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Moral versus pragmatic legitimacy and corporate anti-bribery disclosure: evidence from Australia

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ABSTRACT

This study examines how the notions of moral and pragmatic legitimacy explain the role of the Australian Stock Exchange (ASX) corporate governance guidelines on anti-bribery disclosure practices by Australian companies. In particular, by focusing on the largest 100 ASX-listed companies between 2001 and 2011, we aim to explore how the competing notions of pragmatic and moral legitimacy explain anti-bribery disclosure practices and how, during moments of crisis, managers, via anti-bribery disclosures, create a deficit of moral legitimacy in pursuing pragmatic legitimacy. This paper finds that generally anti-bribery disclosures respond to the ASX corporate governance disclosure guidelines – the norms that the broader community expects to be in place for businesses to be socially and ethically accountable. In particular, we find that when responding to the disclosure guidelines, managers are inclined to avoid disclosing actual incidents of bribery that have already been reported by the news media, consistent with avoiding possible financial penalties and protecting managerial and shareholders' interests. Such a corporate response is a compromise between maintaining moral legitimacy and gaining pragmatic legitimacy. The lack of corporate response to incidents of bribery, in turn creates a deficit in moral legitimacy.

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1. Introduction

There is a plethora of research investigating whether and how companies maintain their legitimacy via corporate social disclosures (Chen et al., 2008; Chung & Cho, 2018; Deegan, 2002; Islam, 2014; Islam & Deegan, 2010). While most of the past research has used legitimacy theory in general to explain corporate social disclosures, research focusing on the specific notion of legitimacy is growing (see for example Suchman's, 1995 notion of moral legitimacy within Dart, 2004; Mele & Armengou, 2016; Islam, 2017; Bowen, 2019). Some of the previous research also combined different types of legitimacy, such as Suchman's moral and pragmatic legitimacy¹

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(Bowen, 2019; Zyglidopoulos et al., 2016); however, such competing notions of legitimacy² are under-researched, despite their relevance in explaining corporate disclosure practices including anti-bribery³ disclosure practices. In this study, we are particularly interested in the concepts of pragmatic and moral legitimacy, in an attempt to explain the role of Australian Stock Exchange (ASX) corporate governance guidelines on corporate anti-bribery disclosure practices. In particular, by focusing on Australian companies, our research question is: whether and how two competing ideas of legitimacy (pragmatic legitimacy and moral legitimacy) can explain anti-bribery disclosure practices and whether, during moments of crisis, anti-bribery disclosures are used by companies to maintain pragmatic legitimacy at the expense of moral legitimacy.

Corporate disclosures associated with different social and environmental regulatory factors are well researched (see for example Alciatore et al., 2004; Blacconiere & Patten, 1994; Islam & McPhail, 2011; Larrinaga et al., 2002). While some research has investigated the impact of state-centred minimum mandatory regulation on social and environmental disclosures, and other research has looked at how global-level voluntary regulatory guidelines or norms (such as ILO standards: Islam & McPhail, 2011) influence such disclosures, there is a lack of research that focuses on a specific social disclosure issue such as anti-bribery disclosures (but see, Barkemeyer et al., 2015; Islam et al., 2018). Even though corporate bribery has considerable ethical and societal implications (Argandoña, 2007; George et al., 2000; Pacini et al., 2002; Sanyal, 2005; Sung, 2005), the regulatory guidelines or norms associated with bribery and related corporate disclosures have been overlooked in the disclosure literature. In this paper, we address this research gap by investigating whether ASX disclosure guidelines influence anti-bribery disclosure practices by listed companies and if so, how.

To create an ethical and responsible capital market environment, the ASX first introduced corporate disclosure guidelines in 2003. In setting minimum disclosure requirements, they are arguably an important institutional governance mechanism to encourage ethical business practice. The guidelines are, in effect, advisory and normative. They provide voluntary guidance for corporations wishing to ensure the conduct of their business operations is transparent for investors/shareholders and the wider community: corporations should disclose which of their practices aim to encourage ethical business and discourage bribery. Specifically, Principle 3: *Promote ethical and responsible decision making of ASX Corporate Governance Principles and Recommendations* (ASX, 2007) recommends that a company should have a code of conduct that includes control of bribery. Corporate managers should

... describe the company's approach to business courtesies, bribes, facilitation payments, inducements and commissions. This might include how the company regulates the giving

¹See section 3.1 and 3.2 for the definitions of moral and pragmatic legitimacy provided by Suchman (1995).

²In this paper, we argue moral legitimacy and pragmatic legitimacy are two competing notions of legitimacy: While the notion of moral legitimacy is fundamentally based on a pro-society logic or a logic of 'the right thing to do', the notion of pragmatic legitimacy is based on a narrow self-interest logic.

³Before focusing on anti-bribery disclosure practices, it is important to understand the definition of bribery. Where there are many definitions of bribery (Dion, 2010; Von Alemann, 2004), the most common globally accepted definition is provided by a global anti-corruption group, Transparency International (2011). It has identified bribery as a core element of corruption consisting of kickbacks in public procurement and embezzlement of public funds for private gain (Transparency International, 2011).

and accepting of business courtesies and facilitation payments and prevents the offering and acceptance of bribes, inducements and commissions and the misuse of company assets and resources. (ASX, 2007, p. 23)

The ASX guidelines emphasise the recommended disclosures and suggest that an explanation of any departure from Principle 3 should be included in the corporate governance statement in the annual report (ASX, 2007, p. 25). This statement is guided by the ethical aspirations of the guidelines: "... companies should actively promote ethical and responsible decision-making" (ASX, 2007, p. 22). The minimum disclosure requirements under the ASX guidelines and associated debate over the desirability of mandatory sustainability disclosures by companies to shareholders, along with broader community concerns over ethical and anti-bribery practices in ASX companies (ACSI, 2011; CAER, 2006; Deloitte, 2012; Ernst & Young, 2010; KPMG, 2013; Pedigo & Marshall, 2009; *The Age*, 2011; *The Australian*, 2010; *The Times*, 2006), raise the question of how far anti-bribery measures are reported voluntarily. The ASX minimum disclosure requirements have created a flexible context in which companies may embrace legitimacy notions ranging from moral legitimacy to pragmatic legitimacy in responding to the ASX requirements via disclosures of anti-bribery commitment and performance information. Because of this, research is needed into how two competing notions of legitimacy (moral legitimacy and pragmatic legitimacy) interact or contradict one another, in order to understand Australian companies' motivations to disclose anti-bribery commitment and performance in response to the ASX guidelines.

Since ASX's anti-bribery disclosure requirements are socially embedded within a system of norms, their appropriateness needs to be evaluated for moral legitimacy. At the same time, the ASX's minimum requirements offer a company a level of flexibility, so "pragmatic legitimacy" can be achieved, but this may fall short of moral legitimacy. Accordingly, while the flexibility within the normative guidelines may encourage companies to maintain pragmatic legitimacy, this may, in turn, create a broader tension and maintaining moral legitimacy may prove a challenge for companies. Given the strategic nature of existing organisational control and management practices (where the interests of managers and shareholders dominate the interests of other stakeholders or the broader community), a big question is raised about whether anti-bribery disclosures following ASX guidelines achieve *any* moral legitimacy.

To address these research gaps, we conducted a longitudinal analysis of anti-bribery disclosures based on a content analysis of corporate reports by top 100 ASX-listed companies (by market capitalisation) between 2001 and 2011 – the period that covered the three major corporate governance guideline initiatives by ASX. In addition, we conducted a case-based examination of managements' responses to crises that threaten aspects of entities' legitimacy (either moral or pragmatic). Based on international anti-bribery guidelines, we developed categories of anti-bribery disclosure, as a tool to document disclosures in corporate annual reports. The disclosure categories we developed contain items that go beyond the minimum requirements within the ASX guidelines. To interpret our findings, we draw on Suchman's (1995) notions of moral legitimacy and pragmatic legitimacy. Our longitudinal examination of the effect of ASX corporate governance guidelines on anti-bribery disclosure practices shows that companies, in general, disclose anti-bribery information as a response to ASX's corporate governance

guidelines. In addition to this, our case-based examination shows that when a company is subject to (crisis) media allegation/s of a particular bribery incident, the company concerned adopts a pragmatic approach or makes no or limited disclosure of the incident reported in news media. During the crisis, via no or limited disclosure, managers appear to seek to protect their own and the shareholders' interests (rather than those of the wider community). Such a corporate response, in turn, damages corporate morality and creates a deficit in moral legitimacy. We, therefore, contribute to disclosure literature by drawing on legitimacy theory in general (Cho & Patten, 2007; Deegan, 2002; Islam, 2014, 2017) and by specifically considering the competing notions of pragmatic and moral legitimacy (Suchman, 1995). Our research has relevance to managers and policymakers, as this provides new insights into how anti-bribery disclosures are used by managers to maintain pragmatic legitimacy at the expense of moral legitimacy.

