Social inclusion

POSSIBILITIES AND TENSIONS*

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Company Law: An Instrument For Inclusion – Regulating Stakeholder Relations In Takeover Situations

A company's stakeholders are those whose relations to the enterprise cannot be completely contracted for, but upon whose cooperation and creativity it depends for its survival and prosperity.

Introduction

A company's stakeholders make up a web of relationships both with and within the company. The company depends on the continuing health of these relationships for its survival and prosperity. In many cases, a process of bargaining or mutual adjustment between the different stakeholders may be sufficient to ensure that the health of these relationships is maintained. Contracts, explicit and implicit, can allocate risks and rewards in such a way as to maximize returns on the investments made by all the parties. However, the terms upon which bargaining takes place do not always result in mutually beneficial outcomes. Contracts are affected by uneven access to information, and hence to bargaining power. This in turn results in the imperfect allocation of risks and rewards and hence to lost opportunities for all concerned.

In this chapter, we consider a number of potential justifications for regulatory intervention aimed at overcoming what we may call "contractual failure" in stakeholder relations. We identify two distinct functions of stakeholding which we characterize in terms of "contract" and "innovation". We then show how these are linked to two distinct approaches to the regulation of stakeholder relations, one based on "rights" and the other on "cooperation". After exploring the areas of takeovers and company reporting, we conclude by suggesting that the effectiveness of regulation will depend on the capacity of legal rules and procedures to promote cooperation within stakeholder relations, in particular by generating markets for information.

1. This work draws on research on takeover regulation carried out by the authors under the Corporate Governance Programme of the ESRC Centre for Business Research (CBR). The support of the Economic and Social Research Council is gratefully acknowledged.

The role of regulation

A common theme running through the different formulations of the stakeholder concept is their emphasis upon inclusion. The idea that many groups, and not simply the shareholders, have "something directly at stake" in a company is given increasing importance in contemporary debate. Why does "inclusion" in a corporate context call for regulation of relations between different groups of stakeholders? The stakeholder approach, whatever its moral justification, has always required an economic justification consisting of net benefits to the group or society that adopted it. From this point of view, we will suggest that a space for regulation exists because cooperation between the different stakeholders, which is the foundation of the company´s success, cannot be completely contracted for. Law and regulation are needed to shape the bargaining process in ways that foster the well-being both of the company and, in the final analysis, of society too.

There are two broad economic justifications for basing regulation on the stakeholder concept. The first is an argument at the level of contract. In long-term economic relations, high transaction costs (including the costs of negotiating, monitoring and enforcing express contracts) may impede the formation of contracts that would provide for an efficient sharing of risks and information between the parties. Where this is the case, the contractual interests of certain parties are under-protected[2]. Here, the provision of legal rights for stakeholder groups could be seen as completing the terms of the "incomplete contracts" which the parties arrive at through autonomous bargaining. By such means, the contractarian model of stakeholder relations can give rise to a rights-based conception of the role of legal regulation. The definition of stakeholders is narrowed to "those whose rights are affected by the firm" and the definition focuses upon what is "due to" stakeholders because the firm imposes upon them costs or risks which cannot effectively be contracted for.

The second justification rests upon an argument orientated towards innovation. A growing body of research attests to the importance of close collaboration between firms, and between management and labour within firms, as a prerequisite for innovation[3]. Because innovation requires planning for the long term, but at the same time involves radical uncertainty over the future, the success of collaborative ventures depends upon the willingness of both sides to respond flexibly to changing circumstances. As a result, contractual relations are inevitably "incomplete", so giving rise to a role for the law in supporting long-term cooperation[4]. However, rather than seeing the role of the law in terms of the "completion" or "perfection" of incomplete contracts, its purpose now is to encourage incom-pleteness: to encourage a flow of information and cooperation which goes beyond the terms of any express or implied contract. The basis for this form of extra-contractual cooperation has been usefully termed "goodwill trust"[5]. While not ruling out space for a rights-based discourse, the emphasis instead is on procedural rules whose aim is to foster learning and creativity within stakeholder relations, rather than simply on redis-tributive measures which purport to create an optimal incentive structure for contracting.

