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Scotland Europa members' response to the European Commission public consultation on Gender imbalance in corporate boards in the EU

Scotland Europa welcomes the opportunity to respond to the European Commission's public consultation. As a membership organisation, Scotland Europa has put the consultation document out to our members to gather contributions to this joint members' response. It brings in the views from two of our most proactive members on this agenda, Scottish Enterprise (SE) and the Scottish Trades Union Congress (STUC) – thereby representing the opinion of two communities of interest. Our joint members' response outlines where there is a shared Scottish view and narrative to contribute to the EU policy debate, as well as where our members have specific and differing opinions.

(1) How effective is self-regulation by businesses to address the issue of gender imbalance in corporate boards in the EU?

The latest report¹ on the number of women on the Boards of the UK's top companies reveals some interesting trends. The report highlights that 'There has been a step change in the number of women appointed onto FTSE100 companies. [...] Overall the percentage of board directors who are female is 15%, an uplift of 2.5% on what was a three year plateau.' The report concludes: "As long as the stakeholders remain engaged we could achieve 30% women on boards within four years."

Similarly, the Lord Davies Report (March 2011) drew more attention to the imbalance and called on Britain's top businesses to take steps to break the male dominance of boardrooms. Reports from the Professional Boards Forum² meeting in November 2011 noted the FTSE 100 was on target to meet the goal set by Lord Davies, of 25% women directors by 2015. In his first annual progress report, Lord Davies also said: "I believe that we are finally seeing a culture change taking place right at the very heart of British business in relation to how women are seen within the workforce."³

The research is for the UK as a whole and backs up our own Scottish research⁴ that there are still however, too few women leading UK companies. Furthermore there are no female CEOs of UK's leading companies and it is likely that smaller companies will still be predominately male led.

According to SE, the evidence is gathering that changes are happening and companies are getting the business message that more women leading companies is good for their organisations and the economy as a whole. There is therefore increasing evidence in the UK to show that self-regulation is starting to improve the representation of women on boards.

¹ <http://www.som.cranfield.ac.uk/som/dinamic-content/research/documents/2012femaltse.pdf>

² <http://www.boardsforum.co.uk>

³ <http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=423690&NewsAreaID=2>

⁴ This research was presented to you in Scotland Europa's response to your earlier consultation on the EU corporate governance framework in July 2011.

However, the STUC notes that the self-regulation and the recently recorded slight progress is in the context of widespread public concern and anger at the failings of the banking and corporate sector in terms of the economic crisis, which has created a climate more responsive to 'doing things differently'. This combines with the facts surrounding women's role in the labour market and the far higher proportions of women in employment than in previous economic recessions, to illustrate the discrepancies between women and economic engagement and women's representation in public life, in governance, directorships, etc.

The STUC would comment that self-regulation is only effective if the political framework is established clearly, and reiterated as a priority by government and wider society.

STUC policy reflects the belief that women should be represented in the proportions in which they are in society. In general, the STUC approach is to argue for 50/50, which became a key plank of the framework set by the Scottish Constitutional Convention in the establishment of the Scottish Parliament. Whilst not specified in legislation, this became the popular view, and successfully pressurised political parties to take steps to put forward candidates on an equal basis. In 1999, the Scottish Parliament had 37.2% female MSPs. This gave a high profile and set an example. Over the years, this has declined (34.8% following the 2011 elections⁵) and the STUC points to evidence suggesting that in the longer term self-regulation is not sustainable in delivering progress, particularly without a strong political commitment from government, or without monitoring and scrutiny by the public.

(2) What additional action (self-regulatory/regulatory) should be taken to address the issue of gender imbalance in corporate boards in the EU?

The experience of the business community in Scotland shows that companies do not want more legislation in this area, particularly during the existing economic conditions. Greater uptake of diversity can be achieved by promoting the business case for the agenda and many larger organisations already see this and report on progress. Companies who do not focus on this should be encouraged to do so but not through any particular ethical drive (such as Corporate Social Responsibility), or legislative requirement but because it makes good business sense. This would also help with encouraging other under-represented people on to boards such as young people, ethnic minorities and those with a disability.

According to the STUC, clarity is required that the drive for equality and to tackle gender imbalance is specific. The STUC support equality of access for women in the workplace, in career advancement, in employment, in corporate governance, and public life. The principle of gender equality is distinct from that of 'diversity' and the calls for an end to discrimination on, for instance, grounds of disability or race. Whilst the STUC wholeheartedly supports all measures taken to increase diversity in representation, in the workforce and in public life, we would emphasise that women are half of our society, not a minority or a 'disadvantaged group' and, therefore, action and policies should be clear on this point.

From experience in other sectors, including within the trade union movement, targets, binding measures of different sorts, quotas, all have a role to play in reaching the goals of gender equality. There can be flexibility in devising appropriate measures for particular sectors or boards or companies, but it is important that the monitoring and reports on progress are transparent. Legislation (such as that recently announced by the Danish Government) which proposes sanctions where progress cannot be demonstrated when regular reporting is required, or when reports are not submitted, are welcome.

