

Charlie McCreevy

European Commissioner for Internal Market and Services

**Corporate Governance Framework:
Issues at stake**

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Transatlantic Corporate Governance Dialogue

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Introduction

Ladies and Gentlemen,

I am very happy and proud that this year's Transatlantic Corporate Governance Dialogue can be hosted by the European Commission. It is an honour to be able to welcome such an eminent cast of speakers and guests.

You know that deepening and widening our transatlantic cooperation is one of the focus points of my agenda. Arguably, it is the deepest and most advanced economic relationship you can find around the world. But this also gives it a special responsibility. It is in this relationship that we have to show how to move from divergence and duplication in regulation to converging or common standards. We must show how constructive dialogue and close cooperation can bring down the cost of doing business while preserving investor protection and good governance.

It is initiatives such as the Transatlantic Corporate Governance Dialogue which bring this about. By discussing issues which are of great importance in the EU and the US alike. By examining them from an economic, regulatory and policy angle. By exploring theoretical and practical solutions.

Corporate control, the topic of today's debate, is definitely one of the issues worth exploring from several angles. The structure of corporate control has a significant impact not only on corporate governance but also on the workings of financial markets in general. Let me say some words about the Commission initiatives in the field of corporate governance and corporate control.

Shareholder democracy

In the first session this morning, you have already looked at the role that controlling shareholders play in companies today. It is an important discussion. However, in order to get the full picture, I think it is essential to take one step back and shed some light on the means by which shareholders gain and in particular maintain their control over companies. Numerous mechanisms exist that allow limited numbers of shareholders to exercise significant influence on companies without any relation to their financial contribution to the wealth of the company.

This is why I have decided to take a closer look at the question of proportionality and capital in companies listed in the EU.

We recently launched an external study on shareholder democracy. This study will identify existing deviations from the proportionality principle in listed companies across the EU. It will provide an in-depth analysis of the relevant regulatory framework at Member State level. It will also evaluate the economic significance and potential impact on EU financial investors of these deviations. However, the EU is not the only place where deviations from the proportionality principle occur. That is why the study will also review the existing research and literature available on the situation in the USA. Finally, to complete the picture, the study will also evaluate the situation in at least one of the jurisdictions which are known for their open corporate structures and fully modernised company law, such as Australia or New Zealand. We expect results to be ready next spring.

The study will represent the essential starting point for any further discussion on the adequacy of control to capital. It will provide a full, systematic picture of the essential features of Corporate Europe that the European public opinion is waiting for. Any discussion about how to move on, about possible initiatives in this area, needs to be based on sound facts. This is what I mean by better regulation: Get the facts right, listen to the people in the market, thoroughly analyse the impact of any possible intervention.

This is also true for the level of intervention chosen. Legislation will probably not be the best way to confront this problem. A recommendation may be more appropriate. But, at the very least, there must be full transparency about the way in which companies operate so that investors can take informed decision and markets can work efficiently.

A number of measures to enhance transparency have already been adopted, such as the introduction of a mandatory annual corporate governance statement or Recommendations on independent directors and on the remuneration of directors. Let me say a couple of words on the two recommendations.

Independent directors and director remuneration

Independent directors play a particularly crucial role in companies that are controlled and the board appointed by a majority shareholder. It is the independent directors who, in the audit, nomination and remuneration committees, need to ensure sound corporate governance and control.

Similarly, shareholder approval of share based remuneration schemes should avoid collusion between controlling shareholders and management at the expense of the interests of shareholders at large. The recommendations we have brought forward are designed to reduce these problems. We will be monitoring closely their impact in Member States. A report will be issued by the end of this year.

Shareholder rights Directive

The Commission has also proposed a directive on shareholders' voting rights. The proposal, which is currently being examined by the Council and the European Parliament, will strengthen cross-border voting rights and thereby the control shareholders have of their company. It is minority shareholders in particular, who often complain about the lack of transparency and there is often little which the minority can do but to sell their shares.