The paper is organised as follows: following the background to the study, the theoretical framework and the research method are outlined. We then present our findings and then conclusions about the anti-bribery disclosure practices followed by Australian companies.

2. Theoretical framework: moral versus pragmatic legitimacy and corporate anti-bribery disclosure

In this paper, we use two of Suchman's (1995) specific notions of legitimacy – moral and pragmatic legitimacy – to explain anti-bribery disclosures by Australian companies. After distinguishing pragmatic, moral and cognitive logics, Suchman (1995) acknowledges that few organisations pursue all three forms of legitimacy with equal emphasis. We consider the notions of moral and pragmatic legitimacy more relevant for this study than cognitive legitimacy.⁴ Our approach is consistent with past research in other areas (see, for example, Bowen, 2019) that suggests in certain situations, cognitive legitimacy based on taken-for-grantedness is less useful than the other two types. Anti-bribery disclosure in response to ASX governance guidelines appears to be less cognitively than morally or pragmatically driven.⁵

2.1. Moral legitimacy

Suchman's (1995) definition of moral legitimacy is based on judgements about whether an activity is "the right thing to do". These judgements usually reflect beliefs about whether the activity effectively promotes societal welfare, as defined by the community's socially constructed value systems. At its core, moral legitimacy reflects a pro-society

⁴Cognitive legitimacy posits that organisational operations are mostly influenced by taken-for-grantedness. That is, an organisation can be influenced by cognitive coherence or isomorphic pressures. As a part of cognitive coherence, an organisation may choose to "... remake others in their own image, either through success and modelling or through coercion or regulation" (Suchman, 1995, p. 593). Given our aim to explore contradictions between two competing logics of legitimacy (pragmatic legitimacy and moral legitimacy), cognitive legitimacy is less relevant to this study. Although we do not consider such as a notion in explaining anti-bribery disclosures, we acknowledge that there might have a particular context where social disclosure as an institutional practice, can be driven by cognitive coherence.

⁵Cognitive legitimacy is deeper than moral legitimacy in understanding disclosures for external conformance and it may require case-based study that we are not following in this paper. Also, anti-bribery disclosure in response to a new form of governance guideline is not yet sufficiently taken for granted to allow us to evaluate cognitive legitimacy.

logic that differs fundamentally from narrow self-interest. For example, for moral and ethical reasons, an organisation might pay for environmental damage before a lawsuit goes to court. Such organisational action is then driven by moral reasoning (or responsibility).

The ASX guidelines suggest that (ethical) conduct of business should comply with the expectations of the broader community. This appears consistent with the notion of moral legitimacy. As the ASX corporate governance principles (ASX, 2007) state:

To make ethical and responsible decisions, companies should not only comply with their legal obligations but should also consider the reasonable expectations of their stakeholders including: shareholders, employees, customers, suppliers, creditors, consumers and the broader community in which they operate. It is a matter for the board to consider and assess what is appropriate in each company's circumstances. It is important for companies to demonstrate their commitment to appropriate corporate practices ... companies should clarify the standards of ethical behavior required of the board, senior executives and all employees and encourage the observance of those standards. (p. 22)

This statement suggests that, in order to meet the expectations of the broader community, companies should not indulge in unethical practices including corruption and bribery. By adhering to the expectations of the broader community and hence ASX's ethical principles for listed companies, the ANZ Bank Annual Report 2011, for example, states that:

[t]he (ANZ's) Codes embody honesty, integrity, quality and trust, and employees and Directors are required to demonstrate these behaviors and comply with the Codes whenever they are identified as representatives of ANZ. The principles underlying ANZ's Codes of Conduct and Ethics are: ... we do not make or receive improper payments, benefits or gains ... the Codes are supported by the following detailed policies that together form ANZ's Conduct and Ethics Policy Framework: ... ANZ Global Fraud and Corruption Policy; ... ANZ Global Anti-Bribery Policy; and ... (ANZ Annual Report 2011, p. 60)

Based on corporate statements of ethical and anti-bribery policy, we do not simply say that the operating practices of concerned companies are consistent with the notion of moral legitimacy, and at the same time, we do not ignore the possibility that the concerned companies' activities are consistent with other notions of legitimation, such as pragmatic legitimacy. What is important here is that the ASX's ethical principles and corporate statements provide a base from which to research the validity of such corporate statements, as well as to explore which legitimation strategies companies are following in practice: whether those are moral or pragmatic.

2.2. Pragmatic legitimacy

Pragmatic legitimacy rests on the self-interested calculations of an organisation's most immediate stakeholders (e.g. shareholders) (Suchman, 1995). This involves broader political, economic or social interdependencies, in which organisational action nonetheless visibly affects the shareholder's self-interest. Therefore, pragmatic organisations do not engage in actions (including social or ethical actions) without protections of shareholders' interests. For example, an organisation will not pay for any environmental damage it has caused because any such payment is detrimental to shareholders' direct

interests. Pragmatic legitimacy is thus very narrow, and hence, based on the logic of pragmatic legitimacy, ASX-listed companies might not disclose certain information about ethical behaviour if this would be detrimental to profit/dividend maximisation. In other words, if we believe in pragmatic legitimacy, managers' actual actions may deviate from corporate ethical statements if those actions help protect managerial and shareholder interests.

2.3. Pragmatic versus moral legitimacy

Pragmatic and moral legitimacy can be distinguished in two ways. First, pragmatic legitimacy rests on self-interest, whereas moral legitimacy does not. However, as noted by Suchman (1995, p. 585), "... both pragmatic and moral legitimacy rest on discursive [opinion-driven] evaluation". In this respect, members of society arrive at cost-benefit appraisals and ethical judgements mainly through open public discussion and organisations can often win pragmatic and moral legitimacy by participating actively in such dialogues (Suchman, 1995). From a moral legitimacy perspective, anti-bribery disclosures can be seen as a responsibility or ethics-driven and all stakeholder groups have equal rights to have the organisation's information. Meanwhile, from a pragmatic perspective, organisations embrace an existing best practice disclosure model (if any) as a way to manage powerful stakeholders.

The adoption of a legitimacy strategy by an organisation depends heavily on communication between the organisation and its various stakeholders (Suchman, 1995). In this paper, we are particularly interested in whether organisations adopt a legitimacy strategy when communicating with their stakeholders via their reporting media, and if so how. An organisation changes its commitment and performance-related activities – two key elements of organisational survival (Beer, 2009) – at the moral and pragmatic levels. If organisations seek to meet the expectations of broader stakeholder groups seeking moral legitimacy, they will adopt disclosure practices showing that they are paying attention to anti-bribery guidelines and norms. However, if a broader community is not satisfied that those organisations are operating in an acceptable manner, then the community will effectively revoke the organisation's "contract" to continue its operations. When a legitimacy crisis occurs, organisations may disregard moral action and pragmatically respond to potential negative externalities such as legal restrictions imposed on their operations, limits of resources (restricted financial capital or labour, perhaps) and/or reduced demand for their products (sometimes through organised consumer boycotts). If organisations are already in a legitimacy crisis because bribery-related allegations have been made, as a reactive strategy, they might seek pragmatic legitimacy. They will then adopt a disclosure [or a non-disclosure] strategy to maintain that type of legitimacy.