If a company´s stakeholders were simply understood as the "affected parties", or "those who can affect the firm", then a contract-based approach would be sufficient to govern their relations. However, the fact that stakeholder relations have the potential for innovation has very important implications. In particular, it provides a link to inclusion, since inclusion is a means by which cooperation may be enhanced. Inclusion may sometimes require regulating the form that contracts and markets can take. It does not mean that stakeholders should always or automatically have absolute rights to information or control. Rather, because of their importance to the productive process, it means that it makes sense for markets, information systems and contracts to be designed in ways that help all stakeholders to give of their best. Our working definition of a company's stakeholders, then, is

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2. Shleifer and Summers in Auerbach (1998), p. 33; Winter, in Blair (1993), p. 55.

3. See Deakin and Wilkinson in Campbell and Vincent-Jones (1996).

4. See Deakin, Lane and Wilkinson (1994).

5. Sako (1992).

6. See Macey and Miller (1993).

7. Deakin and Slinger (1997).

Our definition of stakeholding has implications for company law. The legal system provides a framework within which the contractual and innovation-based models of stakeholder relations are continuously tested. UK company law, like that of most other common law systems (such as those of North America and the Commonwealth), provides important rights to shareholders as the "residual claimants" of the company, but currently provides relatively few such rights to other stakeholder groups. The question we wish to examine here is whether the exclusion of stakeholders who are not shareholders from participation in corporate decision making can be justified on economic grounds.

A highly influential view of the company sees it as the focal point of a set of contracts or bargains, of varying degrees of explicitness, through which the wishes of all the stakeholders are expressed. According to this point of view, the intertests of the different stakeholder groups are best represented (and reconciled) through bargaining. Company law plays a role in reducing transaction costs by supplying legal rules which operate as a kind of standard form contract, which the parties can modify or adjust to their own particular needs, but which rarely constrain or prohibit private contractual solutions. A principal focus for legal rules of this kind is to reduce the agency costs that arise from the separation of ownership (by shareholders) and control (by managers). In this view, corporate governance is largely a matter of addressing the difficulties which shareholders have in controlling managers whose interests and information may diverge from their own. These difficulties are limited wherever institutional investors are willing to intervene to demand changes in management policy, or where the market can use an outside disciplinary mechanism, such as the hostile takeover. Hence a number of mechanisms –some legal, some extra-legal– are available for promoting efficient bargaining solutions.

Similarly, this line of thought argues that the wider stakeholders –employees, long-term customers and suppliers– are best protected by contractual mechanisms or, where bargaining is not feasible, by certain statutory provisions which control the exercise of contractual power (such as employment protection laws, in the case of employees, or laws governing late payment, in the case of commercial suppliers). What is not appropriate is to give such groups ownership or control rights within the framework of the company. To do this, it is said, would be to undermine the position of the shareholders as "residual claimants", that is say, as those who bear the ultimate risk of the company's failure and who, conversely, stand to gain most if the company succeeds[6].

Were the monitoring role of shareholders to be diluted, or shared with the other stakeholders, it is argued that the effect would simply be to entrench corporate managers against scrutiny of their behaviour. As we shall see in further details below, this is the basis for the view that the introduction of controls over hostile takeover bids would reduce the effectiveness of shareholder scrutiny of managerial behaviour, thereby leading to a loss in overall efficiency. But even so, from this perspective, the issue confronting policy-makers in the area of corporate governance is: how should the company be regulated so as to enhance its effectiveness as a mechanism for enhancing the overall wealth or well-being of all stakeholders?

The regulation of hostile takeovers in the UK

The nature of the task facing policy-makers can be illustrated by considering the arguments for and against hostile takeovers. In other work, we have argued that the system currently operating in the UK exposes non-shareholder stakeholders in listed companies to undue risk in two ways[7]. Firstly, it places the interests of target shareholders above those of other stakeholder groups, to a greater extent than is warranted by the general law on directors duties. As a result, the current law contributes to a system of incentives which encourages managers to favour the short-term financial interests of shareholders when faced with a hostile bid. Secondly, the law hampers the ability of potential target firms to put in place anti-takeover defences. This helps to perpetuate a situation in which virtually all publicly quoted companies are "in play", or subject to the market for corporate control, and hence to pressures on managers to retain the confidence of the market at all times.

Is this situation conducive with economic efficiency? In one view, the benefit of hostile takeovers is not only that they can directly alter practices of corporate underachievers, but that they can also encourage better performance in those companies which, as a result of

the threat, improve their performance and hence never have to face a bid. As the "great white shark" of the corporate world, hostile takeovers encourage "all the fish in the ocean to swim a little quicker"[8].

