

The Modern Corporation

Free Markets
vs.
Regulation

Nicholas Wolfson

Modern Corporation Free Markets Versus Regulation

Nancy S. Lind, Erik T. Rankin



Modern Corporation Free Markets Versus Regulation:

The Modern Corporation Nicholas Wolfson, 1984 **The Modern Corporation** Nicholas Wolfson, 1984 Corporate First Amendment Rights and the SEC Nicholas Wolfson, 1990-10-24 In the 1970s the Supreme Court directly ruled for the first time that commercial speech is protected by the free speech clause of the Constitution The Court however did not grant it the full protection afforded to political and artistic speech The SEC regulates a vast array of corporate speech that it considers to be a type of commercial speech In this book Professor Nicholas Wolfson examines the SEC's considerable powers in the control of corporate information and argues that the Court's distinction between political artistic speech and corporate speech is erroneous Wolfson demonstrates that much of so called political speech is concerned with economic self interest He finds no fundamental difference between it and corporate speech In the domain of SEC regulated speech he demonstrates that traditional notions of commercial speech do not fit the parameters of SEC regulated speech Wolfson proposes that the SEC's regulation of proxy statements prospectuses investment advisory literature and hostile takeover information should be subject to full protection of the First Amendment He fully delineates the doctrine of commercial speech as well as the court cases that have determined the status of SEC speech He analyzes the law and economics literature on commercial speech Finally Wolfson compares governance of a publicly held corporation to the governance of a political entity and demonstrates that shareholder democracy is a political notion that should lead to full rights of free speech and freedom of association This important critique of the regulation of corporate speech will be a valuable reference for securities and corporate lawyers First Amendment attorneys and institutional investors as well as for students in business and law programs Corporate law academic and public libraries will also find it to be a notable addition to their collections

Governing the Modern Corporation Roy C. Smith, Ingo Walter, 2006-01-12 Nearly seventy years after the last great stock market bubble and crash another bubble emerged and burst despite a thick layer of regulation designed since the 1930s to prevent such things This time the bubble was enormous reflecting nearly twenty years of double digit stock market growth and its bursting had painful consequence The search for culprits soon began and many were discovered including not only a number of overreaching corporations but also their auditors investment bankers lawyers and indeed their investors In *Governing the Modern Corporation* Smith and Walter analyze the structure of market capitalism to see what went wrong They begin by examining the developments that have made modern financial markets now capitalized globally at about 70 trillion so enormous so volatile and such a source of wealth and temptation for all players Then they report on the evolving role and function of the business corporation the duties of its officers and directors and the power of its Chief Executive Officer who seeks to manage the company to achieve as favorable a stock price as possible They next turn to the investing market itself which comprises mainly financial institutions that own about two thirds of all American stocks and trade about 90% of these stocks These investors are well informed highly trained professionals capable of making intelligent investment

decisions on behalf of their clients yet the best and brightest ultimately succumbed to the bubble and failed to carry out an appropriate governance role In what follows the roles and business practices of the principal financial intermediaries notably auditors and bankers are examined in detail All corporations investors and intermediaries are found to have been infected by deep seated conflicts of interest which add significant agency costs to the free market system The imperfect politicized role of the regulators is also explored with disappointing results The entire system is seen to have been compromised by a variety of bacteria that crept in little by little over the years and were virtually invisible during the bubble years These issues are now being addressed in part by new regulation in part by prosecutions and class action lawsuits and in part by market forces responding to revelations of misconduct But the authors note that all of the market s professional players executives investors experts and intermediaries themselves carry fiduciary obligations to the shareholders clients and investors whom they represent More has to be done to find ways for these fiduciaries to be held accountable for the correct discharge of their duties

The SAGE Handbook of Corporate Governance Thomas Clarke,Douglas Branson,2012-04-20 The urgent and sustained interest in corporate governance is unprecedented with the connections between corporate governance and economic performance being emphasized by the World Bank the IMF and others in the global economic community In this timely and definitive intellectual analysis of a key discipline The SAGE Handbook of Corporate Governance offers a critical overview of the key themes theoretical controversies current research and emerging concepts that frame the field Consisting of original substantive chapters by leading international scholars and examining corporate governance from an interdisciplinary basis the text highlights how governance issues are critical to the formation growth financing structural development and strategic direction of companies and how corporate governance institutions in turn influence the innovation and development of industrial and economic systems globally Comprehensive authoritative and presented in a highly accessible framework this Handbook is a significant resource to those with an interest in understanding this important emerging field