2.4. Deficit of moral legitimacy

In a period of crisis, managers are more likely to seek pragmatic legitimacy than moral legitimacy, and so to create a deficit of moral legitimacy. Moral legitimacy deficit may arise out of situations in which an institution fails to change (or is not flexible), but its normative and political environment changes. In other words, when organisations do

not adapt to a changing political and normative environment, this may lead to a deficit in perceived legitimacy (Stephen, 2018). More importantly, if the constituency believes the organisation is breaking the rules of the political or economic system for immoral reasons, this can threaten moral legitimacy (Yankelovich, 1974).

One of the important sources of moral legitimacy deficits is the failure to live up to existing standards or norms (breaking promises) (Stephen, 2018). When an organisation is perceived as not living up to its own standards or norms (including new ones), it is seen as breaking promises, which in turn hurts any forms of organisational legitimacy including moral legitimacy. But a legitimacy deficit may not result just from people's changing beliefs, but from an organisation losing the ability to deliver on its existing criteria of legitimacy (Beetham, 2013). Lack of initiatives involving expressing commitment, and/or of demonstrating performance in line with legitimating norms and criteria, may create deficits of moral legitimacy (Ecker-Ehrhardt, 2018; Islam, 2017). Stakeholders play a role in creating moral legitimacy deficit, as they may ask themselves whether it is morally acceptable for them to support an organisation with moral values that they question (Zyglidopoulos et al., 2016). From that perspective, media allegations of questionable corporate moral values and companies' failure to respond adequately to such allegations may create a legitimacy deficit.

3. Research methods

We investigated disclosures on combating bribery by the largest 100 listed companies identified from the ASX website (based on market capitalisation in 2011). Over the 11-year period from 2001 to 2011, 959 annual reports were available,⁶ and all were reviewed to document disclosures on two general themes in relation to anti-bribery: "commitment" and "performance" (definitions below). The websites of the 100 companies in the 2011 study were also reviewed. Two research assistants were actively involved in data collection. Each took half an hour, on average, to review each of the 959 annual reports and 100 corporate websites. A sample of the data collected by one research assistant was thoroughly verified by the other assistant, as well as by one of the co-authors of the paper. Our verification approach is consistent with previous research (Islam & McPhail, 2011; Islam & van Staden, 2018). It is relatively easy to establish whether a type of disclosure is present or absent. Our verification did not produce inconsistencies in data collection and coding. Multiple data sources including company websites and the Connect4 and DatAnalysis databases, were used to collect the annual reports.

In order to document disclosures of anti-bribery information, we identified the categories of disclosure to analyse by studying international guidelines, specifically:

- OECD (2008), OECD Guidelines for Multinational Enterprises – Section VI: Combating Bribery

⁶Another 141 annual reports were not publicly available (on company websites, Thomson Reuters' Connect4 data base and Morningstar's DatAnalysis). Excluding these reports from our sample will not affect the conclusions we draw from the 959 available reports.

- Transparency International (2009) Business Principles for Countering Bribery – a multi-stakeholder initiative
- The US Foreign Corrupt Practices Act 1977 (FCPA)
- The 2008 UNCTAD publication *Guidance on Corporate Responsibility Indicators*
- The UN Convention Against Corruption (UNCAC) guidelines.

A list of 18 anti-bribery disclosure items under our two general themes is presented in Tables 1 and 3 (see section 5) along with relevant data. Consistent with the Oxford English Dictionary, we define “commitment” as an organisational pledge or promise to eliminate bribery and “performance” as an action, task or function to combat bribery. Our initial disclosure categories were revised wherever necessary once data had been collected from a test sample. For example, initially, the performance theme contained ten items, but our sample data collection found no company disclosing one of them, so we decided not to consider that item.

Where the ASX corporate governance guidelines state that, as a minimum, companies should “... describe the company’s approach to business courtesies, bribes, facilitation payments, inducements and commissions” (ASX, 2007, p. 23), this requirement creates a discretionary environment. It opens the possibility for companies to disclose more anti-bribery information than required. We expect that, in response to the ASX guidelines, companies will disclose commitment and performance information above the minimum required. Keeping this in mind, we used the international guidelines listed to develop our disclosure categories; Australia is a signatory to these guidelines. Most importantly, the 2003, 2007 and 2010 versions of the ASX corporate governance guidelines all specifically require Australian companies to adhere to the expectations of the broader community and guidelines, including the OECD guidelines, to prevent unethical practices. In fact, the ASX’s flexible disclosure scheme offers choices from a range of performance and commitment disclosures.

Consistent with previous studies (Cho & Patten, 2007; Haque & Deegan, 2010; Islam & McPhail, 2011), this study used content analysis to record the presence or absence of a particular disclosure item. This is a powerful tool, as it assesses the length of disclosures (see Haque & Deegan, 2010).⁷ The presence/absence of an item on a predetermined checklist helps to capture the range of disclosures to be compared across companies (Beattie, 2014; Beattie & Thomson, 2007) and periods. To compile a disclosure list, past research has developed indices of the quality of disclosure by considering the [equal or unequal] weight of each disclosure item (see Cho & Patten, 2007; Hooks & Van Staden, 2011; Islam & McPhail, 2011). We give equal weight to each item on our list of anti-bribery disclosures: if a company discloses one item, it scores 1; if none, it scores 0. In collecting data, the 959 corporate reports were searched for the terms “assurance”, “audit”, “board”, “bribe”, “community”, “combat”, “commitment”, “contractor”, “control”, “corporate”, “corruption”, “external”, “governance”, “human resource”, “internal”, “international”, “mandatory”, “management”, “OECD”, “penalty”, “prohibit”, “policy”, “report”, “responsibility”, “remuneration”, “supplier”, “transparent”, “transparency international”, “trade union”, “transaction”, “verification” and “violation”. Our

⁷This approach is well recognised in social science research (Krippendorff, 2004) and is less subjective than other weighting schemes, although we accept that subjectivity cannot be totally eliminated from content analysis (Hooks & Van Staden, 2011).

choice of keywords is consistent with previous research (see for example, Islam & Deegan, 2010). This type of approach is used in the content analysis of news media within the social science literature (see, for example, King, 2008).

We were interested to see the impact of the three ASX corporate governance initiatives (2003, 2007 and 2010) on corporate anti-bribery disclosures. To determine the impact of each initiative, we measured the number of disclosures before and after each initiative:

- First period (guidelines completely new) (ASX, 2003): before: 2001–3; after: 2004–7 (regulation effective 1 January, 2004)
- Second period (2003 guidelines revised) (ASX, 2007): before: 2005–7; after: 2008–10 (regulation effective 1 January, 2008)
- Third period (ASX, 2007 guidelines re-emphasised) (ASX, 2010): before: 2008–10; after: 2011 (regulation effective 1 January, 2011).⁸

The ASX guidelines provide a unique, “soft” environment in which corporations have the discretion to make commitment and performance disclosures relating to anti-bribery. The view taken in this paper is that the ASX corporate governance guidelines are a tool for legitimation and that companies disclose anti-bribery commitment and performance information as a response to such guidelines.

In addition to examining changes in the level of disclosures, one might examine the implications of the ASX regulations by comparing anti-bribery commitment and performance disclosures by companies operating in countries where there is a high risk or a low risk of bribery. The number of Australian companies operating in countries where there is a high risk of bribery increased between 2006 and 2011: in 2006 just over half of the companies in the ASX 100 were involved in a high-risk country, while in 2011 this had increased to three-quarters (ACSI, 2011). Countries with high levels of corruption are also subject to bribery risk (ACSI, 2011; OECD, 2012). According to Transparency International (TI) (2011), the countries in which the risk of bribery is highest include most of the African countries (e.g. Angola, Republic of the Congo, Kenya, Libya, Mozambique; Nigeria, Sierra Leone, Sudan, Somalia, Zimbabwe); most of the emerging Asian nations (e.g. Bangladesh, China, Cambodia, Guinea, Indonesia, India, Iran, Pakistan, Papua New Guinea, Philippines, Sri Lanka, Uzbekistan); emerging European nations (e.g. Russia, Romania, Turkey); developing nations in South and Central America (e.g. Argentina, Brazil, Colombia, Mexico). This list is consistent with the findings of the World Bank’s country reports (see http://info.worldbank.org/governance/wgi/pdf_country.asp, last accessed 27/08/2013). It is interesting to investigate whether the anti-bribery disclosures of companies with operations in regions with