The contrasting argument, made at least since the mid – 1980s[9], is that hostile takeovers can undermine relations of goodwill trust between a company and its stakeholders. In addition to damage to the internal relations of the firm, a number of negative externalities may also be imposed on third parties. The publicity attracted by one hostile takeover bid can cause employees in other companies to place less faith in the value of their own implicit contracts. Where local communities are highly dependent on a particular employer, the costs of restructuring, which tend to follow on from takeovers, may fall unevenly on such groups. This is a kind of "social pollution" whereby institutions beneficial to many, such as implicit con-tracts, are damaged by the privately interested actions of the few. Hence one company's emphasis on maximizing returns to shareholders at the expense of the under-protected, "implicit" interests of other stakeholders, has effects beyond the individual takeover situation, and is corrosive to the productive potential of many other, similarly-situated companies.

In addition, the hostile takeover mechanism, it is argued, operates through a relatively inefficient market. The relentless pressure of quarterly performance assessments for fund managers means that they cannot afford to take a long view of investment decisions. The balance of the econometric evidence is that the market assesses takeovers –in particular agreed bids– inefficiently, making consistent and sizeable errors in valuations of the bidder company, and not selecting the most poorly performing candidates for bids[10]. As a result, managers may be best advised to seek greater size, or to reduce long-term investment, to preserve their positions[11]. This gives greater credence to the argument that employees may be wary about making long-term investments (such as those involved in acquiring firm-specific skills) in their relationship with the company. For all the reason above, arguments are advanced for restrictions on hostile takeover bids[12].

Arguments that regulations should be imposed, however, are often criticized by those most closely involved in the operation of the takeover system. In the course of our research on the takeover process, market professionals said to us:

> I am very strongly against the idea of requiring a positive proof of public interest. To whom would the proof be given? What standard of proof would be required? It would allow political intervention and it is dangerous to allow politicians to start to make this kind of decision.

I am absolutely against any blanket ban on takeovers – think of the comparison with your own personal property, and the government forbidding you the right to buy or sell it. The suggestion of requiring 75% approval for control change is rubbish – try applying it to Parliament! In any case, shareholders can vote for this kind of change if they so wish. Sand-in-the-works? I would not expect increasing transactions cost by putting "sand in the works" to have any effect on the takeover business[13].

Those we spoke to believed that takeovers permitted flexibility in reorganizing economic arrangements. There was a belief that a bureaucratic assessment of costs and benefits would not offer the same thing. The chairman of a large UK plc said to us:

> The overall takeover process is extremely healthy. It does keep open the one serious option for change. I would if anything like to see more M&A [merger and acquisition] activity ... and would actually have a shorter version of the [takeover] process. Sixty days is too long. Proof of positive public interest? This would be very difficult to prove, and to win the argument. It would block the capitalist process[14].

The argument here is not whether any regulation should be imposed. Regulation shapes the entire market from corporate control, from company law, through the Takeover Code, to the rights of employees under employment protection and (now) minimum wage legislation. The question is not whether, but how, and to what extent contractual arrangements between companies and others should be shaped by regulation, and to what extent they should be left open. It is on this issue that the difference between understanding stakeholders as rights-holders and understanding stakeholders as creative innovators becomes important.

If stakeholders are "those whose rights are damaged", the aim would be the identification of damage, and compensation. Yet if stakeholders are "potentially creative innovators", the aim would be to maximize the

gains from innovation, and to share any gains in a way that continued to encourage innovation. From this point of view, the argument as to whether the disciplinary function of takeovers outweighs the disruption and short-termism which they are said to cause, should not be settled solely in terms of rights to compensation. Regulation of stakeholder relations should strike a balance between accounting for past costs and benefits, and emphasizing learning and adaptation for an uncertain future. For this reason, we should be wary of any particular distributive solution that is proposed for stakeholder relations. Instead, we should seek to create frameworks that can permit cooperative and innovative solutions to be found. A purely contractarian view of stakeholder relations – even a "sophisticated" one which takes account of implicit contracts – is not capable of capturing the dynamic role of innovation within stakeholder relations.

