

WORKING TITLE: Sorry, but services company Transfield fails ethics 101

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After decades in public life some Australian corporate leaders are figuring out what first-year philosophy students grasp in their first lecture: it's hard to define "ethical". But as Transfield Services' chairman Diane Smith-Gander has discovered, the stakes are a bit higher than undergrad debating prizes. Losing the debate over the ethics of running offshore detention centres could cost her shareholders billions of dollars.

Transfield is paid taxpayers' money to lock asylum seekers up on Pacific islands. Is that a "good business" to be in? Many in the community think such detention camps are immoral. Smith-Gander argues that if Transfield doesn't take the money, someone else will. Someone is wrong, but to the dawning frustration of many company boards, in a "shareholder democracy" such issues are settled now in Australia's lounge rooms rather than its board rooms.

It is hard to fathom how the board of Transfield has been caught so flat-footed by the recent pressure from Greens senator Sarah Hanson-Young over its detention centre contracts and the "No Business in Abuse" campaign aimed at highlighting the business practices of those operating in Nauru and Manus Island. Campaigns aimed at consumers and investors have a long history in the democratic playbook – with successful campaigns on issues as diverse as apartheid in the 1980s to fracking today.

A recent analysis published in The Australian Financial Review of Transfield's predicament spoke of the Transfield chairman's "steel backbone". While that might well be an accurate description, the question for Transfield shareholders is whether inflexibility in the face of public concern is a strength or a weakness. ANZ and AGL bosses were "resilient" at the beginning of campaigns about Gunns Pulp Mill in Tasmania and fracking near Gloucester in NSW.

Given the recent success of the fossil fuel divestment movement, it seems odd that Transfield Services is using the mining industry's public relations playbook. Just as the miners argue that mining helps poor people, defenders of mandatory detention argue that they are simply doing

it to help stop the drownings. Similarly, the miners and Transfield both argue that if they didn't do it, someone else would.

SHARED ASSERTION

But the scariest similarity is the shared assertion that it is ethically preferable for the incumbents to continue with their business lest new entrants do more harm. In defending the ethics of Transfield's involvement in the detention of women and children seeking asylum, AustralianSuper chairwoman Heather Ridout argues that "If Transfield were to stop managing the detention centres, someone else would have to take that over and might not do as good a job." Then again, they might do a better one.

And this is where the corporate ethics get messy. Smith-Gander argues that it is unethical to target a company over "political issues". Yet one of her strongest supporters, Ridout, has helped to marshal corporate support for a change of government policy regarding same-sex marriage. Ridout's position on legalising gay marriage is to be applauded, but if corporates want to take credit for moral leadership on some issues, it follows they should take heat for being laggards on others.

Similarly, the idea that citizens should stay out of "business" would carry more water if companies were committed to staying out of democracy. Whether through highly visible advertising campaigns or invisible lobbying, companies use their customers' money to get laws changed all the time.

UNLIKELY TO WORK

So, where to from here for Transfield? Asking its critics to cease and desist is unlikely to work and calling on the government to silence those critics will pour fuel on the fire. By placing themselves in the middle of a political storm they run the risk of being stranded between customers deserting them and governments changing their policy.

Unless, of course, the Transfield board is betting that the government's border policy won't work to stop the boats, that in the coming decade more and more asylum seekers will be profitably detained, and that incarceration services will be at the heart of Transfield's growth. No matter what Transfield tells itself, its customers and the superannuation fund members own a substantial slice of the company that will be the arbiter of whether this strategy is ethical.

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