⁸While the third-round revision of ASX’s guidelines was made publicly available in 2010, the third edition of the guidelines was formally enacted in March 2014 without changing any of the anti-bribery and corruption requirements. Although our data collection period did not include years after 2011, we argue that the period of data analysis (which is also longitudinal in nature) is long enough and relevant for showing whether Australian companies, while responding to the ASX normative guidelines, have compromised moral legitimacy in periods of crisis. A fourth edition of ASX’s corporate governance guidelines was released on 27 February 2019 and takes effect for a listed entity’s first full financial year commencing on or after 1 January 2020. Unlike previous editions, *Recommendation 3.4* in the Fourth Edition clearly states that a listed entity should disclose an anti-bribery and corruption *policy*; and ensure that the board or a committee of the board is informed of any material breaches of that policy. We argue that this significant development of ASX’s corporate governance guideline on anti-bribery practices must have broader implications for listed companies and this requires further research attention.

high bribery risk are similar to those of companies operating only in Australia when judged by their response to the ASX regulations. Our review revealed that out of the largest 100 companies, 63 operated in regions having high bribery risk, while 37 operated only in Australia and other low-risk regions. This data is needed to examine the notion of moral legitimacy, since companies may be expected to disclose more information if they operate in high-risk regions where the chance of a legitimacy crisis such as incidents of bribery remains high.

As mentioned earlier, we used content analysis (presence/absence) to document disclosures. Disclosure data will primarily be presented in a tabular form and analysed accordingly. In some instances, a non-parametric test, the Mann–Whitney U test, was used to generate and analyse the results.

We also used qualitative context analysis (a kind of thematic analysis as suggested in Beattie et al., 2004 and Beattie & Thomson, 2007) to underpin our research. However, the scope of our analysis is different from earlier research that largely scrutinised text in annual reports for general financial and non-financial issues. Rather, we analysed both the text of annual reports and media texts, reading and analysing descriptions of incidents of bribery. The Dow-Jones Factiva search tool was used to collect news reports of certain bribery incidents. We compared media articles on bribery incidents in relation to a particular company with disclosures on this incident in the corporate annual reports (and/or websites) of the company. We sought to establish whether pragmatic legitimacy or moral legitimacy would explain managers' behaviour. This analysis helped us to understand the extent to which anti-bribery disclosure practices by ASX-listed companies reflect actual incidents of bribery.

In order to explore potential tension for managers in maintaining a balance between moral and pragmatic legitimacy, we compared corporate anti-bribery disclosures with the bribery incidents highlighted in the news media. The view taken here is that managers are less likely to disclose incidents of bribery (when highlighted by the media) because they are more likely to adopt a pragmatic approach to protecting shareholders' interests than to pursue moral legitimacy. The disclosure of bribery by managers may have legal implications – penalties and litigation – while non-disclosure of bribery may lead to moral legitimacy deficit. In order to understand whether companies following the ASX guidelines achieve moral legitimacy or a moral legitimacy deficit, we considered data for a longer period. In other words, a longer period and thus a broader context allowed us to examine how managers may have compromised moral legitimacy in pursuit of pragmatic legitimacy.

4. Findings

4.1. Levels of corporate anti-bribery disclosure in different phases of ASX

Based on international guidelines, we developed a disclosure score list containing 18 disclosure items that go further than the ASX's suggested requirements. In other words, we captured disclosures that are broader than the ASX's minimum disclosure requirement – this requirement only suggests listed companies should disclose measures they have taken to curb corruption and bribery. Table 1 shows the number of companies that disclosed information on their commitment to and performance in combating bribery in

Table 1. Number of the largest 100 ASX companies disclosing commitment to and performance in combating corporate bribery from 2001 to 2011.

Disclosure items /annual report year	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'11 (website)	Annual report total
A. Corporate commitment to combat bribery and corruption (9 potential types of disclosure)													
A.a. Governing Board and management demonstrate visible and active commitment (via mission or vision statement) to an anti-bribery policy and programme.	2	2	6	15	19	24	29	33	36	36	41	57	243
A.b. Anti-bribery policies are developed and undertaken in consultation with stakeholders, such as employees, trade unions or other employee representative bodies, as appropriate.	1	1	2	2	3	3	3	1	1	1	2	5	20
A.c. The company's employees or agents make clear commitments that they do not make direct or indirect contributions to political parties, organisations or individuals engaged in politics, as a way of obtaining an advantage in business transactions.	3	4	5	5	6	6	8	9	7	9	10	24	72
A.d. The company has a clear policy to prohibit its employees from soliciting, arranging or accepting bribes directly or through third parties intended for the employee's benefit or that of the employee's family, friends, associates or acquaintances.	1	1	0	2	2	4	4	5	5	4	6	23	34
A.e. The company commits that charitable contributions and sponsorships are not used as a subterfuge for bribery.	0	0	0	0	0	0	0	1	0	0	0	3	1
A.f. The company commits not to make facilitation payments and takes initiative to identify and eliminate them.	0	0	0	1	1	2	2	2	2	1	3	18	14
A.g. The company's anti-bribery policy applies to its business partners (including agents, suppliers and contractors).	0	0	1	1	1	2	2	2	2	3	5	17	19
A.h. The company has the policy to provide appropriate training on the anti-bribery programme to Directors, managers, employees and agents and, if appropriate, to contractors and suppliers.	7	9	11	22	26	27	32	28	34	35	39	24	270
A.i. The company makes it clear that no employee will suffer demotion, penalty or other adverse consequences for refusing to pay bribes, even if such refusal may result in the enterprise losing business.	0	0	0	2	6	7	9	9	7	7	6	21	53
Total number of commitment disclosures	14	17	25	50	64	75	89	90	94	96	112	192	726
B. Performance on combating bribery and corruption (9 potential types of disclosure)													
B.a. Has prohibited all forms of bribery whether they take place directly or through third parties.	0	0	0	1	1	0	1	1	2	2	3	4	11
B.b. Discloses all its political contributions.	5	7	7	3	5	5	5	6	6	6	7	8	62
B.c. Has publicly disclosed all its charitable contributions and sponsorships and ensured that no charitable contribution and sponsorship is paid as a bribe.	17	21	23	27	37	38	38	33	44	49	53	60	380
B.d. Has taken visible steps to eliminate facilitation payments and ensured that no facilitation payment is paid as a bribe.	0	0	0	0	1	1	2	2	2	3	3	5	14
B.e. Discloses the number of violations in relation to bribery and corruption.	0 ⁹	0	0	0	0	1	2	2	1	1	1	1	8
B.f. Reports the number of dismissals of employees involving bribery and corruption.	0	0	0	0	0	0	1	0	0	0	0	2	1

(Continued)

Table 1. Continued.

Disclosure items /annual report year	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'11 (website)	Annual report total
B.g. Reports the percentage/number of employees trained in the organisation's anti-bribery programme and policies.	0	0	0	0	0	0	1	0	1	0	0	3	2
B.h. Has disclosed country by country (or by the subsidiary company) its reporting of revenue, income, operating and financial expenses and ensured that all are transparent.	18	21	21	24	28	28	32	36	36	37	36	8	317
B.i. Has made it clear that it has no "off the books" or secret accounts.	0	0	0	0	0	0	0	0	0	1	0	1	1
Total number of performance disclosures	40	49	51	55	72	73	82	80	92	99	103	92	796
Total annual reports/websites reviewed	73	75	78	82	87	90	91	95	95	97	96	100	

their annual reports between 2001 and 2011 and on their websites in 2011. Nine specific issues (A.a–A.i) are considered under the category “corporate commitment to combat corporate bribes and corruption”. As shown in Table 1, the number of companies disclosing seven of the nine specific types of information considered has gradually increased over time.

Within the commitment category, there was a clear upward trend in the number of companies disclosing information in their annual reports over the sample period (from 14 disclosures in 2001 to 112 in 2011). For example, in 2001, while only two companies reported “board and management demonstrate visible and active commitment (via a mission or a vision statement) to combat corporate bribery”, 41 companies did so in 2011, while 57 companies made this type of disclosure on their web sites in 2011 (Table 1, A.a). In total, there were 243 disclosures of this category in annual reports, the second-highest in the commitment category and fourth highest overall. Disclosures of “a policy to provide appropriate training on the programme to directors, managers, employees and agents and, if appropriate, to contractors and suppliers”, were relatively high throughout the period of observation, and rose from 7 companies in 2001 to 39 companies in 2011 (Table 1, A.h). In total, over the whole period, there were 270 annual report disclosures of this type, the highest in the commitment category and third-highest overall.