Reforming takeover regulation

A number of proposal shave been made at various times for protecting stakeholders from company takeovers. Some of them involve strengthening employee rights in general, and are not specific to takeover activity; for example, there is a strong case for granting employees protection against the abuse of pension funds. This issue has been addressed by recent pensions legislation[15] which has gone part of the way to giving employee representatives a clearer monitoring role in respect of pension fund management. Of greater interest for present purposes are proposals which relate directly to the balance of power between managers, shareholders and other stakeholders within corporate governance. Here, in the face of arguments that would give the market for corporate control free rein, stakeholder proponets have argued for drawing it back sharply: allowing more anti-takeover defences, including permitting crossshareholdings; judging takeovers by the public interest criterion, with a greater role for the Monopolies and Mergers Commission; and creating a tax differential to encourage long-term retention of shareholdings. In response, it has been suggested that those regulatory changes that impose a particular redistributive solution may distort existing markets, increasing costs without generating sufficiently large benefits by way of compensation. It is also argued that the UK is not an abstracted contracting environment, on to which solutions from other countries systems (for example) can simply be grafted. The regulatory options, it is argued, have to be considered within an existing commercial culture[16].

In our view, these objections are properly understood as arguments against certain forms of regulations, and not against regulation as such. We defined stakeholders above as those affected by the firm in ways which cannot completely be contracted for, yet who could potentially interact with the firm in cooperative, creative, mutually beneficial ways. This approach implies a need for a framework of rules to provide incentives for the sharing of risk and information and to foster long-term cooperation based on trust, rather than one that seeks to impose a particular solution on the contracting parties. What would such an approach imply in practice for the regulation of takeovers in the UK?

A theme running through the analysis of hostile takeovers is that both managers and shareholders make decisions on the basis of incomplete information. The best counter, then, to market and managerial myopia is the provision of a wider range, and a higher quality, of information about the company's activities. The criticism levelled by Richard Roll's "hubris hypo-thesis"[17], for example, was not just that companies cut investment, but that they did so because of failures in the market for information. Companies make heavy investments in the human capital of their employees despite being unable to identify clear returns; companies announcing

8. A market professional, interviewed by the authors for the Escr Centre for Business Research (CBR) project on takeover regulation, 1995-96.

9. Shleifer and Summers (1988).

10. The extensive literature is summarized in Deakin and Slinger (1997); Mueller and Sirower (1998).

11. See Roll (1986).

12. See Hutton (1995); Plender (1997), p. 260. For a contrary view, see Commission on Public Policy and British Business (1997), p. 110.

13. A City financier, interviewed by the authors for the CBR research project on takeover regulation, 1995-96.

14. Interviewed by the authors for the CBR research project on takeover regulation, 1995-96.

15. In particular the Pensions Act 1995.

16. See Manser (1990), where the arguments for and against takeover regulation are rehearsed, the autor coming down strongly in favour of the latter.

17. Roll (1986).

largescale retraining programmes have been known to suffer immediate share price declines[18]. By contrast, it has become accepted wisdom in the City that companies in difficulty can restore share price by instituting large-scale redundancies, thereby forfeiting potential longerterm gains based on previous investments in skills and training. With better information of the effect of training cuts on staff morale, customer opinions, and retention ratios of both, the market would be able to allocate its capital more efficiently, and fewer myopic decisions would be made by both managers and by the representatives of institutional shareholders.

The role of advisers incentives might also be considered here. Econometric studies show that expert advisers are involved in a business that, on average, loses money for the shareholders of the bidding firms, in particular in the case of agreed bids[19]. Even when agreed and hostile bids are analysed separately, mergers resulting from hostile bids lead, on the whole, to performance which is no better than the average performance in the industries in question. Viewed from this perspective, the failure of the market for corporate control to evaluate effectively the longer-term effects of mergers and takeovers is a clear instance of the reality of agency costs: those who own shares in bidder firms appear to be incapable of exercising adequate control over the managers who prepare and plan takeover bids.

How should shareholder representatives in potential bidder companies respond? Their options include (1) demanding better justifications from the companies they invest in for any takeover bids made; and (2) encoura-ging the introduction of incentive fees based in whole or in part on the long-term relative stock market performance of the bidding company. On the evidence of past practice, however, the capacity of shareholders to perform this monitoring role must be in doubt. For whatever reason, there are few signs that UK institutions are prepared to counter this form of managerial myopia.

