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BUILDING A NEW STRATEGY TOWARD CORPORATE SOCIAL RESPONSIBILITY: DISCLOSURE OF NON-FINANCIAL INFORMATION

JAUNAS STRATĒĢIJAS IZSTRĀDE CEĻĀ UZ KORPORATĪVU SOCIĀLO ATBILDĪBU: NEFINANSIĀLAS INFORMĀCIJAS ATKLĀŠANA

Kopsavilkums

Korporatīvās sociālās atbildības sākotnējā raksturīgā iezīme ir "brīvprātība" kā virzītājspēks, kam vajadzētu iedvesmot uzņēmumu izvēli būt uzmanīgiem pret citiem darījuma partneriem. Tomēr sociāli atbildīgas politikas pieņemšana īstermiņā var nebūt finansiāli visizdevīgākais risinājums. Pieņemot, ka ilgtermiņā arvien vairāk tiek atzīta pozitīvā ietekme uz konkurētspēju, rodas neizbēgams risks, ka korporatīvās sociālās atbildības autonomija no ekonomisko panākumu viedokļa tiek zaudēta. Lai atrisinātu šo problēmu, ES Komisija mudina ieviest "tirgus stimulus", lai mudinātu uzņēmumus izdarīt sociāli atbildīgu izvēli. Tāpēc šajā rakstā parādīta jauna pieeja, kuras pamatā ir obligāta nefinansiālas informācijas atklāšana ar mērķi nodrošināt tirgus stimulus.

Atslēgvārdi: brīvprātība, tirgus stimuli, obligāta informācijas izpaušana

Summary

The original characteristic feature of the corporate social responsibility (hereinafter, also CSR) is the 'voluntariness', as the driver that should inspire companies' choices to be careful to other counterparties. However, the adoption of a socially responsible policy may not be the most financially beneficial in the short terms. Assuming that the positive impacts of CSR on competitiveness are increasingly recognized in the long term, this inevitably risks to deprive CSR autonomy from the perspective of economic success. To solve this problem, the EU Commission urges to introduce 'market incentives' in order to encourage companies to make socially responsible choices. Therefore, this paper demonstrates the existence of a new approach, based on mandatory disclosure on non-financial information aimed at providing market incentives.

Keywords: voluntariness, market incentives, mandatory disclosure

Introduction

In January 2018, CONSOB adopted the regulation regarding disclosure of non-financial information. This measure provides a transposition into the Italian legal framework of the Directive 2014/95/EU "amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups".

The Directive 2014/95/EU is characterized by the fact that it aims to resolve, with a single instrument, two different themes in the field of corporate social responsibility. It states a mandatory disclosure both with reference to non-financial information and to diversity information – relating to aspects like age, gender or educational and professional background – on the members of administrative, managerial or supervisory bodies of undertakings.

The present paper will discuss the first of the two themes mentioned above.

The Directive in question is a result of a long process brought forward by the European Union in the field of Corporate Social Responsibility. In this way, the Green Paper "Promoting a European framework for corporate social responsibility" published in 2001 by the Commission of the European Communities is one of first official acts aimed to give substance to the theme.

The 2014/95/EU Directive distinguishes for its innovative choices. "What is striking about this intervention is the kind of instruments used: never, until today, has a hard law act used in the European strategy of CSR, always characterized by a totally voluntary and promotional approach"[1]. The introduction of legal obligations, even if at a minimal level, is unequivocally "a change of course and represents the beginning of a new phase, in the sign of a stronger and more effective public intervention by Europe in support of CSR".

The characteristic feature of the CSR notion is 'voluntariness', as we can infer by the doctrine and by definitions provided by the European Commission, even if in international literature this feature is often stigmatized and, in some jurisdictions, such as the United Kingdom, the consideration of external stakeholders has become a positive law.

The basic idea behind the CSR movement is that companies' business should be inspired not only by the criterion of maximum profit but also by the criteria of social responsibility, "in the sense of the need to build – beyond the respect for the basic duties of the law – a climate of mutual trust (within the company and in relationships outside it), and the consideration of this trust as collective capital".

What characterizes CSR is, therefore, the fact that companies should carry out a part of their business operations in pursuing aims external to those fixed in the articles of association and that they should do it 'voluntarily', not in order to comply with moral or legal obligations. In other words, the profile of voluntariness "enables a deeper understanding of the CSR movement: if we consider voluntariness in its elementary meaning of lack of legal norms or (and I believe this point should not be overlooked) ethical"[2].

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1 Bellisario E. Rischi di sostenibilità e obblighi di disclosure: il d. lgs. n. 254/16 di attuazione della dir. 2014/95/UE (d. lgs. 30 dicmebre 2016, n. 254 della dir. 2014/957UE) (Sustainability risks and disclosure obligations: the d. Lgs. N. 254/16 of implementation of the dir. 2014/95 / EU (Legislative Decree 30 December 2016, No. 254 of the 2014/95 / EU Directive). In: Le nuove leggi civili commentate, 2017, p. 22.