Gold Mining and the Discourses of Corporate Social Responsibility in Ghana Nathan Andrews,2018-12-11 This book critically examines the practice and meanings of corporate social responsibility CSR and how the movement has facilitated a positive and somewhat unquestioned image of the global corporation Drawing on extensive fieldwork material collected in Ghanaian communities located around the project sites of Newmont Mining Corporation and Kinross Gold Corporation the monograph employs critical discourse analysis to accentuate how mining corporations use CSR as a discursive alibi to gain legitimacy and dominance over the social order while determining their own spheres of responsibility and accountability Hiding behind such notions as social licence to operate and best practice corporations are enacted as entities that are morally conscious and socially responsible Yet this enactment is contested in host communities as explored in chapters that examine corporate citizenship gendered perspectives and how global CSR norms institutionalize unaccountability

First Amendment Rights Nancy S. Lind,Erik T. Rankin,2012-11-21 This two volume work addresses

every key cutting edge issue regarding the First Amendment including subjects such as freedom of religion freedom of press freedom of speech and freedom of organization First Amendment Rights An Encyclopedia provides both historical information and current 21st century topics in First Amendment issues Volume 1 addresses the subject through the lens of past decisions and precedent updated to include controversies between new social media and civil liberties Volume 2 examines the current state of First Amendment rights addressing the changes in interpretations of the First Amendment by the Roberts Court as well as in vogue issues such as Occupy Movements as well as student rights and responsibilities in freedom of religion and speech cases Key cases are highlighted throughout the text to further comprehension of the underlying issues and subtle complexities The information is presented so that readers can examine cases in the Roberts court and draw their own conclusions Coverage is also provided of the challenges and opportunities that arise with the adoption of new technologies and their impact on the interpretations of the First Amendment Legal and Ethical Standards in Corporate Insolvency Elizabeth Streten,2024-06-17 Recent financial crisis and the global financial impacts of the COVID 19 pandemic have brought renewed interest to the regulation and practice of corporate insolvency and restructuring Modernisation of the insolvency profession and the regulation of its practitioners is a contemporary concern and recent years have seen significant reforms of insolvency law The success of such reforms can be enhanced through a clear understanding of difficulties faced by the insolvency profession in achieving successful restructuring and insolvency outcomes and through the determination of effective solutions to those difficulties However there is limited empirical data to inform the day to day practice of insolvency nor the difficulties experienced by insolvency practitioners in pursuing insolvency and restructuring solutions This book addresses this absence of data and understanding examining the role and practice of corporate insolvency practitioners and exploring the challenges that they encounter Offering an empirical study together with a comparative analysis of the experiences of practitioners around the world this book facilitates a greater understanding of corporate insolvency practice confronting a misunderstanding of and under confidence in corporate insolvency practitioners making it key reading for academics practitioners and regulators working in the area of corporate insolvency Corporate Takeovers ,1987 *The Corporate Paradox* Wouter H.F.M. Cortenraad,2012-12-06 The corporation is by far the most successful legal concept of organization among large business firms Yet there are numerous examples of firms operated in corporate form that were troubled either by internal problems arising from divergences of interests between the firm s various constituents notably managers and investors or by conflicts with other members of society including both victims of accidents or environmental pollution caused by the firm and unpaid creditors in the event of business failure It is this paradox between the corporation s prima facie success and its apparent ambiguity in other respects that is examined in this book Using modern economic theory concerning the functioning of markets and organizations The Corporate Paradox examines how the concept of the corporation relates to the economic entity it organizes and in effect how it may affect the

use that firms make of society's valuable but scarce resources To this end both the economic rationales underlying the corporate form of organization and its effects on organizational and individual behavior are reviewed with special emphasis on the separation between ownership and control and the principle of limited liability of shareholders two features which are typical of the corporate concept Finally this book surveys from a predominantly economic perspective legal remedies that United States and Dutch law have developed in response to certain inefficiencies to which these features may give rise

The Public Company Transformed Brian Cheffins, 2018-09-28 For decades the public company has played a dominant role in the American economy Since the middle of the 20th century the nature of the public company has changed considerably The transformation has been a fascinating one marked by scandals political controversy wide swings in investor and public sentiment mismanagement entrepreneurial verve noisy corporate raiders and various other larger than life personalities Nevertheless amidst a voluminous literature on corporations a systematic historical analysis of the changes that have occurred is lacking The Public Company Transformed correspondingly analyzes how the public company has been recast from the mid 20th century through to the present day with particular emphasis on senior corporate executives and the constraints affecting the choices available to them The chronological point of departure is the managerial capitalism era which prevailed in large American corporations following World War II The book explores managerial capitalism's rise its 1950s and 1960s heyday and its fall in the 1970s and 1980s It describes the American public companies and executives that enjoyed prosperity during the 1990s and the reversal of fortunes in the 2000s precipitated by corporate scandals and the financial crisis of 2008 The book also considers the regulation of public companies in detail and discusses developments in shareholder activism company boards chief executives and concerns about oligopoly The volume concludes by offering conjectures on the future of the public corporation and suggests that predictions of the demise of the public company have been exaggerated