That is why, at the very least, they must be able to cast informed votes at General Meetings, ask questions and table resolutions. You may think that this would go without saying. Unfortunately, we still see many examples to the contrary.

When it comes to the organisation of general meetings, existing national rules are outdated. They stem from the days when the assumption that all shareholders would be from the same jurisdiction and would be able to physically attend Annual General Meetings might have made some sense. These rules were also based on the assumption that only a limited number of well-informed people would invest in shares. All this is definitely no longer the case.

In the European Union, an average of 29% of share capital of listed companies is in the hands of shareholders who do not reside in same Member State as the company. In some countries, this proportion is as high as 70 or 80%. This is why restrictions on the appointment of proxies and other of administrative constraints should have no place in the 21st century economy.

Equally, with investment in shares spreading in our societies, there is a growing number of shareholders who do not have the time or the resources to keep track of deadlines or know where information can be found. Large shareholders usually hire custodians or voting agencies to assist them in the voting process. Small shareholders often don't have that possibility. Another reason why sufficient notice of General Meetings, timely availability of all relevant information, simplified proxy voting, the use of information technologies, must be promoted.

Stronger shareholder rights and equal treatment of shareholders is in everyone's interest. It will incite shareholders, small shareholders, to play a more active role in companies. Shareholders, who, through their vote, control management, will improve corporate governance. Better corporate governance and better performing companies will in turn attract more investment in shares and help our economies prepare for the future.

The state of the debate on the shareholder rights proposal in the European Parliament and the Council seems to show that we are on the right track. I hope that the few remaining questions can be settled soon and that this important piece of legislation can be adopted.

Transparency of shareholdings

While we seek to facilitate the exercise of shareholders' rights and enhance transparency for the benefit of shareholders, there are also voices saying that shareholders not only have rights but responsibilities towards companies. They too should be subject to transparency obligations.

As I see the current discussion, two aspects should be taken into consideration. The first aspect is transparency as to who shareholders actually are. This may sound plain and simple. However, in today's markets, the question can not always be answered easily. Financial markets are continuously developing new instruments that allow investors to exercise influence without formally acquiring shares in a company. Some of them make it increasingly difficult for companies to know who their owners are. Only think of derivatives and stock lending. Is there scope for abuse? The discussion has only just started and I will follow it with great attention.

The second aspect related to shareholders' responsibilities concerns institutional shareholders. Institutional shareholders collectively hold a huge proportion of the capital of listed companies. This places extra responsibilities on them – towards the companies they invest in as well as towards the people whose money they invest. We therefore decided to submit the issue of disclosure of voting policies of institutional investors to comment, as part of our public consultation on the future priorities of the Action Plan. Responses generally highlighted the importance of the disclosure by institutional investors of their voting policies, but there was hesitation as to whether there is need for EU intervention on this matter. The OECD, the ICGN and some countries have already taken measures in this respect. These measures not only seem to work satisfactorily, but also to offer the flexibility requested by market participants. As I often say, "less is more". We will not embark on new measures until and unless we are satisfied that they bring added value to the market.

Conclusion

Ladies and gentlemen, let me conclude. Corporate governance, shareholder rights and control often seem to be largely technical issues, fit for discussion only for a handful of experts and with little importance for the wider world. I tend to disagree. Actually, they are extremely important questions for our economies as a whole. Modern economies rely on capital markets to take a myriad of decisions on where capital is best employed, where to invest and where to divest. We need these markets to function at their best to meet the challenges we are faced with: a growing pension burden, high-unemployment and a business environment that puts a higher and higher premium on the ability to change and innovate.

But the markets for capital will only work well when the owners of capital can fully exercise their rights and fulfil their control function. Because, with good control by their owners, companies in turn will be better run and corporate governance improved. And where corporate governance and control work well, financial markets work well. They attract more investment. They produce better returns. They generate more growth, more jobs.

The Commission's policies on corporate governance are based on these insights: to produce the corporate governance framework that will allow markets to achieve their full potential.

I wish you all a continued, fruitful Dialogue.

Thank you for your attention.