'local' echoes theirs. In the first report in our study, that of 1970, the board claimed that 'your company management is fully aware of, and will fulfil, its responsibilities to the community'; at the mid-point of our period, in 1985, it acknowledged that 'as a major Australian company Tercorp has an impact on many aspects of community life'; and it noted in 1990 and in the following years that the company recognised the need to 'be aware of community attitudes on important social and economic issues'. To be sure, the expression of that awareness did appear somewhat forced. While Tercorp routinely claimed, as in 1987, that it was 'proud of its record as a supporter of a range of

worthwhile community services’, it often had to look for examples to the personal activities of its employees rather than to the company itself; thus in 1986 it stressed its staff’s ‘many hours of voluntary service to community organisations, school committees and service clubs’. But whatever the grounding in actual practice, the point is that the board used the ‘local’ repertoire extensively. Until the decline in the last period, moreover, the rise in embeddedness in, awareness of, and responsibility to the Australian community indexed by the repertoire matched the increase in the number of shareholders shown in Figure 1.

It is too early to tell whether the individualising trend indexed by an increased ownership of shares can be fitted to the declining use of ‘community’ within the ‘local’ repertoire, for it was that rather than reduced attention to ‘Australia’ which caused the drop in the last period. But a similar effect does appear in Tercorp’s use of the repertoires of ‘risk’ and ‘ethics’.

Risk/Ethics

As seen in Tercorp’s investment in McCoy, the less regulated global economy meant that the company operated under conditions of increasing uncertainty, and as seen in the coincidence of that investment with the introduction of corporate governance, it adopted mechanisms to show that it was acting responsibly under these conditions. We proposed then that the reports would include an increasing attention to both ‘risk’ and ‘ethics’. As shown in Figure 5, that is what we found:

[Insert Figure 5 here]

The coinciding troughs in the late 1980s are a nice touch within the general, if ragged, increases in use of the two repertoires. This is not to suggest that Tercorp acted unethically during the boom times; rather, the question of ethics in business did not become a widespread public issue until after the collapses and scandals following the crash of 1987. In appearing to respond to it—the word ‘ethics’ did not appear in the reports until 1990—Tercorp then illustrates the “Janus-faced mix of risk and trust” said to characterise globalisation (Waters, 1995: 63). In fulfilling its statutory obligation to include a section on corporate governance in the reports, the board typically makes heavy use of ‘risk’. This version is taken from the 1998 report:

The board has in place a number of arrangements intended to identify and manage areas of significant business risk. These include:

- procedures to consider and approve the strategic direction of the company;
 - detailed and regular budgetary, financial and management reporting;
 - procedures to manage financial, operational and environmental risks;
 - established organisational structures, procedures, manuals and policies;
 - comprehensive insurance and risk management programs; and
 - the retention of specialised staff and external advisors.
- (Tercorp)

It is evident that the company's response to 'risk' is consistent with Tricker's (1994) account of the forming, performance and conformance functions of governance. Like 'risk', 'ethics' too is part of the new language of 'corporate governance'. In 1996, for example, the board acknowledged:

...the need for and continued maintenance of the highest standards of corporate governance practices and ethical conduct by all directors and employees of the Tercorp group. The company has a statement of corporate ethics which establishes the professional standards of behaviour required of directors and management in the conduct of the company's affairs. The directors regularly review this statement. (Tercorp)

But while the board may have supplemented the fuzziness of its responsiveness to the 'community' with this more formalised and individualised requirement, there is more to trustworthiness than ethics.

That is also the overall conclusion from our content-analysis: there is more to the 'information' in Tercorp's reports than can be accommodated under the forming, performance and conformance functions of governance.

DISCUSSION

We started this paper with what appeared to be a puzzling gap between Tercorp's duties and its reporting of the unsuccessful investment in McCoy. The scant details of the loss of many millions of dollars did not appear to satisfy either the general obligation that companies use their annual reports to provide actual and potential shareholders with the information needed for decision-making or the specific requirement under the 'corporate governance' introduced during the period of Tercorp's venture into McCoy that shareholders be assured that management was acting prudently in their interests. Yet the company clearly maintained its legitimacy despite a notable failure: there was neither any question over its formal compliance with its statutory obligations nor any informal outcry

from shareholders. We proposed the concept of ‘interformance’ to account for that puzzling gap.