The STUC works with projects, such as Close the Gap⁶, and the Scottish Resource Centre for Women in Science, Engineering & Technology⁷, where a wide range of experience has been

⁵ [http://www.engender.org.uk/UserFiles/File/news/Election%20Report%20\(Scottish%20Parliament%202011\).pdf](http://www.engender.org.uk/UserFiles/File/news/Election%20Report%20(Scottish%20Parliament%202011).pdf)

⁶ <http://www.closesthegap.org.uk>

built up about how to support companies in their recruitment practices, women graduate networks, sharing good practice – this approach could be helpful as an action point.

Action should also be taken to review selection, recruitment and appointment processes. The criteria for appointments or the way in which the posts are filled may contain inbuilt discriminatory practice, which goes unmonitored, but can reinforce barriers for women.

Closer engagement with the workforce, improving recruitment and employment practices, which remove inequality in the workplace in companies, will also benefit the changes we wish to see at board level. The low rate of participation of women in boards can be substantially explained by the context of systemic inequalities in the economy and the systemic failures that undervalue the work undertaken by women, both paid and unpaid.

According to the STUC, addressing these inequalities, and extending policies which support a more equal participation in the labour market – such as childcare provision, flexible working practices, higher value attached to part time work, training opportunities in the workplace – all will contribute to tackling the gender imbalance identified in corporate boards in the EU.

(3) In your view, would an increased presence of women on company boards bring economic benefits, and which ones?

There is compelling evidence to show that having more women on boards makes good business sense. This is backed up by research SE carried out last year in conjunction with our partner organisation, Highlands and Islands Enterprise⁸, which provides business development support in the North of Scotland. The research investigated the equality issues affecting our key sectors across all equality strands including gender, ethnicity, race, disability, religion/belief and sexual orientation. The report, *Equality and diversity baseline information on Scotland's key economic sectors*, can be accessed on the SE website.⁹

The research identified some strong evidence that increasing the number of women at leadership level, and the workforce generally, realises business benefits:

- Profitability increases threefold when women account for up to a third of directors (Gavurin, 2007);
- 44% of companies with at least one female director made a profit in the previous year compared to 41% for companies with only male directors (Experian Female Directors Report, 2007);
- Increasing labour market participation of women could be worth £15-23 billion which is equivalent to 1.3-2% of UK GDP (The Women and Work Commission, 2006); and
- Catalyst (2004) found that, when assessing Fortune 500 companies, those in the top quartile for the number of women in senior management roles had an 18% return on equity and 128% return to shareholders compared to 13% and 95% respectively for companies in the bottom quartile for the number of women in senior management roles.

The research also confirmed other business benefits of adopting diversity:

- Greater staff retention/morale – employees who recognise that their employer is equality focused are more likely to be happier in their workplace and less likely to leave. This will therefore reduce costly staff turnover costs, improving efficiency.
- Innovation – the more diverse a group/organisation, the more innovative it is likely to be in decision making. People from different backgrounds bring different solutions to problems making the group/organisation more innovative.

⁷ <http://www.napier.ac.uk/src>

⁸ <http://www.hie.co.uk>

⁹ <http://www.evaluationsonline.org.uk/evaluations/Search.do?ui=basic&action=show&id=389>

- A more diverse workforce – it is likely that the diversity of a governance structure will encourage greater diversity throughout the workforce as staff will see the benefits at board level which will encourage greater recruitment from under-represented groups at all levels.
- Greater uptake and better targeted services & products – users of an organisation’s services and products will trust an organisation whose governance structure and workforce are diverse and are more likely to use that service, increasing market share. In addition a more diverse workforce understands the needs of its diverse users and will have better quality services & products as a result.
- Maximising talent – staff and external candidates will be encouraged to apply for senior positions if the board is already diverse recognising that the board is accepting of such appointments and sees successful role models working on the board. This ensures that the organisation is utilising all its talent, encourages personal growth and facilitates the attraction of the very best people for vacancies.
- Avoiding costly discrimination cases – an organisation with a more diverse governance structure and understanding of issues is less likely to have discrimination cases brought against it avoiding lengthy, costly and reputationally damaging court cases in the public domain. This is applicable for an organisation as an employer and in its service provision.

These findings are supported across our membership, which also stresses that if company boards are more accurately reflective of the society in which we live, with half the population being female, the companies are more likely to be in touch with the needs and priorities of their markets, their workforces, and the communities and environments in which they operate.

One can also highlight the contrast between girls’ improved academic achievements, outperforming boys in some disciplines in schools and universities, with the continuing pay gap and under-representation in the higher grades. This unjust under-utilisation (and under-valorisation) of women’s skills across the labour market makes poor economic sense, also at board level.

(4) Which objectives (e.g. 20%, 30%, 40%, 60%) should be defined for the share of the underrepresented sex on company boards and for which timeframe? Should these objectives be binding or a recommendation? Why?

Our members have no particular opinion on quotas, but stress that at the heart of good equality work is the need to foster good relations between different groups.