Under the commitment category, the lowest reporting was found for “company commits that charitable contributions and sponsorships are not used as a subterfuge for bribery”, with only four companies reporting this during the period (and only 1 in an annual report). For other types of disclosure, moderate reporting was found, with the number of reporting companies slowly increasing by the end of the sample period. The number of companies disclosing through websites was higher than the number of companies disclosing through annual reports, with 20% or more companies making disclosures of at least 8 out of 9 specific types.

There are nine types of performance disclosure (labelled B.a to B.i in Table 1). Substantially fewer companies disclosed information on performance than made commitment disclosures, except for two specific types (together comprising 86% of all performance disclosures). The highest number of companies stated “the company has

⁹Zero disclosure may not mean no bribery took place. There might have been violations that were not reported.

publicly disclosed all its charitable contributions and sponsorships and ensured that no charitable contribution and sponsorship is paid as a bribe". Initially, 17 companies reported this in 2001, gradually increasing to 53 companies in 2011, with 60 companies reporting this on their web site in 2011. This disclosure was the highest over the whole period (380 disclosures in annual reports), representing 50% of all performance disclosures.

The second-highest-scoring performance disclosure item was "the company has disclosed country by country (or by the subsidiary company) its reporting of revenue, income, operating and financial expenses and ensured that all are transparent" – 18 companies disclosed in 2001, reaching 36 companies in 2011, with a total of 317 disclosures (Table 1, B.h). For example, companies such as BHP, Santos, ANZ and Rio Tinto were seen to disclose country-by-country information. Out of nine types of disclosure, two ("reports the number of dismissals of employees involving bribery and corruption", B.f, and "the company has made it clear that it has no 'off the books' or secret accounts", B.i) appeared in the annual report of only one company over the sample period. (B.f appeared on two companies' web sites and B.i on one company's web site in 2011.)

In total, both commitment and performance disclosures increased steadily over time in the annual reports: commitment disclosures from 14 to 112 disclosures and performance disclosures from 40 to 103 disclosures. In only one year (2007–8) was there a drop in performance disclosures (a small one). Over the period surveyed, the gap between commitment and performance disclosures has narrowed. The trend is consistent with conformance to ASX governance regulations, and in general, this finding suggests that ASX's normative guidelines influence corporate anti-bribery disclosures.

We now provide a summary of the frequency distribution of the companies disclosing anti-bribery information (Table 2). Overall, although disclosure still was not extensive, there was a steady increase in disclosure. For example, in 2001, 53% of companies failed to disclose any information in their annual report, but by 2010 this had fallen to 13%.

4.2. Influence of ASX corporate governance regulation on anti-bribery disclosures by corporations: conforming to the moral norms

This section addresses whether the different phases of the ASX corporate governance guidelines influenced anti-bribery commitment and performance disclosure practices by listed companies. By using a non-parametric Mann–Whitney U test, Table 3 tests the significance of the mean difference in the numbers of companies disclosing information in three periods before and after the ASX guidelines came into force. For eight out of nine types of commitment disclosure ($p < .05$) a significant difference was recorded between numbers disclosing in the period 2001–3 and the period that the 2004–7 ASX corporate governance guidelines were in force (and for the other type of disclosure insufficient data were obtained). For the performance category, three types of performance disclosure (out of nine) were significant (B.a, B.c and B.h). The remaining six items were positive but not significant. This result shows that ASX's first normative guideline prompted more commitment-related disclosures than performance-related ones.

Compared to the period after the first ASX guidelines were introduced, the period after the first (2007) revision showed a slower increase in the number of disclosures, but the increase is still apparent between the second and third period. Between the

Table 2. Frequency distribution of anti-bribery disclosures by ASX 100 between 2001 and 2011.

Number of dis-closures	Frequency (number of companies disclosing)																					
	2001		2002		2003		2004		2005		2006		2007		2008		2009		2010		2011	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
0	39	53	34	45	37	47	25	30	19	22	20	22	19	21	22	23	15	16	13	13	12	13
1	21	29	24	33	16	21	30	37	34	39	31	35	30	33	27	29	29	31	29	30	23	24
2	8	11	9	12	15	19	13	16	17	20	22	24	18	20	20	21	25	26	26	27	26	27
3	3	04	7	09	7	09	9	11	7	08	5	06	9	10	11	12	12	13	16	17	18	19
4	2	03	1	01	3	04	3	04	5	06	5	06	6	07	5	05	6	06	5	05	7	07
5	0	00	0	00	0	00	1	01	3	03	4	04	3	03	2	02	3	03	4	04	6	06
6	0	00	0	00	0	00	1	01	1	01	3	03	4	04	6	06	3	03	3	03	1	01
7	0	00	0	00	0	00	0	00	1	01	0	00	1	01	2	02	2	02	0	00	2	02
8	0	00	0	00	0	00	0	00	0	00	0	00	1	01	0	00	0	00	1	01	0	00
9	0	00	0	00	0	00	0	00	0	00	0	00	0	00	0	00	0	00	0	00	1	01
Total (<i>N</i>)	73	100	75	100	78	100	82	100	87	100	90	100	91	100	95	100	95	100	97	100	96	100

Table 3. Test of mean differences in the number of disclosing companies before and after the enactment of ASX guidelines (Mann-Whitney U test).

Disclosure items /significance differences for three periods (test of mean difference)	First corporate governance initiative Pre-period: 2001–3; post-period: 2004–7 Sig. (2-tailed) P value for mean differences	Second corporate governance initiative (revised) Pre-period: 2005–7; post-period: 2008–10 Sig. (2-tailed) P value for mean differences	Third corporate governance initiative (revised) Pre-period: 2008–10; post-period: 2011 Sig. (2-tailed) P value for mean differences
A. Commitment to combat corporate bribes and corruption (significance of mean difference in total number of companies)			
A.a: Disclose that governing Board and management demonstrate visible and active commitment (via mission or vision statement) to an anti-bribery policy and Programme.	.032***	.285	.157
A.b: Anti-bribery policy developed and undertaken in consultation with stakeholders, such as employees, trade unions or other employee representative bodies, as appropriate.	.040***	.022***	X
A.c: Company's employees or agents make clear commitments that they do not make direct or indirect contributions to political parties, organisations or individuals engaged in politics, as a way of obtaining advantage in business transactions.	.048***	.471	.157
A.d: Clear policy to prohibit employees from soliciting, arranging or accepting bribes directly or through third parties intended for the employee's benefit or that of the employee's family, friends, associates or acquaintances.	.029***	.459	.157
A.e: Commits that charitable contributions and sponsorships are not used as a subterfuge for bribery.	X	.248	.564
A.f: Commits not to make facilitation payments and take steps to identify and eliminate them.	.025***	.554	.157
A.g: Anti-bribery policy applies to its business partners (including agents, suppliers and contractors).	.051***	.696	.180
A.h: Has a policy to provide appropriate training on the anti-bribery programme to directors, managers, employees and agents and, if appropriate, to contractors and suppliers.	.034***	.48	.157
A.i: Makes it clear that no employee will suffer demotion, penalty or other adverse consequences for refusing to pay bribes, even if such refusal may result in the enterprise losing business.	.034***	.35	.157
B: Performance on combating bribery and corruption (significance of mean difference of total number of companies)			
B.a: Discloses that it has prohibited all forms of bribery whether they take place directly or through third parties.	.044***	.549	.184
B.b: Discloses all its political contributions.	.076**	X	X
B.c: Has publicly disclosed all its charitable contributions and sponsorships and ensured	.032***	.252	.36

(Continued)

Table 3. Continued.

