THE EVOLVING ROLE OF 'GOOD GOVERNANCE' IN UNIVERSITY MARKETING SINCE SARBANES-OXLEY

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ABSTRACT

All universities are in business because they must attract students in order to survive. While there are those who prefer publicly to minimise the business aspects of education, others are untroubled by the association. A sudden arrival on the agendas of all was the business-focused Sarbanes-Oxley (SOX) Act in the United States in 2002. The educational purist and the worldly pragmatist alike had to look at this cuckoo-in-the-nest and work out what to do with a US Act that was never intended for not-for-profit enterprises worldwide. Could 'good governance' as defined by this business-related Act be a marketing issue for universities?

I.   CONTEXT

So, what is the effect of SOX on the university-public interface internationally? What are the issues and how may universities, wherever they may be, react and adapt? External observers such as John Mattie, were swift to comment on the financial and regulatory aspects of SOX as it could be applied to universities, but the comments were confined to management structures and accounting procedures rather than broadened to the interface between the university and the (potential) student (Mattie, 2004). In investigating this wider context, there were two main areas of concern in verifying the linkage between SOX and the marketing of universities: the evidence for academia itself recognising the relevance of SOX to its domain and establishing the key elements of SOX causing concern.

II.   EARLY UNIVERSITY REACTIONS

Evidence of academic bodies recognising SOX as an issue are plentiful. Early reactions to SOX in the US were swift and included the influential US National Association of College and University Business Officers issuing guidance notes in 2003 (NACUBO). Some universities (e.g. Purdue) then went as far as to publish their own position vis-à-vis both SOX and NACUBO (Purdue, 2003). Also in 2002 in anticipation of the Act, the University of Cambridge (UK) published its consultation paper on governance reform, so the effects were not confined to the USA (Cambridge, 2002). Any action by a single university is likely to affect other institutions through the demands that are made on accrediting bodies, external examiners, employment contracts (many academics work in more than one institution), etc. Positions for/against SOX approaches could not remain internal and the effects began to be seen in public communications from universities themselves and also in guidelines from external academic bodies. For example, the UK's HEFCE suggested that for efficiency and effectiveness, university governing bodies should be 'of no more than 25 members' (HEFCE, Point 9, p16). This was in stark contrast to the practice in some institutions such as Oxford University where the entire Congregation of 1,700 academics is entitled to vote on key issues – and the tensions that can arise have been closely followed in the *Guardian* newspaper, among others (cf Guardian, 2006)

III.   SOX AND UNIVERSITY ACCOUNTING

Even the accounting requirements of SOX caused some concerns in academic institutions where membership of the governing Council was usually drawn from academic, not managerial ranks. Were the Council members now supposed to comply with Section 302 and be capable of certifying the accuracy of financial reports? Under Section 404, reports have to assess the quality of the Management of Internal Controls but, in academic institutions could one satisfactorily separate the financial and the academic to enable this to take place? Seemingly more straightforward is SOX section 802 which mandates criminal penalties for altering documents and requires keeping of full records. In theory, this appears reasonable but, in practice, if applied to non-financial areas of academic life it runs counter to the widespread practice of academic committee meetings having often vigorous discussions summarised in a few words in Minutes for which the wording is often agreed outside the meeting in order to preserve and promote a collegial harmony with a gentlemanly burying of disputes.

So, if SOX was to be applied within academic life, should (even could) it only be in areas of finance or should it be adapted to the context and the principles spread to all areas of operation, including the purely academic? The University of Vermont, for one, has decided that it is a case of inclusive institutional ethics as it works to, "…to transition from a traditional compliance-management program to an articulation of workplace behaviors and cultural norms that reflect core values" (Johnson and Jeffris, 2007).

IV.   SURVEY BASE

For a preliminary study, a number of institutions with a high proportion of distance education students were selected, along with five universities in the USA, Europe and India that, although primarily residential, are generally considered academically excellent and in which their respective governments and national press can be relied upon to take a close interest. Where the university operated a College system (Oxford, Cambridge, London), one College plus the general University information was selected (e.g. London City). Since the purpose of the study was to see how good governance affects marketing to the general public, it was decided to use only publicly available documentation, whether on the internet or in newspapers and university brochures because good governance requires transparency and the focus of the study was the outcomes, not the processes that led to them. It was assumed initially, and nothing subsequently disproved, that all the subject institutions pre-SOX operated with three distinct and, formally or informally, hierarchically ranked areas of institutional interactions:
- Internal (mostly academic)
- External (mostly money-related and regulation)
- Community/citizenship.

The public/private nature of the chosen institutions was ignored for two main reasons: firstly it is not easy to separate State from private interests on an equitable basis across jurisdictions; secondly, in a global academic market it is the academic reputation, rather than the legal-financial status of the university of the institution that is of interest to prospective students, parents and employers.