A supplement to or precondition of the rationalised forming, performance and conformance functions of corporate governance, interformance describes the fuzzy interaction whereby the management and boards of companies derive legitimacy from the tacit consent of shareholders who in turn grant legitimacy on the basis of their tacit knowledge. That conceptualisation means that we do not have to assume either that Tercorp’s board are devious schemers, out to brainwash their shareholders, or that the great majority of small shareholders among Tercorp’s owners are cultural dopes, ready to accept whatever they are told. Rather, interformance entails the mutual shaping of boards and shareholders through the meeting of shared expectations, and Tercorp’s legitimacy depends upon the maintenance of that interaction. In that case, the language in Tercorp’s reports cannot be read only in terms of the board’s strategic and utility-maximising rationality, but should also be seen as an effect of Tercorp’s embeddedness. That is, we expected that the language in the reports would be, rhetorically, a partly unconscious appeal to the lived conditions of the company’s shareholders.

On that basis, we analysed Tercorp’s reports through a form of content-analysis, focusing on what language was used rather than on the contextual meanings of that language. Proposing—‘expecting’ might be a term better suited to our assumptions and method—that the words used and the issues indexed by them would mirror the changes in global capitalism widely discussed by social scientists, we derived eight repertoires and showed trends in their usage through a series of comparisons. Our expectations were broadly supported. The repertoires of ‘government’ and ‘economy’ showed both the link between them and the declining salience attributed to government. ‘Labour’ and ‘green’ were raggedly consistent with accounts of a shift from old to new politics (even if they suggested that the contrast might be overdrawn). The ‘global’ and ‘local’ repertoires fitted both the internationalising trend in capitalism and the communalising tendency correlative to it. The language of corporate governance in the repertoires of ‘risk’ and ‘ethics’, finally, were roughly consistent with a further trend, the individualisation already indexed by the growth in share-ownership. Each repertoire and each comparison then showed the rhetorical embeddedness expected of interformance. Responding explicitly to issues of both Tercorp’s performance and public concern, the board drew implicitly on its shareholders’ lived experience of global and national processes. The ‘information’ the board is required to provide emerges in that part rational and part arational responsiveness. That, then, is how legitimacy is sustained.

‘Corporate governance’ is itself both an element in, and an expression of, that process. Where the period of our study began in a ‘legitimation crisis’ in welfare capitalism, ‘corporate governance’ can be seen as a response to a similar effect in the ‘disorganised’ capitalism which has replaced it. The decreased regulatory oversight in the globalising economy means that the growing numbers of share-owners face increasing levels of uncertainty, and the scandals of the 1980s showed how their organised disgruntlement might threaten the new world order of the pax marketana. The devolution of oversight represented in ‘corporate governance’ is one formalised response to that new legitimation crisis.

But if the formal obligations on companies emerge from new times, the interformance of their invocation suggests the old. Tercorp itself stressed a continuity over time. In discussing the ‘green’ repertoire we noted that the board typically claims a history of proactive attention to matters which emerge as public issues, and its response to ‘corporate governance’ is similar. When it first used the phrase in 1995, for example, it could justifiably state that ‘for some decades the board has conducted formal annual reviews of the internal guidelines relating to corporate governance, Board operation and membership and Committee structures’. Like the fuzziness of the mutual meeting of expectations, the instability given in that retroscription is more consistent with the rhetoric of interformance than with a rationalised provision of information or statement of compliance.

Furthermore, we are in the same position, since we have derived ‘interformance’ as a new concept for new times while remaining consistent with the long tradition of alternatives or supplements to the rationally calculating and utility-maximising agent of classical economics. Looking forward by looking back, we have drawn on classical rhetoric and on such themes in the common stock of the social sciences as Marx’s insistence that people make their own history but not under conditions of their own choosing, Durkheim’s attention to the precontractual elements of contract, Weber’s typology of legitimacy, and Simmel’s treatment of the intensification of trust required under capitalism. We have mentioned only a few of the more recent social theories in which those themes have been elaborated. Any reader from any of the social sciences would be able to add to them.

But if the arational interaction we have called ‘interformance’ is in one sense nothing new, in another it has given us an empirical purchase on Tercorp’s account of McCoy which is not available under the rationalised forming, performance and conformance functions of

corporate governance. Each of those functions may be necessary to the legitimacy which Tercorp undoubtedly sustained—and we should stress again that we do not deny that Tercorp is a centre of rational calculation and that its board and management act strategically to maximise utility—but each depends for its effects on the messy interaction of interformance. On that basis, the board used the annual reports to communicate effectively with the shareholders they represented, not so much despite but because of the apparently scant information in their account of the failed investment in McCoy.