Disclosure items /significance differences for three periods (test of mean difference)	First corporate governance initiative Pre-period: 2001–3; post-period: 2004–7 Sig. (2-tailed) <i>P</i> value for mean differences	Second corporate governance initiative (revised) Pre-period: 2005–7; post-period: 2008–10 Sig. (2-tailed) <i>P</i> value for mean differences	Third corporate governance initiative (revised) Pre-period: 2008–10; post-period: 2011 Sig. (2-tailed) <i>P</i> value for mean differences
that no charitable contribution and sponsorship is paid as bribe.			
B.d: Has taken visible initiatives to eliminate facilitation payments and ensured that no facilitation payment is paid as bribe.	.076**	.350	.43
B.e: Discloses the number of violations in relation to bribery and corruption.	.186	1	1
B.f: Reports the number of dismissals of employee involving bribery and corruption.	.386	.386	X
B.g: Reports the percentage/number of employees trained in organisation's anti-bribery programme and policies.	.386	.823	.66
B.h: Has disclosed country by country (or subsidiary company) reporting of revenue, income, operating and financial expenses and ensured that all are transparent.	.031***	.054**	.564
B.i: Has made it clear that it has no "off the books" or secret accounts.	X	.248	.564
Total disclosures	.034	.095	.15

X = No result (because of insufficient data).

A *p*-value of .05 or less is deemed to represent a significant result for the purpose of our analysis.

***=5% level of significance.

**=10% level of significance.

2005–7 and 2008–10 periods, all nine types of commitment disclosure increased. However, only one theme showed a statistically significant increase ($p < .05$): A.b, "Anti-bribery policy developed and undertaken in consultation with stakeholders, such as employees, trade unions or other employee representative bodies, as appropriate". Likewise, seven out of nine types of performance disclosure increased after the 2007 revisions took effect, but only one showed a statistically significant increase: B.h, "Has disclosed country by country (or by the subsidiary company) reporting of revenue, income, operating and financial expenses". Overall, after considering all the three regulatory periods, we find disclosures of almost every item increased after guidelines were introduced (or revised) with a significant increase in total disclosures during the first ($p = .034$) and second ($p = .095$) periods.

To summarise this section, we conclude that the first ASX governance guideline was more influential than the two subsequent revisions. The amendments to the ASX guidelines had less impact on the disclosures than the original initiative. Importantly, in all cases, there was no decrease in the number of disclosures after revisions came into force. The results so far suggest corporations disclose anti-bribery information as a response to the expectations of a community that wants to see them take into account broader societal norms and expectations. From a moral legitimacy perspective, generally, corporations adapt responsively to changes in the external environment and the norms that are ingrained in the ASX corporate governance guidelines.

Table 4. Anti-bribery disclosures: Test of differences – companies operating in region of bribe-related risk versus companies operating in the low-risk region (2001–11).

Themes	Operating in high-risk region (n = 63)	Operating only in Australia (n = 37)	Significance of mean difference (t test)
	Mean disclosures	Mean disclosures	Test of difference
Commitment disclosures	.86	.63	$P = .000$
Performance disclosures	.96	.56	$P = .000$
Total disclosures	1.82	1.19	$P = .01$

4.3. Operations in countries presenting high bribery risk; anti-bribery disclosure in different ASX governance periods

In their study, Zyglidopoulos et al. (2016) argued that the moral values of a company based in a developing nation that operates in a developed country will be questionable in the eyes of stakeholders in that country, or at least regarded as unknown, thus challenging the foreign company's moral legitimacy. Their argument is supported by the view that challenges to the moral legitimacy of foreign companies may be more intense because of their association with countries with poor track records in areas such as labour and environmental standards and corruption. Similarly, we argue that challenges to the moral legitimacy of multinational corporations (MNCs) based in Australia appear more intense when they operate in countries seen as having low moral values and presenting a high bribe risk. Accordingly, in line with the notion of moral legitimacy, we expect companies with operations in countries with high bribery risk (many underprivileged developing countries run by corrupt politicians and government officials) may be expected to disclose more anti-bribery information than companies operating only in the home country (Australia). Of the largest 100 ASX companies, 63 had operations in countries presenting a high risk of bribery and 37 operated only in Australia and other low-risk countries. At an aggregate level (Table 4), we found significantly more anti-bribery disclosures by companies with operations in high-risk countries than by those in low-risk countries ($p = .01$). In other words, companies subject to moral risk disclose more anti-bribery information than those not at such risk. Perceived challenges to moral legitimacy in relation to companies' operations in countries at high risk of bribery influence managers to disclose more anti-bribery information. As shown in Table 4, after considering all disclosures, companies disclosed significantly more anti-bribery information when operating in high-risk countries (mean disclosures = 1.82) than in low-risk countries (mean disclosures = 1.19) ($p = .01$). Both commitment and performance disclosures were significantly more frequent by companies with operations in high-risk countries than by companies operating in Australia. All of these results are limited to the ASX regulatory period from 2001 to 2011.

Australian companies operating in countries where the regulatory and political framework to control bribery is weak, face significant legitimacy risk or perceived challenges to the moral legitimacy of their operations. These findings imply that, while companies are generally responsive to ASX guidelines (shaped by international expectations), those operating in regions presenting high bribery risk (because of poor corporate governance guidelines and/or implementation in these regions) disclosed significantly more anti-bribery information than companies operating only in Australia or any other low-risk region.

Table 5. Anti-bribery disclosures in different regulatory phases for companies operating in high-risk and low-risk countries (Mann-Whitney U test).

Categories of disclosure	High risk (N = 63 companies)			Low risk (N = 37 companies)		
	Significance levels for mean differences in the number of disclosures (<i>p</i> value)			Significance levels for mean differences in the number of disclosures (<i>P</i> value)		
	First phase	Second phase	Third phase	First phase	Second phase	Third phase
Commitment	.010***	.152	.662	.010***	.754	.293
Performance	.030***	.14	.584	.071**	.743	.452
Total	.001***	.136	.401	.005***	.561	.315

***=5% level of significance.

**=10% level of significance.

The results suggest that, while corporate governance norms influence anti-bribery disclosures, operating in some overseas countries represented a significant risk for companies, which in turn influenced them to respond more to the governance initiative. It is evident that companies disclosed anti-bribery disclosures as a response to perceived moral legitimacy deficits originating from their foreign operations (Beck, 1992; Grolin, 1998).

In order to understand the implications of the ASX guidelines on companies having operations in high-risk and low-risk countries, we also looked at how disclosures changed as each version of the guidelines came into force. As shown in Table 5, during the first phase changes in the number of commitment, performance and total disclosures are statistically significant for companies operating in both high-risk and low-risk countries (except that the *p* value for performance disclosures is .071 for companies operating in low-risk countries, and therefore *p* for total = .005 rather than .001). In the second and third phases, changes in the number of disclosures for companies operating in both regions are positive with no significant results. With a few exceptions, both types of companies changed the nature of their disclosures consistently throughout the three phases. The results suggest that, while there are significant variations in the numbers of disclosures by companies operating in high-risk and low-risk countries throughout the entire period, both types of company changed the number and types of disclosure to similar extents in response to each version of the ASX governance guidelines. In summary, Table 5 indicates that the ASX guidelines had an equivalent impact on companies operating in high- and low-risk countries. Most importantly, the first ASX governance guidelines had a significant influence on companies' anti-bribery disclosure behaviour, irrespective of whether their operations were in high-risk or low-risk regions. Managers, therefore, used anti-bribery disclosures to respond to moral norms.

From a moral legitimacy perspective, for a company to uphold domestic moral norms in their foreign operations (host countries) creates tension. Accordingly, in order to avoid perceived threats to legitimacy, Australian companies operating in high-risk countries disclosed more anti-bribery information than companies operating only in Australia and other countries with norms similar to the ASX guidelines.

So far, the analysis of anti-bribery disclosures summarised above does not let us suggest that a deficit in moral legitimacy has been created. At the same time, this analysis does not encourage us to deny that pragmatism influenced managers' response to the ASX normative guideline. Having said that, we argue that moral legitimacy is compromised, when anti-bribery disclosures may help managers maintain strategic control and protect shareholders' interests.

4.4. Incidents of bribery, anti-bribery disclosures and moral legitimacy deficit

We compared companies' anti-bribery disclosures with reports of bribery in the news media to gain a deeper understanding of the tensions in balancing moral and pragmatic legitimacy. In other words, the comparison between what is reported in the news media and corporate responses to such allegations (via corporate communications) helped us to understand how moral legitimacy is compromised for the sake of maintaining pragmatic legitimacy. Table 6 examines this issue using examples of bribery allegations associated

Table 6. Reported bribery incidents compared with bribe-related corporate disclosures.