V.   HYPOTHESIS

Since public marketing documents were unlikely to refer directly to good governance, or SOX, a framework for evaluating the evidence needed to be established. The key

principles of SOX are six-fold: Accountability, Transparency, Efficiency, Equity, Participation and Effectiveness.   By adding the SOX principles to the layers of interaction cited above, the basic model of the governance task to be carried out becomes:
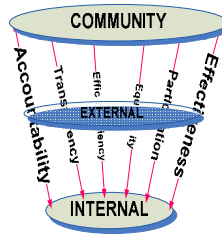
Figure I - SIMPLIFIED PRINCIPLES AND COMMUNITIES MODEL

This simplified approach suggests that academic matters are no longer the domain of Faculty but of the community at large: an approach that while sometimes lauded and to some extent practised (e.g. in corporations helping to define syllabi in order to increase graduate employability) nevertheless raised considerable concerns about the practicalities even within one layer as was famously explained by Jean-Robert Pitte, when President of the Sorbonne, Paris who robustly denied the validity of having dubiously representative student-bodies contribute to course design, stating that that was the role of professors and professionals, not first year students.

This is even more important when a sample of the various stakeholder groups are added to each layer:
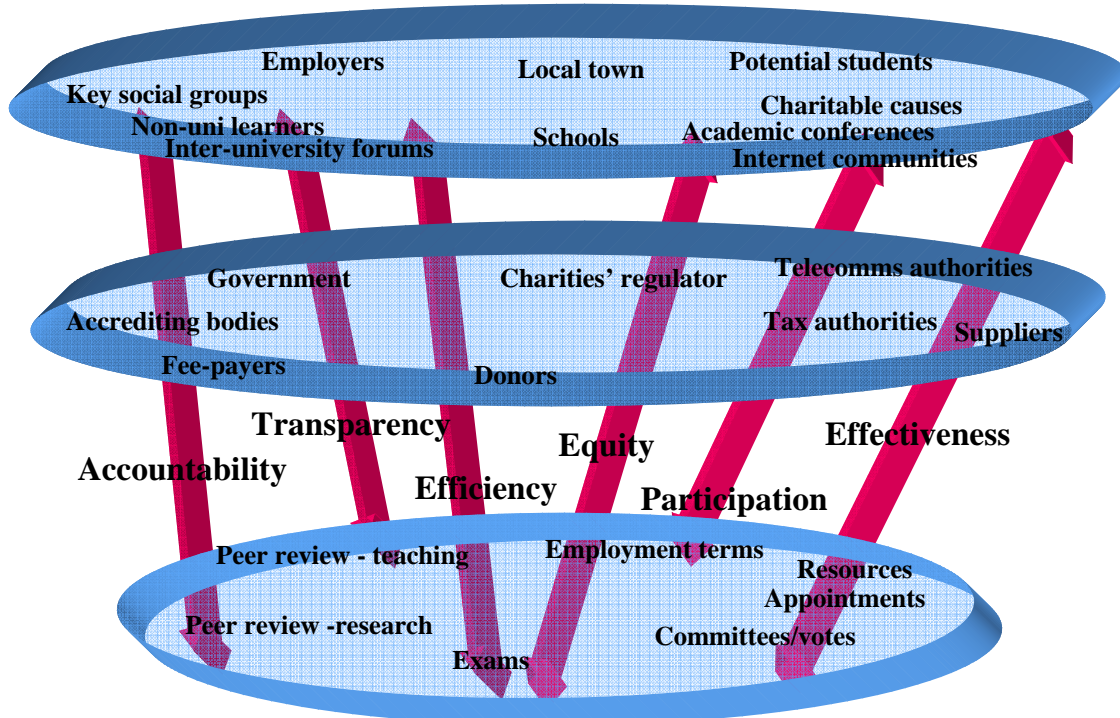
Figure II - ILLUSTRATIVE PRINCIPLES AND COMMUNITIES MODEL

Just how far should participation, transparency and accountability be spread? Could one really have equity across all interested groups in subjects which often, by the very

nature of universities, were often complex and specialist? When would inclusion inhibit effectiveness and efficiency?

VI.   SURVEY QUESTIONS

In viewing what was happening in practice, a wide range of questions relevant to potential students were considered: what accreditations did the institution have and what did these mean; was it clear what fees (or grants) paid for; who were the faculty; what say, if any, did non-academics have in the curriculum; what were the graduate employment statistics; what was the curriculum and what choices had to be made when; what/who were the key investors in the institution who might affect academic direction. The intention was to see if there was a clear governance-related link through the three levels of the model. Given the financial basis of the student-university transaction is that students are purchasing (with personal money+time or time) a qualification for some tradeable benefit, if the model is being applied, then there should be transparency, equity, efficiency and effectiveness in communicating internal issues, especially in relation to accreditation, commercial stakeholders and use of fees, to potential students in the external community.   There should also be some sign of two-way dialogue (participation) and clear accountability for both parties.