SE stresses that the effect of imposing quotas could have two unwanted consequences:

- Those not in a disadvantaged group may feel excluded in any recruitment process and feel aggrieved through the process. This could cause friction between men/women, disabled and non-disabled people etc.
- Those in the disadvantaged group may feel that they would be appointed, not on their competency, but because of their specific characteristic. This may not therefore achieve the desired outcome of increasing applications through improved confidence.

The business community among our membership argue that companies should therefore be encouraged to track and report on progress but not on their achievement of any targets or quotas.

On the other hand, whilst not having a specific policy on quotas, the trade union part of our membership would support binding measures, possibly linked to targets, arguing that recommendations alone will not be strong enough. Targets should be regularly monitored, reviewed and publicly scrutinised – but support should also be built in to facilitate progress.

Some of the STUC's affiliated trade unions use quotas, reserved seats, or other mechanisms themselves to ensure women's representation on their own governing bodies.

The STUC also supports a goal summarised by their 50/50 Campaign that ran in the run up to the establishment of the Scottish Parliament. This could be an indication of where a new institution (possibly applicable when new companies and their Boards are being established) can take a different approach on gender equality targets, as there is not an existing Board to seek to change.

(5) Which companies (e.g. publicly listed/from a certain size) should be covered by such an initiative?

All companies should be made more aware of the business case for adopting diversity and initiatives put in place to support women (and other under-represented groups) in to leadership positions (see Q3). The STUC also stress that companies should be expected to report on changes and progress made. Support and sharing good practice can be invaluable particularly amongst smaller businesses.

(6) Which boards/board members (executive/non-executive) should be covered by such an initiative?

We agree that any initiative should be targeted at all women, in particular women with an ambition to lead organisations. Targeted initiatives to bring women together, at different levels and in different sectors are also helpful. Promoting the business case for more women on boards should be complemented by improving the pipeline and competency of applicants for leadership positions. The support mechanisms (mentoring, awareness raising, networking and training) are as important as a robust recruitment policy.

SE's experience suggests that the under-representation of groups is more to do with a lack of applicants for positions rather than lack of competency of candidates or any major discrimination occurring at appointment stage. Confidence is a major factor in the lack of applicants for board positions. Greater use of mentoring would help address this but also case studies of successful board members and chairs from different under represented groups would encourage a much more 'can do' attitude.

Some of the guidance being developed in Scotland through the *Public Appointments Commissioner*¹⁰ will be relevant to company board recruitment, and this will be the same for the wider European examination of increasing women's role in public life to be proportionate to women's numbers in society.

(7) Should there be any sanctions applied to companies which do not meet the objectives? Should there be any exception for not reaching the objectives?

We do not have a specific policy on this point.

The STUC would like to add that, in the spirit of policies adopted on achieving equality in public life and in the economy, they would expect some further discussion on how monitoring the progress could then lead to improvements. Public bodies in the UK, including in Scotland, have obligations under the Equality Act 2010, and specific regulations have now been laid before the Scottish Parliament to clarify additional obligations. There is an expectation that the regulations will be adhered to and, therefore, there will be examination and sanctions if the Equality and Human Rights Commission¹¹ investigates and finds failings. There would be an expectation from the STUC and its affiliated unions that companies in the

¹⁰ <http://www.publicappointments.org>

¹¹ The UK body with the enforcement powers – <http://www.equalityhumanrights.com>

private sector should also be expected to meet objectives on gender equality and that there should be some enforcement mechanisms.

We have no specific comments on exceptions. The STUC wants to repeat previous answers which flag up the need for support and structural change in the labour market, otherwise we will not see the necessary increase in women candidates coming forward, or the changes being put in place in a company which make it more possible for women to be fully represented at every level.

Background on the contributors



Scotland Europa is a membership-based organisation that promotes Scotland's interests across the institutions of the European Union and to the representatives of Europe's regions and Member States. We help Scottish organisations foster successful European relationships, providing guidance on European policies and funding. In addition Scotland House provides excellent conference centre facilities, offering an ideal location for hosting events with both Scottish and European focus. SE is a member of Scotland Europa.

www.scotlandeuropa.com



Scottish Enterprise is Scotland's main economic, enterprise, innovation and investment agency. Our ultimate goal is to stimulate sustainable growth of Scotland's economy.

To achieve this we help ambitious and innovative businesses grow and become more successful. We also work with public and private sector partners to develop the business environment in Scotland. We deliver a range of dedicated support services locally, nationally and internationally. Our activities help businesses with the appetite and capacity to grow to: improve efficiencies; access new sources of funding; and conquer new markets.

www.scottish-enterprise.com



Scottish Trades Union Congress (STUC) is the voice of the trade union movement in Scotland. The STUC represents over 630,000 trade unionists, the members of 37 affiliated trade unions and 22 Trades Union Councils. We speak for trade union members in and out of work, in the community and in the workplace, in all occupational sectors and across Scotland. We promote trade unionism; equality and social justice; the creation and maintenance of high quality jobs; and the public sector delivery of services.

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