Under such circumstances, it is legitimate to question the widespread view that shareholders are, because of their role as "residual claimants", best place to perform the role of monitoring corporate managers. At the very least, we may be sceptical of the idea that the shareholders alone of all the stakeholder groups should play a significant monitoring role. Attention then turns to giving nonshareholder stakeholders a more pro-minent role in order to balance the information arriving at the decision –making level.

As the situation stands, the nature and content of directors fiduciary duties is a central issue. The interaction between the overlapping regulatory systems of the Takeover Code, the Companies Acts and the common law results in a situation in which directors of target companies, faced with a bid, place the interests of shareholders clearly ahead of those other stakeholders. Although they have an obligation to act with regard to the interests of the company as a whole, directors find themselves owing specific duties to the shareholders, for example concerning the accuracy of information concerning the bid.

One option for reform is to clarify the law so that directors enjoy greater autonomy from shareholder pressure during takeover bids. There are models for such reform in the "stakeholder" statutes passed by many US state jurisdictions in the late 1980s and early 1990s[20]. Similarly, the draft EC Directive on takeover bids (the " Thirteenth Directive") requires the board of a target company to "act in the interests of all the company, including employment" when responding to a bid[21]. Indeed, section 309 of the UK Companies Act 1985 requires directors to take the interests of the company´s employees into account when discharging their duties to the company. In this vein, the Takeover Code could be amended so as to reflect more completely this provision of the Companies Act. However, changing the law relating to directors duties is unlikely to have much practical effect in the absence of any moves to give other stakeholders, such as employees, legal standing to challenge decisions of boards. Nor would reformulating directors duties in the way suggested help boards to decide how to resolve conflicts which may arise between the interests of the different stakeholder groups.

A more concrete proposal that has been made from time to time in the protracted debate over the draft Thirteenth Directive is to require both the bidder and the target companies to engage in a process of consultation with employee representatives during the course of the bid. Rule 24.1 of the Takeover Code merely requires the bidder company to state its intentions with regard to future relations with employees. Offer documents issued by bidders under the rules of the Code nearly always contain a statement to the effect that existing

rights of employees will be fully respected. This says nothing more than that the bidder company will respect the company´s prior legal obligations to its employees; it has become a formality, which is represented in offer documentation by the use of a standard "boilerplate" formula[22]. It says nothing about the protection of implicit but legally unprotected obligations.

Granting clearer protection to employee expectations (an "implicit contract" approach) is one option open to legal reformers; in some US jurisdictions, rights of employees to employment protection are statutorily enhanced following a takeover (so-called "tin parachute" rights)[23]. Employees whose firms are subject to takeover are better protected than other similarly placed workers. The effect may be to deter certain types of "breach of trust" by takeover bidders, but even then the best such laws can normally achieve is higher levels of compensation for those who lose their jobs in the aftermath of a change of management. In the UK, in contrast to the USA, it is normal for employees to qualify for some form of compensation if they are made redundant whether or not their companies are taken over. This does not seem to have deterred takeover bidders to any degree.

The proposal for consultation with employee representatives in the course of the bid could have a much more wide-ranging effect on the process of managerial decision-making. The legal meaning of consultation, in this context, requires the parties to consult with a view to making an agreement[24]. Statutory rights to information and consultation already exist in respect of decisions for large-scale redundancies[25], and where a business is sold from one employer to another through a "transfer of undertakings"[26]; however, these rights do not extend to changes of control by share transfer[27]. The closure of this anomaly (for this is what it is, viewed from the vantage point of employment law) would help to provide a basis for the monitoring of managerial conduct by employees. In recent drafts of the Thirteenth Directive, however, concerns about the possibility of lengthy and costly disruptions to bids led to the deletion of any references to employees consultation rights. The only requirement, as under rule 24.1 of the Takeover Code, was that bidders should state their intentions with regard to the future treatment of employees[28]. These concerns about hampering bids appear overstated. That a requirement to consult with employee representatives would hamper certain bids is not, in itself, a good reason to oppose consultation. On the contrary, requiring bids to pass the threshold of consultation with employees could usefully deter precisely those bids whose financial *raison d'être* lies in expropriating rents from stakeholders who are not shareholders[29].