The Corporation and the Constitution Henry N. Butler, Larry E. Ribstein, 1995 The Corporation and the Constitution is a significant contribution to modern constitutional and corporate scholarship It offers a coherent theory of applying the Constitution to the corporation and it forces scholars to appreciate the developments that have taken place totally outside the realm of traditional scholarly discourse on the Constitution

Principles of Contemporary Corporate Governance Jean du Plessis, James McConvill, Mirko Bagaric, 2005-07-28 Extracts and evaluates the core principles of corporate governance Gives context to the principles through discussions and explanations from selected case studies and real life examples of corporate governance

The New Encyclopaedia Britannica: Macropaedia : Knowledge in depth, 1998

Property in Contemporary Capitalism Paddy Ireland, 2024-07-31 Amid the shift towards neoliberalism and the privatization of resources this book provides a radical new lens to view property and property theory Boldly challenging the conventional theories of property law that have shaped our understanding for centuries leading expert Paddy Ireland explores the rise and growth of new intangible property forms the nature of investment and of property as capital and the

empirical realities of modern property. Raising broader questions about ownership in society, the author ignites a powerful conversation about the increasingly unequal distribution of wealth, forcing us to confront that our current property system bears considerable responsibility for the current polycrisis. This groundbreaking work will set the agenda for a new era in property theory.

Strategic Leadership Sydney Finkelstein, Donald C. Hambrick, Albert A. Cannella, 2009. This book integrates and assesses the vast and rapidly growing literature on strategic leadership, which is the study of top executives and their effects on organizations. The authors synthesize what is known about strategic leadership and indicate new research directions. The book is meant primarily for scholars who strive to assess and understand the phenomena of strategic leadership. It offers a considerable foundation on which professionals involved in executive search, compensation appraisal, and staffing, as well as board members who evaluate executive performance and potential, might build their tools and perspectives.

Securities Regulation Richard W. Jennings, Harold Marsh, 1986.

Modern Corporation and American Political Thought Scott Bowman, 2010-11-01.

Up from Conservatism Michael Lind, 2013-08-06. For nearly a decade, Michael Lind worked closely as a writer and editor with the intellectual leaders of American conservatism. Slowly, he came to believe that the many prominent intellectuals he worked with were not the leaders of the conservative movement but the followers and apologists for an increasingly divisive and reactionary political strategy orchestrated by the Republican party. Lind's disillusionment led to a very public break with his former colleagues on the right as he attacked the Reverend Pat Robertson for using anti-Semitic sources in his writings. In *Up From Conservatism*, this former rising star of the right reveals what he believes to be the disturbing truth about the hidden economic agenda of the conservative elite. The Republican capture of the U.S. Congress in 1994 did not represent the conversion of the American public to conservative ideology. Rather, it marked the success of the thirty-year-old southern strategy begun by Barry Goldwater and Richard Nixon. From the Civil War to the civil rights revolution, the southern elite combined a low wage, low tax strategy for economic development with a politics of demagoguery based on race baiting and Bible thumping. Now Lind maintains, the economic elite that controls the Republican party is following a similar strategy on a national scale, using their power to shift the tax burden from the rich to the middle class while redistributing wealth upward. To divert attention from their favoritism toward the rich, conservatives play up the culture war, channeling popular anger about falling real wages and living standards away from Wall Street and focusing it instead on the black poor and nonwhite immigrants. The United States, Lind concludes, could use a genuine one-nation conservatism that seeks to promote the interests of the middle class and the poor as well as the rich. But today's elitist conservatism poses a clear and present danger to the American middle class and the American republic.

Corporate Business Responsibility Justin O'Brien, 2017-03-02. The 2008-9 crisis in global commercial debt markets exposed glaring deficiencies in corporate and regulatory, operational and strategic risk management systems. This collection provides an overview of how narrow conceptions of responsibility in corporate law, organizational practice, and regulatory dynamics

facilitated the crisis The first section revisits the debates about the role of the corporation prompted by the publication of *The Modern Corporation and Private Property* 1932 The second section explores why the conception of enlightened shareholder interest gained and retained potency despite demonstrable failure The third section explores how the interaction between the foundational assumptions of corporate law and the questionable efficacy of shareholder control framed regulatory responses to the growth of financial capitalism The fourth section examines ways in which excess can be restrained by the interaction between hard law softer governance arrangements such as principles and crucially norms

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