Bribery reports against four companies in news media (Accused companies reported as coded number: A,B, C and D)	Number of mentions of the incident in the news media	Key accusations against companies	Coverage in company annual reports
"T3 battle goes beyond the billions in 'bush bribe'", 13/082005, <i>The Australian</i>	2003–0 2004–1 2005–20	National party MPs were accused of accepting bribes from Company -A	No mention of this issue in the Company-A's annual reports (2005/2006/2007)
"Windsor won't back down on [Company-A] bribe claims", 18/08/2005, <i>Australian Broadcasting Corporation (ABC) News</i>	2006–6 2007–5		
"Wheat bribe inquiry – Was \$300 m kickback to Saddam illegal?" 11/11/2005, <i>Daily Telegraph</i>	2004–0 2005–54 2006–2,138 2007–121	Australia's biggest wheat exporter, Company-B, faced allegations that \$300 million in kickbacks were paid to Saddam Hussein's slush fund	Company-B regretted the manner in which its wheat trade with Iraq from 1999 until 2004 under the United Nations Oil-for-Food programme had been conducted (Annual Report 2006). However, in its annual reports, it did not state whether it had been involved in bribery, nor did it mention the amount of money involved
"UPDATE 1 – Australia wheat firm faces more kickback claims", 6/12/2005, <i>Reuters News</i>	2008–37		Company-B disclosed details of the lawsuits for bribery brought against it by a number of different bodies (Annual Report, 2007)
"Opposition says Govt knew of wheat board kickbacks [Company-B] inquiry exposes Govt knowledge of kickbacks, says Labor", 17/1/2006, <i>Australian Broadcasting Corporation (ABC) News</i>			
"Fed: Company-B audit raised money laundering concerns, inquiry told", 19/01/2006, <i>Australian Associated Press General News</i>			
"Chinese accuse [Company-C] 'spy' of bribe", 11/07/2009, <i>The Courier-Mail</i>	2007–0 2008–2 2009–109	A Company-C officer was accused of industrial espionage by bribing Chinese steel-making officials during sensitive commercial negotiations	Company-C first acknowledged the fact in its 2009 annual report
"Hu and [Company-C] could face more than five years in jail", 12/02/2010, <i>The Australian</i>	2010–616 2011–11		
"Unions claim [Company-D] 'bribing' workers"; "Union slams [Company-D] offer as 'bribe'", 10/12/2007, <i>Australian Broadcasting Corporation</i>	2005–0 2006–0 2007–3 2008–4 2009–13 2010–144	Company-D officials were accused of bribing workers	No mention of this issue in the Company-D's annual reports (2007, 2008, 2009)
"Bribery scandal rocks [Company-D] SEC query prompts company probe", 22/04/2010, <i>The Age</i>	2011–17 2012–8	Company-D was accused of giving a large amount of money to a Cambodian minister for an exploration contract in his country	No mention of this issue in the Company-D's annual reports (2010, 2011)
"Cambodian PM denies [Company-D] paid bribe", 27/04/2010, <i>AFP</i>			

with some large companies [coded/reported in this article as Company-A, Company-B, Company-C and Company-D confidentiality in mind]. As shown in the table, in three out of four cases bribery incidents were not disclosed by the alleged companies concerned (the issue relates to Table 1, B.e: “Discloses the number of violations in relation to bribery and corruption”). In only two cases (Company- B and Company-C) were the bribery incidents recorded in the annual report. In Company-B’s case, this appears to have been because of potential litigation.

When in 2005 a member of parliament was accused of accepting bribes from Company-A, the news media reported this. By using the Factiva media database, we identified 32 news articles (in total) between 2004 and 2007 (20 articles being the peak in 2005) covering the incident. However, the company did not mention this issue. Instead, it highlighted its positive ethical performance in its annual report for 2006:

This year, we participated in the third Business in the Community Corporate Responsibility Index, overseen in Australia by the St James Ethics Centre. We again scored higher than the average score achieved by the 29 companies participating. The Corporate Responsibility Index is a tool which assists [Company-A] to benchmark our performance in relation to CSR and identify both areas where we are doing well, and where we can implement action to improve our performance. We also regularly participate in the FTSE4Good and a number of ethical investment surveys and indices (Company-A, Annual Report, 2006, p. 63).

In response to bribery allegations (bad news), the company provided positive ethical performance information. The company avoided disclosing the bribery allegations and around the same time it issued a reputation-building positive statement. This suggests it was inclined to compromise its moral legitimacy for the sake of maintaining pragmatic legitimacy. This, in turn, creates a deficit in its moral legitimacy. The company’s non-disclosure of real incidents (as shown in Table 6) appeared as an attempt to avoid possible financial penalties and to protect managerial and shareholder interests.

Another bribery-related incident concerned Australia’s one of biggest wheat exporters, Company-B, which faced an allegation that it had kicked back \$300 million to Saddam Hussein via Iraq’s Oil-for-Food programme in 2005. This incident attracted huge news media attention across the world. In total, we identified 2,350 articles between 2004 and 2008 (with a massive peak of 2,138 articles in 2005) concerning this incident. However, we found only a limited amount of disclosure by Company-B on this issue. The company did not disclose how far it was involved in bribery nor mention that it had been accused of bribery. While it mentioned that it was taking action to correct any unethical practices, it did not mention the word “bribe” in the annual report. As the Company-B annual report 2006 stated:

The Board deeply regrets the manner in which the company’s wheat trade with Iraq from 1999 until 2004 under the United Nations Oil-for-Food programme was conducted. The Board accepts ultimate responsibility for the actions of management and the culture at [Company-B] during the Oil-for-Food programme. The Board is committed to building the right accountability and operating culture in the future and making significant changes to ensure it does not happen again.

In its 2007 annual report, however, Company-B disclosed a number of cases of bribery brought against it in relation to Iraq’s Oil-for-Food programme. One such disclosure is quoted below:

On 27 November 2006, the Report of the Commission of Inquiry in relation to the United Nations Oil-for-Food Program (the ‘Cole Inquiry’) was tabled in Parliament. The Report ... found that certain acts, conduct and payments by [Company-B] and [Company-B] (International) might have breached sections of the Criminal Code, Crimes Act 1958 (VIC) and Banking (Foreign Exchange) Regulations 1959. The Cole Report also recommended the establishment of a joint Task Force comprising the Australian Federal Police, Victoria Police, and the Australian Securities and Investments Commission (‘ASIC’) to consider possible prosecutions of the entities named in it. The Task Force recommended by the Cole Report has now been established. At the date of this report, no legal action had commenced against either [Company-B] or [Company-B] (International) in relation to the findings of the Cole Inquiry ... (Company-B Annual Report 2007, p. 104)

Once again, consistent with the other companies’ approach, as discussed above, Company-B’s inadequate disclosure of real incidents appeared concerned with avoiding possible financial penalties and protecting managerial and shareholder interests. This, in turn, created a moral legitimacy deficit.

Another incident of bribery concerned Company-C. In 2009, a Company-C officer was accused of bribery in China. China accused a senior Australian mining executive of industrial espionage by bribing Chinese steel-making officials during sensitive commercial negotiations. The incident attracted huge media attention – in total 738 articles were published by news media between 2007 and 2011 (with 109 articles in 2009 and 616 articles in 2010). Company-C disclosed this incident in its 2009 annual report:

On 5 July 2009, four employees were detained for questioning by the Chinese authorities in Shanghai. On 11 February 2010, [Company-C] was advised that the People’s Procurate had transferred the case to the Shanghai Number One Intermediate Court for trial. The charges related to receiving bribes and stealing commercial secrets. (Annual Report, 2009, p. 90)

At the same time, the company made a commitment to control bribery and took corrective measures via integrity training for a large number of employees. As Company-C reported:

Business integrity training is required for all managers of which 6,279 completed training covering anti-bribery, anti-corruption and political involvement during 2008 and 2009. We do not directly or indirectly participate in party politics and we do not make payments to political parties or individual politicians. (Annual Report, 2009, p. 25)

These statements suggest that Company-C attempted to repair its moral legitimacy by taking corrective action. At the same time, it took some actions to protect the interests of the shareholders and managers.