Consultation during bids would be most effective if it were coupled with a general obligation to provide wider information about the treatment of employees. Here, a relevant model may be found in the "balanced business scorecard" approach to company reporting. This recommends that companies should report on measures for customer satisfaction, dealer satisfaction, employee morale and empowerment, and environmental responsibility, alongside more traditional measures of financial performance[30]. In the context of a takeover bid, the impact of the bid on other stakeholders –on customers, employees, suppliers, and possibly the local

18. See the example of Marks and Spencer plc in the summer of 1998.

19. See Mueller and Sirower (1998).

20. *Ibid.*

21. Article 5 (1). See Official Journal of the European Communities, C-378, 13 December 1997.

22. See Deakin and Slinger (1997).

23. *Ibid.*

24. See Deakin and Morris (1998), pp.786-788.

25. This legislation dates back to 1975 and is currently contained in the Trade Union and Labour Relations (Consolidation) Act 1992. It is supported by a number of EC directives (in particular Directive 75/129 on Collective Redundancies).

26. The Transfer of Undertakings (Protection of Employment) Regulations 1981, implementing EC Directive 77/187 (the "Acquired Rights Directive").

27. There is a provision for there to be annual consultation over merger plans between company representatives and representatives of employees in the Annex to the European Works Councils directive (Directive 94/45). However, this is unlikely to lead to significant employee participation in decision – making on mergers: see Wheeter (1997).

28. The amended proposal is published in the *Official Journal of the European Communities,* 1997, C-378, 13 December 1997. The background to the proposal is explained in Commission document COM (97) 565 final. See also House of Lords Select Committee on the European Communities, *Takeover Bids,* 13th Report, HL. *Paper 100*, Session 1995-96.

29. For reason of space we have to pass over here some important issues concerning the precise scope of a duty to consult as proposed in the text, and the remedies which the law should make available for a failure to consult.

30. Kaplan and Norton (1992, 1993, 1996).

community– is arguably highly relevant to an assessment of its merits. The decisions of these cons-tituencies will determine the company's longterm prospects. Both during takeover bids and more generally, it therefore seems legitimate to suggest that the reporting duties of both the target and the bidder company should be broadened to include a description of the identification and monitoring systems in place, auditors evaluation of their effectiveness, and the company's performance to date in meeting the identified interest of its various stakeholders. Such an obligation could supplement the present duty to provide information to shareholders in the annual reports, and would provide content for consultation with employee representatives during bid situations.

Conclusion

In this paper, we have suggested that regulation has a role in enhancing cooperation in stakeholder relations, and we have suggested how a modest reform to the current law governing takeover bids could mitigate some of the more disruptive effects of hostile bids.

The particular solutions might be appropriate at one time, but are vulnerable to change.

We argued that the interaction of law and regulation strongly protects target shareholders, leaving both bidder shareholders and, particularly, wider stake-holders relatively exposed to risk. At the same time, the takeover mechanism was strongly praised by some of our interviewees for its encouragement to corporate efficiency. Our general approach to takeovers has therefore been to identify interactions between legal and economic regulatory systems that produce damaging effects, and to address failures in those systems. We noted the dangers opened up by payments to advisers and managers that did not fully correlate their long-term interests with those of shareholders; and rules on communication by managers that focused their attention on shareholders during bids, dissuading them from communicating effectively with other stakeholders, particularly employees. All of these had consequences in takeover situations that could be addressed by reforms aimed at limiting the numbers of bids, but, equally, their effects in bid situations could be addressed by reforms aimed at enhancing the flow of information about and to non-shareholder stakeholders.

Particular solutions to the issue of stakeholder relations can be imposed on companies. Such imposed solutions might settle the contracting arrangements once and for all. But they also leave themselves open to problems arising from the evolution within the economic environment. Emphasizing rights at the expense of cooperation, they encourage a conflictual approach to dividing gains from the firm. The particular solutions might be appropriate at one time, but are vulnerable to change.

The reluctance to impose fixed solutions in the context of changing and open-ended environment was the drive behind the argument for a greater range of information to be communicated to shareholders and stakeholders, and there by into the public domain, on the question of stake holder relations. The information approach allows space for the creation of local contracting arrangements, and emphasizes the productive potential of cooperation between stakeholders. We have also argued for laws that promote consultative arrangements between companies and their wider stakeholders. The aim of such reforms would be to allow inclusive solutions to be sought. This seems to us to be the best way of expressing through a regulatory approach the essentially cooperative and creative concept of stakeholding. con texto