Environmental Protection and the Social Responsibility of Firms


One of the least understood aspects of environmental law is why regulated firms choose to comply, not comply, or over-comply with their regulatory obligations. This edited volume provides important insights into the factors that contribute to corporate environmental compliance decisions. It addresses whether firms have a moral or social responsibility to commit resources to environmental protection. The book inquires whether a corporation’s decision to sacrifice profits by making such commitments in an attempt to contribute to overall social welfare is consistent with its legal obligations to shareholders. It also assesses whether, as a normative matter, firms should make those kinds of resource commitments.

One of the strongest aspects of the book is its interdisciplinary character. The book is the product of a partnership among the Harvard Business School, Law School, and John F. Kennedy School of Government. Its goal is to provide an “impartial exploration” of corporate social responsibility (CSR) in relation to the environment. The book’s three parts address legal, economic, and business perspectives to the question. Each part includes a primary chapter, additional chapters in which other scholars comment, and a summary of the discussion of the primary chapter generated at a 2003 workshop on the book project.

The legal perspective begins with a chapter by Einer Elhauge. Professor Elhauge asks whether corporate management has a fiduciary duty to shareholders to maximize corporate profits or has the discretion to exceed environmental responsibilities, even at the expense of corporate profits. Elhauge challenges the conventional wisdom that managers should and do have a duty to maximize profits, contesting it both as a descriptive and normative matter. The comments and discussion reflect a lively debate about Elhauge’s thesis.

The economic perspective is driven by a chapter by Paul R. Portney. Portney inquires whether firms can carry out beyond-compliance environmental protection efforts on a sustainable basis and whether they should do so. He asserts several reasons, firms can profit from the practice of CSR. He also claims that CSR strategies are likely to be enhancing only when firms pursue them because it is possible to do so. The commentaries challenge and expand on aspects of Portney’s discussion.

The business perspective is provided by Forest L. Reinhardt, who argues that it pays for a firm to “be green” if it is able to increase customers’ willingness to pay, manage future risk, or anticipate or defer costs of regulation. The commentaries challenge and expand on aspects of Reinhardt’s discussion. The editors summarize the contributors’ conclusions as generally supporting the proposition that firms can engage in CSR, beyond the law. The contributors’ positions on whether firms can do so sustainably, and whether firms should do so. Finally, the part of the book that, putting aside legal and normative policy questions, firms rarely engage in CSR, at least if the result is a sacrifice in profits.

This book is suitable for environmental seminars in law, business, or economics. It provides perspectives from three different disciplines interested in understanding how CSR affects the behavior of firms affected by environmental regulation.

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doi:10.2134/jeq2007.0004br