CONCLUSION

Since this account of interformance and legitimacy is part of a larger study of Tercorp, of annual reports, and of tacit knowledge, ‘information’ and the language of management, we conclude with a note on other aspects of it which require attention. Although we have taken Tercorp as typical of large corporations, we need to compare it with others to establish that typicality. While our content-analysis yields indicators of attention, we need detailed study of the rhetoric whereby that attention is realised. Where we have concentrated on only one side of the interaction between share-issuers and shareholders, the corporate, we need to examine the meaning of ownership for small shareholders; this is especially necessary since the phenomenology of share ownership is under-researched, and since the criteria small shareholders use in selecting, retaining or selling their shares are not well understood. Finally, while we have taken the reports as published, we need to study the process of their production in large firms.

Insofar as the under-researched topic of ever-increasing share-ownership is symptomatic of the times, these are politically consequential and theoretically important issues. As such, they entail all the conceptual difficulty so typical of the social sciences. Our case study of a puzzle in the annual reports of one company, and our proposal that ‘interformance’ links the questions of corporate governance and legitimacy raised in that puzzle, are a preliminary contribution to a cluster of issues which we consider more than deserving of attention.

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FIGURE 1

Tercorp's Owners, in Thousands

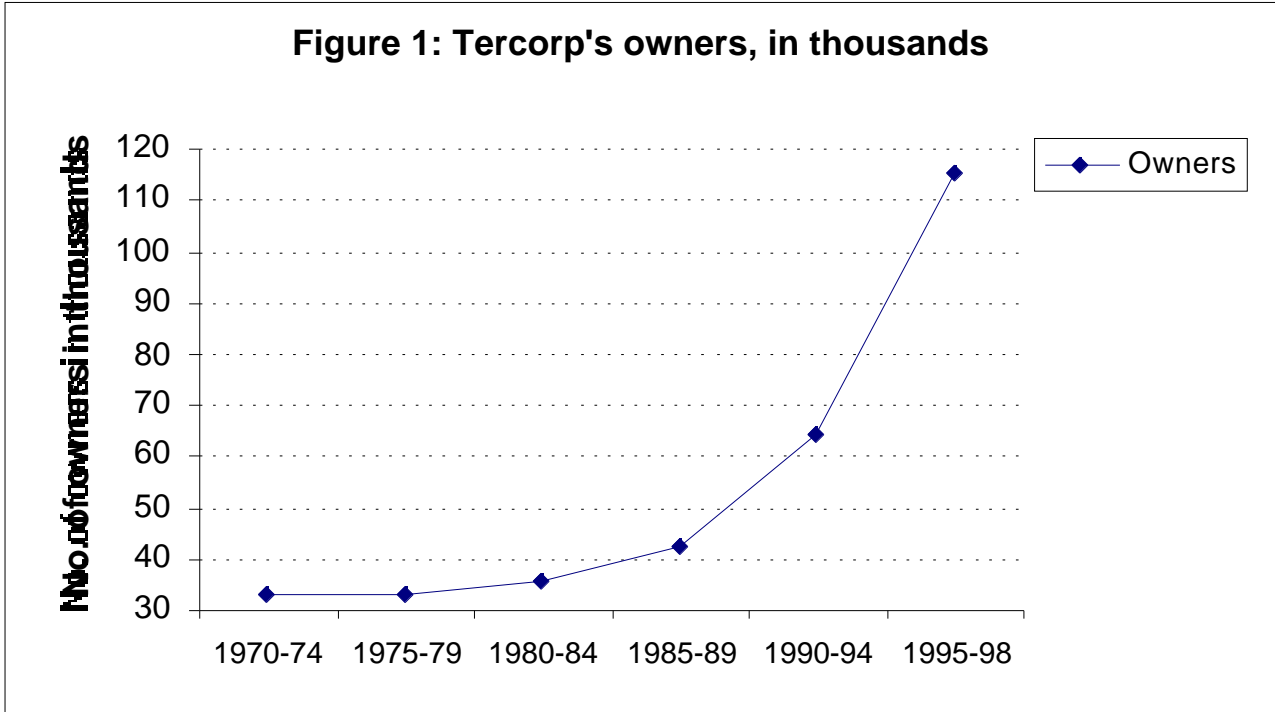


FIGURE 2

Government and Economy

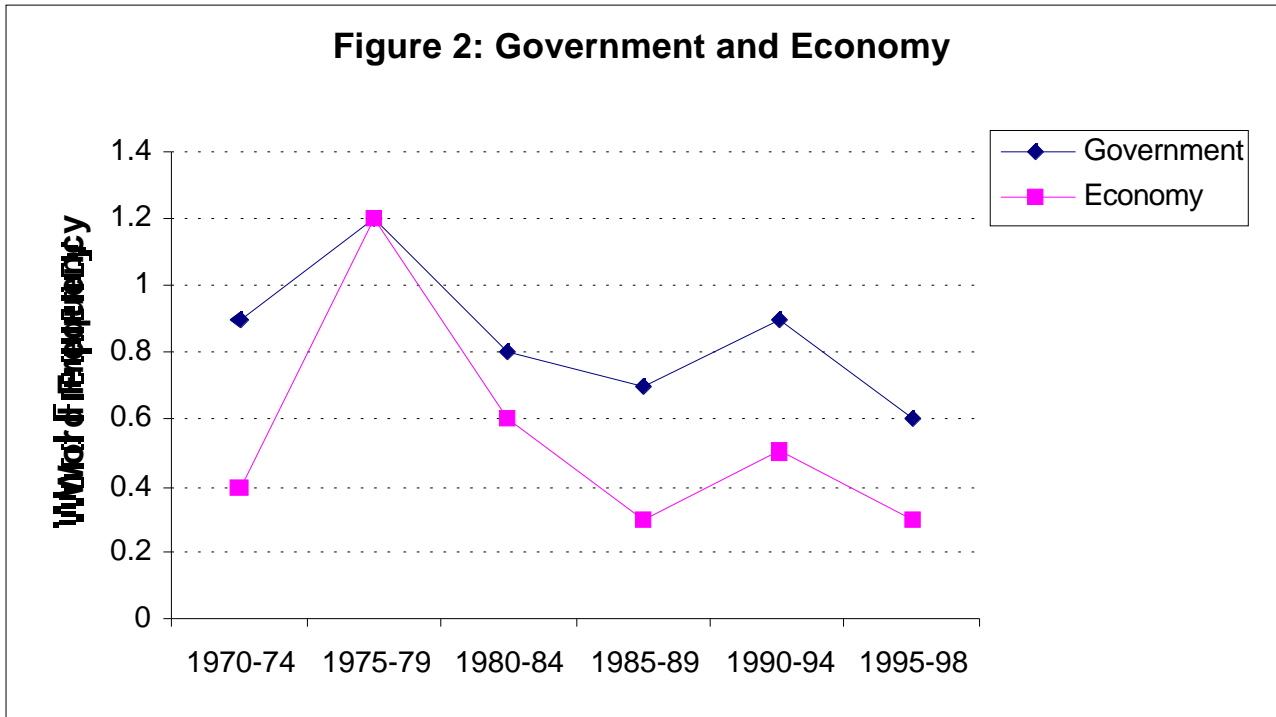


FIGURE 3
Labour and Green

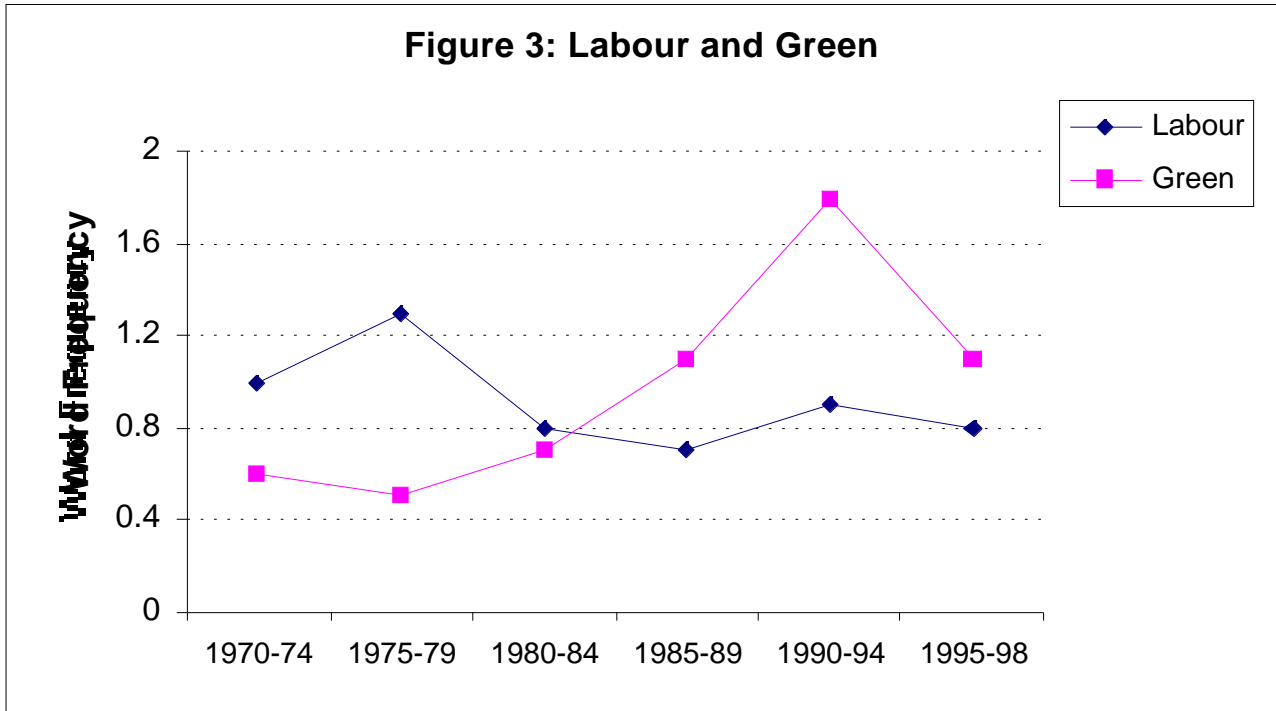


FIGURE 4
Global and Local

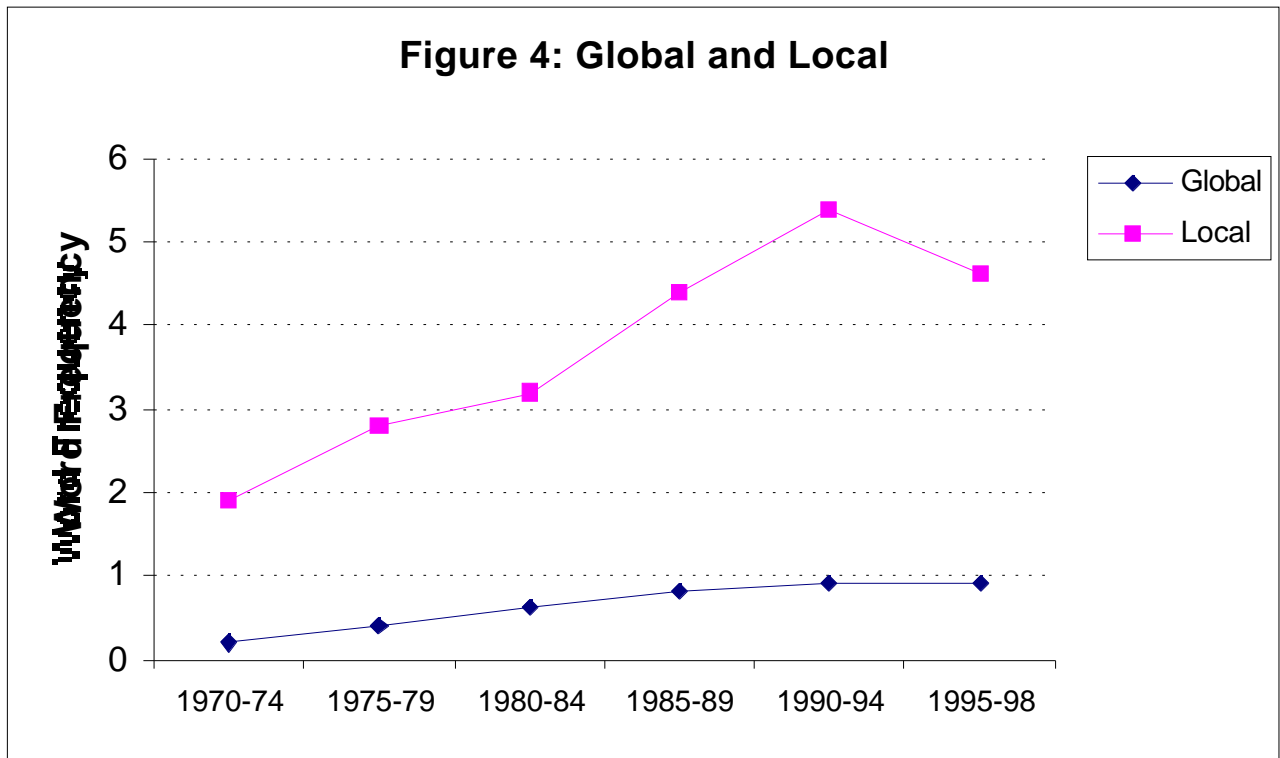


FIGURE 5
Risk and Ethics