2 Angelici C. Divagazioni sulla "responsabilità sociale" d'impresa (Rise of "corporate social responsibility"). Rivista delle società, No. 1, 2018, p. 7.

The definition of CSR given by the European Commission focuses precisely on the 'voluntariness' of companies' behaviour.

According to the European legislator, corporate social responsibility is essentially a concept whereby "companies decide voluntarily to contribute to a better society and a cleaner environment"[3]. The European Commission, therefore, defines the corporate social responsibility as a concept whereby "companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis"[4].

In the European Commission's view, "being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing "more" into human capital, the environment and the relations with stakeholders"[5]. Moreover, it supports that "although the prime responsibility of a company is generating profits, companies can at the same time contribute to social and environmental objectives, through integrating corporate social responsibility as a strategic investment into their core business strategy, their management instruments and their operations"[6].

The basic message of the European Commission is that "to fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of: - maximising the creation of shared value for their owners/shareholders and for their other stakeholders and society at large; – identifying, preventing and mitigating their possible adverse impacts"[7].

Given that the characteristic feature of CSR, as originally conceived by the European Commission is 'voluntariness'[8], in order to comprehend the reasons of the introduction of a mandatory disclosure on CSR policies it is necessary to face a further profile – often evoked to induce companies to adopt socially responsible choices. We refer to the theme according to which the adoption of CSR policies can contribute to create a favourable environmental and social context and, in this way, it can positively affect long-term economic results.

The European Commission seems to support this thesis. According to it, in fact, "a strategic approach to CSR is increasingly important to the competitiveness of enterprises. It can bring benefits in terms of risk management, cost savings, access to capital, customer relationships, human resource management, and innovation capacity"[9].

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3 Commission of the European Communities, Green Paper, Promoting a European framework for corporate social responsibility, Brussels, 18/07/2001, 4.

4 Ibid., 7.

5 Ibid.

6 Commission of the European Communities, Green Paper, Promoting a European framework for corporate social responsibility, cit. 4.

7 COM (2011) 681, European Commission, Renewed EU Strategy for 2011-14 on Corporate Social Responsibility.

8 Commission of the European Communities, Green Paper, Promoting a European framework for corporate social responsibility, cit., 4.

9 Ibid.

Then, European Commission argues that a CSR oriented management can increase company's business also because "it can therefore drive the development of new markets and create opportunities for growth". In fact, it is observed that "CSR requires engagement with internal and external stakeholders, it enables enterprises to better anticipate and take advantage of fast changing societal expectations and operating conditions". Consequently, through adopting a CSR policy, the companies can "build long-term employee, consumer and citizen trust as a basis for sustainable business models. Higher levels of trust in turn help to create an environment in which enterprises can innovate and grow".

However, this thesis requires some observations, one of which is particularly relevant for the topic here.

Assuming that a socially responsible management can contribute to the economic success of companies risks, essentially, to "deprive CSR of its own autonomy from the perspective of economic success as the goal that the directors must pursue". In other words, putting the emphasis on the long-term growth can make seem the decision on the adoption a socially responsible policy not unlike to other business choices, such as, for example, investment in research.

It should be noticed also that the most important criticism on CRS is that the abdication to a profit opportunity for the adoption of a socially responsible choice inevitably turns into a profit opportunity for competing companies and in particular it may create "a competitive advantage, which can then be exploited, improving position in the market, to detriment of the socially responsible competitor".

The European Commission seems to be well aware of this latter problem. In fact, it admits that "the positive impacts of CSR on competitiveness are increasingly recognized but enterprises still face dilemmas when the most socially responsible course of action may not be the most financially beneficial, at least in the short term". To solve this question, the Commission urges to introduce and promote "market incentives" in order to encourage companies in making socially responsible choices and in particular it affirms that "the EU should leverage policies in the field of consumption, public procurement and investment to strengthen market incentives for CSR".

At this point, it is clear the importance of the introduction of a mandatory disclosure on non-financial information, whether we accept that the adoption of socially responsible policies can provide economic benefits for businesses in the long term, and whether we assume that, in order to offset the economic disadvantages arising from the adoption of socially responsible choices, it is necessary to provide incentives to companies. In both cases, in fact, the counterparty should be aware of the choices done by companies in terms of CSR. On this topic, the EU legislator explicitly affirms that the disclosure of non-financial information "is vital for managing change towards a sustainable global economy by combining long-term profitability with social justice and environmental protection". Moreover, planning the new strategy to be carried out in order to develop its CSR policy, the same European legislator states that "investors' access to non-financial information is a step towards reaching the milestone of having in place by 2020 market and policy incentives rewarding business investments in efficiency under the roadmap to a resource-efficient Europe".

Conclusions

To sum up, the Directive 2014/95/EU introduces for the first time a mandatory disclosure in a field, such as CSR, characterized by 'voluntariness'. This choice, as demonstrated above, is inspired to induce companies to adopt socially responsible choices and so to achieve a sustainable global economy.

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