VII.   KEY FINDINGS

In all cases the amount, accessibility and quality of information available to prospective students has increased since 2002. The delivery mechanisms have also become more efficient (greater use of the internet, fewer clicks to reach answers) and participative (again, due to use of the internet and 'contact us' buttons). Equity of access to communication can reasonably be assumed to have increased as the costs and difficulties of traditional mail (postage, effects of asynchronocity) and of telephone (call fees, possibly language, 'hold' time) are reduced or negated by the use of the internet that has itself became more widely accessible over the period in question.

Accreditations were, perhaps unsurprisingly, listed in their prospectuses by all the institutions in both 2002 and 2007 but only in the 2007 online material do nine of the institutions attempt to explain what each relevant accreditation means in terms of national or professional recognition.

Of the fifteen universities surveyed, in 2002 four (all in the UK) did not name their 'chief executive' in pre-enrolment literature although the names were in graduation literature and were available through articles in the national press or, with persistence, online.

In 2002, only five of the institutions apparently listed their full Faculty in promotional media. This can be attributed in part to the medium (print) mostly in use and the large number of Faculty involved but where institutions issued partial Faculty lists, these were all of faculty in their administrative roles (Head of School, etc) rather than as subject experts (e.g. University of Delhi). By 2007, ten of the survey group named their Faculty although accessing that information often required some internet persistence and, when found, the significance was often unclear (e.g. Edinburgh Business School (EBS), Excelsior College).

In 2002, none of this survey group apart from the Open University (UK) made freely available public links to detailed course syllabi or programme outlines that were full enough for either the student or their advisor to decide whether or not the programme was appropriate although most then and in 2007 (e.g. the Sorbonne) made it clear what the course headings and time allocations would be (Sorbonne, 2007). By 2007 EBS had all its outlines online. Other solutions to this problem of making the

product-offer transparent were demonstrated by asking prospective students to contact the relevant Faculty office (e.g. Oxford, Cambridge, Harvard – also in 2002) and to put samples of the courseware on the internet (Delhi - 2007). All three of these solutions for making the product offer more transparent require participation of both parties (student and university) but the accountability is less explicit. It can be assumed from wider knowledge of the application process than prospective students wishing to attend Oxford or Cambridge will not be successful if they do not contact the relevant office for further programme information but the main website does not state this. At EBS and Delhi, checking the programme content is completely optional.

Determining financial influences and accountabilities across the group in a like-for-like manner became impossible as funding rules changed (in the UK) and the need to distinguish between international and national students varies according to institution and country. The USA institutions consistently show clear links to funding information and prices whereas the Sorbonne provides clear links to social funding for national students but enquiries have to be made about costs for international students.

VIII.   COMPLICATIONS AND CAVEATS

A complicating factor in this study has been the rise in the use of the Internet since SOX came into force but this can be considered neutralised (or at least heavily tempered) by universities adjusting to their target markets in terms of delivery of information. Since all the universities surveyed were and are successfully attracting students at rates that have not caused alarm in any, it is unlikely that there is a significant difference caused by the choice of information delivery medium itself. It can be assumed that the universities provide the information they believe their markets to require regardless of delivery medium and also that universities are aware of their competitors' marketing efforts.

What cannot be considered certain is that the universities actively chose in an internally co-ordinated manner to follow the SOX outlines in creating greater transparency about their qualification products. Nor is it proven that the greater push to transparency is more effective through, for example, increasing retention rates.

A further complication is the role of accrediting authorities in driving and/or facilitating the changes in institutional communications with prospective students that has largely been ignored in this overview despite the fact that it is the market-recognition of the qualification that gives students extrinsic payback. A switch to learning outcomes and increasing membership of multiple accrediting bodies has caused several of the institutions to expend more time and energy in recording and externalising their academic requirements in ways that can then be re-presented for marketing purposes. The effects of SOX, of course, may also be felt directly by the accrediting bodies themselves.

IX.   CONCLUSIONS

While there has been an increase in transparency of marketing communication over the period 2002-2007 at the institutions in questions and this appears to have increased performance for all five of the other SOX principles, there is no proof that SOX is the driver. What can be inferred is that using the Principles and Communities model is likely to be a useful tool in analysing market communications to ensure the various elements that constituent the realm of 'higher education' work together for mutual gain. Further studies should apply the SOX principles in this model to different

communities within it and preferably integrate a series of studies within a single institution taking into account how its internal financial reporting procedures and management structures align with the SOX guidelines.

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