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THE LAW IS THE LAW IS THE LAW. IF IT'S NOT WORKING, CHANGE THE LAW

AUSTRALIA'S LEADING BUSINESS COMMENTATOR

Directors' priorities

THE Ramsay-Mitchell survey provides some fascinating insights into the understanding company directors have of their job, in a challenging sub-case of my discussion on company law and practice.

The Australian-first study by Melbourne University professors Ian Ramsay and Richard Mitchell asked directors to rank stakeholders — shareholders, the company itself, employees, customers and so on.

The key conclusion is that there is no neat ranking of whose interests directors should favour. A majority of directors — but only 55 per cent — believed they had to balance the interests of *all* stakeholders.

Some 44 per cent believed they should rank shareholders as their number one (but not exclusive) priority and 40 per cent that it should be 'the company'.

So how do you 'balance the interests of all stakeholders' while

making 'shareholders the number one priority'?

Especially when 22 per cent of director-respondents did *not* even include shareholders in the top three stakeholders in order of priority?

Prof Ramsay concluded that the survey showed there was less need to change the law of directors duties to take into account the interests of defined stakeholders other than shareholders because "most directors" were doing so already.

And an overwhelming majority (94 per cent) believed the law concerning directors duties was "broad enough" to allow them to consider the interests of other stakeholders.

That though begs a huge number of questions.

What if the belief is wrong? That the law isn't 'broad enough'.

What if the belief is right? Where does that leave the very

large number of directors that are *not* doing the broader thing?

And either which way, how to discharge their duty *specifically*? Prioritising who? Balancing how?

More black letter law? Or less? With or without Takeovers Panel-style flexibility.



Ian Ramsay