Another company in this study, Company-D, was also subject to media attention. We identified 189 news articles (in total) between 2005 and 2012 (144 articles being the peak in 2010) concerning bribery allegations involving the company. First, in 2007, Company-D was accused of bribing workers, but this incident was not disclosed by the company in its annual reports. Then, in 2010, the company was accused of paying a large bribe to a Cambodian minister for an exploration contract in Cambodia (a country presenting high bribe risk). This incident also was not disclosed by Company-D in its annual reports. However, it disclosed potential bribery risk associated with its foreign operations in its 2011 annual report. This can be taken as an implicit reference to the Cambodian incident:

... ... The [Company-D] Code of Business Conduct, together with our anti-bribery and corruption, and anti-trust standards may not prevent instances of fraudulent behaviour and dishonesty nor guarantee compliance with legal or regulatory requirements. This may lead to regulatory fines, litigation, loss of operating licences or loss of reputation. (Company-D, 2011, p. 10)

This statement highlighting the risk of “*regulatory fines, litigation, and loss of operating licences or loss of reputation*” clearly reflects the possible implications for moral legitimacy (loss of operating licences or loss of reputation in the society in which it operates) attributable to the company’s pragmatic and self-interest-driven approach. This does demonstrate a deficit in maintaining moral legitimacy.

This section documented some examples of disclosures of bribery incidents in order to explore deficits in companies’ moral legitimacy that were driven by their desire to protect managerial and shareholders’ interests. Those companies were faced with a bribery crisis or were accused of bribery by the media, and adopted strategies of not disclosing (or limiting disclosure of) the alleged incidents. Such an apparent corporate strategy is a compromise of moral legitimacy for the sake of maintaining pragmatic legitimacy.

5. Concluding remarks

In this paper, we observed an increase in disclosure after each of the three versions of the ASX corporate governance disclosure guidelines came into effect (2001–3 versus 2004–7, 2005–7 versus 2008–10 and 2008–10 versus 2011). The change in disclosures following the introduction of the first ASX guidelines in 2003 was significant. Throughout the period of the study, we found commitment disclosures were more responsive to ASX guidelines or norms than performance disclosures. Both commitment and performance disclosures were much more common than disclosures relating to actual allegations. The increased level of anti-bribery disclosure appeared as a part of companies’ response to the global anti-bribery norms. Throughout the entire period, companies operating in countries presenting high bribery risk make significantly more disclosures than companies operating in low-risk countries, and companies operating in both types of the region changed disclosure strategies in similar ways in response to each of the three phases of ASX governance guidelines. In other words, Australian companies operating in countries with high bribery risk disclosed a higher quantity of anti-bribery information than the companies operating in low-risk countries in order to tackle challenges to moral legitimacy associated with high-risk countries (e.g. the frequency of bribery incidents is high in such countries, which may threaten the corporation’s moral legitimacy).

We performed an extended analysis by comparing some bribery incidents reported in the media with corporate annual reports and found that those companies often avoided disclosing bribery allegations. When companies were accused of bribery by the media, they appeared to shift their strategies by not disclosing (or by limiting disclosure of) the allegations. Rather, they issued more commitment-related disclosures. This behaviour is ingrained, to protect managerial and shareholders’ interests, which in turn creates a deficit in moral legitimacy. Many shareholders might not want to take on the financial burden (litigation, fines and so on), or the ethical dilemma presented by bribery. Moral legitimacy deficit occurs when companies decide not to disclose a

bribery incident in order to avoid potential legal threats. Such a strategy is pragmatic, driven by survival considerations and represents a compromise of moral legitimacy.

Paradoxically, while corporate anti-bribery disclosures have responded to ASX corporate governance guidelines, actual actions to curb bribery (both preventative and corrective) have been weak. Companies inadequately discuss in their annual reports allegations against them of bribery, although broader society (as reflected by the ASX) expects them to. Past research has shown that companies only report positive performance information and do not report “bad news” (or real action) in response to negative media attention to their social and environmental actions (see, for example, Islam & Deegan, 2010). However, previous research has provided only a limited insight into how and why corporations (fail to) disclose actual actions in response to negative media attention. In this paper, we show how companies tended to provide inadequate disclosures of allegations of bribery or suppress unfavourable information. From Suchman’s (1995) pragmatic legitimacy perspective, companies’ inadequate disclosures of bribery incidents appeared as an attempt to avoid possible financial penalties and to protect managerial and shareholder interests. At the same time, from Suchman’s (1995) moral legitimacy perspective, through non-disclosures of bribery incidents, companies inclined to compromise their moral legitimacy. Such findings extend prior research (see, for example, Bowen, 2019) that paid less attention to moral legitimacy or to a normative evaluation of whether engaging in anti-bribery transparency is “the right thing to do”. Also, given the distinction between pragmatic and moral legitimacy addressed in past studies (Baur & Palazzo, 2011; Islam, 2017), our findings provide new insights into how managers’ motivation to maintain moral legitimacy could be compromised in pursuing pragmatic legitimacy.

This study differs from others that examine corporations’ reporting behaviour in response to a regulation, as it investigates whether ASX-listed companies disclose anti-bribery information in response to a voluntary regulation such as the ASX corporate governance guidelines. Past research into the impact of regulation on corporate disclosure is inconclusive and fails to relate to specific social and environmental incidents (see Alciatore et al., 2004; Larrinaga et al., 2002). While our results are comparable with a few previous studies (see, for example, Larrinaga et al., 2002) that found a lack of disclosure-related compliance with regulation, our study differs from such studies, at least from two perspectives. First, we looked at “soft” regulation, the ASX corporate governance guidelines (unlike Larrinaga et al., 2002; and Alciatore et al., 2004 who looked at “hard” regulation) and, second, we compared actual allegations of bribery with corporate disclosures (unlike past research) in an attempt to understand disclosure motivations in response to the “soft” regulations. Our study illustrates how companies’ compliance with the ASX disclosure guidelines is contradicted by a mismatch of disclosures when bribery incidents are uncovered.

“Soft” regulation (guidelines) is viewed in this paper as a key part of managers’ duty to inform stakeholders that ensures the voluntary conformance of Australian corporations with the expectations of such stakeholders, who range from shareholders to the broader community. Corporate anti-bribery disclosures, in particular, are expected to reflect the corporate governance guidelines which, themselves, can be seen as a collective response by the ASX to governments, shareholders, suppliers, media and the community, all of whom expect business to be ethically accountable. Although many organisations do

disclose anti-bribery performance-related information, this does not give us a full understanding of actual performance in relation to curbing bribery. In particular, our results suggest that to avoid possible financial penalties and to protect managerial and shareholders' interests, corporate managers are inclined to sacrifice moral legitimacy by avoiding disclosures of allegations or real incidents that have already been reported by the news media. Indeed, there appears to be a kind of tiered corporate response.

Potentially, we can be more sceptical about corporations' real performance. Wyid (2010) found that, in 2010, penalties in the Criminal Code in Australia significantly increased, but very few investigations in relation to foreign bribery took place; no criminal prosecutions for foreign bribery were launched; no civil proceedings; and no convictions were handed down. Wyid (2010) concludes that either: (a) Australian corporations and individuals do not bribe or corrupt foreign public officials, or (b) Australia conceals its bribery and corruption of foreign officials. If the latter is true, it is a matter of concern. Wyid's, 2010 findings and our own, show that a lack of corporate action including disclosures in relation to specific bribery allegations clearly indicates that Australia's "soft" regulation has not been effective in creating change in bribe-related corporate accountability. In April 2015, the OECD Working Group on Bribery in International Business Transactions published a report on Australia's compliance with international bribery conventions and recommended that there is significant work to do, especially with regard to investigation and enforcement actions (OECD, 2015). Further research is required to investigate how different stakeholder groups perceive regulation, in order to create an ethical and accountable corporate environment such as that in the UK, where the government has passed the UK Bribery Act 2010. We also call for further research to explore deeper insights into whether and how some companies are heavily pressured by regulations and other institutional norms than other companies to make particular voluntary disclosures.

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