

Future of Work
Corporate Governance
Policy
ACTU CONGRESS 2003

1. Congress welcomes the increasing level of debate and activity around the governance and social practices of corporations, which unions see as one of the major factors influencing the job security and retirement incomes of working people, as well as the living standards and amenities of the whole community, in Australia and internationally.
2. Congress notes that the composition, independence and skills of boards of company directors, auditors, analysts and advisers have been called into question in light of recent evidence of corrupt practices and corporate collapses.
3. Congress also notes the various inquiries and reviews which have resulted in a large number of recommendations for change produced by leading bodies connected with corporate and investment regulation and financial services.
4. Congress regrets that, in spite of community outrage at the extent of the rorts and misconduct revealed by company collapses including HIH, One.Tel and Harris Scarfe, the Federal Government has failed to act decisively to reign in corporate excess and rebuild public confidence.
5. Congress calls for a comprehensive program of reform to ensure that the key principle of corporate accountability - to shareholders, employees and other stakeholders - is properly reflected in the regulation and practice of Australian companies.
6. Congress calls for the following measures to be implemented in order to achieve the highest possible standards:
 - (a) Improve the composition and functioning of company boards by:
 - (i) improving disclosure provisions to enable investors to better form an opinion on the independence of board directors including the provision of information about prospective directors and any relationship they or their associates and family have with the company;

- (ii) ensuring boards are made up of a majority of genuinely independent directors who possess the requisite skill and experience to properly discharge their responsibilities; and
 - (iii) increasing penalties for breach of directors' duties, and ensuring greater personal liability for damages by directors who are responsible for losses caused by their breach of duties.
- (b) Encourage increased shareholder participation, particularly by institutional investors, including superannuation funds, by:
- (i) legislating a duty for trustees to monitor and communicate with companies in which they invest and exercise shareholder votes, where there is a reasonable expectation that such action is likely to enhance the long-term value of the investment; and
 - (ii) introducing measures that ensure the beneficial owners of shares, including superannuation funds, have enhanced rights to submit resolutions to company general meetings.
- (c) Improve executive remuneration disclosure by:
- (i) requiring corporations to report all details of executive remuneration to shareholders at general meetings, including share options and how remuneration relates to performance;
 - (ii) requiring all remuneration arrangements (including all share incentive schemes, share options and bonuses) that apply to all executives and managers be expensed in the company profit and loss statements; and
 - (iii) allowing options to be exercised only on a set date or after a set period following the holder's departure from the company.
- (d) Accelerate audit reform by:
- (i) introducing the recommendations of the Ramsay Review into auditing practices and independence;
 - (ii) prohibiting auditors from providing any other commercial services to client companies and from joining the board of client companies for a set period of time after ceasing to be the auditor;
 - (iii) providing for rotation of audit partners; and

- (iv) legislating to prevent the creation of corporate structures designed to obfuscate audit processes.
 - (e) Improve the independence of analysts by introducing measures that ensure shareholders are made aware of potential conflicts of interests of analysts and anything that may compromise their independence and capacity to act in the interests of the prospective or current investors.
 - (f) Improve protections for corporate whistleblowers.
 - (g) Remove corporate tax deductibility for expensed remuneration of more than \$1 million.
 - (h) Legislate for directors' fiduciary and good faith duties to shareholders to be extended to include other stakeholders, including employees.
7. Congress recognises the different governance obligations that apply to mutual and member - based organisations.
 8. Congress congratulates those superannuation funds which have adopted policies on these issues and actively engaged with companies and the funds management industry in order to achieve better corporate governance.
 9. Congress resolves that the ACTU will continue to press for these changes, and support research and debate about the need for substantial reform of corporate operations.
 10. Congress also calls on superannuation funds and unions to consider legal action on behalf of members for recovery of entitlements and retirement savings lost as a result of corporate mismanagement and misconduct.