27 January 2011

General Manager
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The Treasury
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By email: executiveremuneration@treasury.gov.au

Dear Madam/Sir

CORPORATIONS AMENDMENT (IMPROVING ACCOUNTABILITY ON DIRECTOR AND EXECUTIVE REMUNERATION) BILL 2011

The Business Council of Australia (BCA) welcomes the opportunity to comment on the Corporations Amendment (Improving Accountability on Director and Executive Remuneration) Bill 2011 (Cwth) (the Bill).

The Bill is the result of an inquiry process over the last two years which involved a substantive Inquiry by the Productivity Commission, leading to its report Executive Remuneration in Australia.[1]

The report's overall finding that there is no widespread failure in executive remuneration governance across Australia, and the recognition of the central role of boards in determining executive remuneration is supported by the BCA.

The BCA has however previously highlighted a number of concerns with aspects of the commission's report and the government's response.

Given the brevity of time to respond more fully to the Bill, we have concentrated on three key issues. Namely, the "two-strikes" test, the "no vacancy" rule and the provisions relating to accountability on the use of remuneration consultants. We have made some preliminary comments on a number of other provisions in the Bill but reserve the right, at a later time, to provide further commentary on these and other amendments proposed.

In responding to the Bill and consistent with our previous submissions, the *BCA opposes* the provisions which implement:

- the "two-strikes" test;[2] and
- the proposed changes to the "no vacancy" rule.[3]

[1] Productivity Commission Report *Executive Remuneration in Australia* No 49, 19 December 2009.
[2] Schedule 1, Item 9 of the Bill.
[3] Schedule 1, Item 27 of the Bill.

Further, we have a number of serious reservations in relation to the provisions which relate to the accountability regarding the use of remuneration consultants.[4] We oppose outright the provisions which make a breach of the remuneration provisions an offence under the Corporations Act.

Our detailed views on the draft legislation are set out below. We have dealt with our key concerns first (i.e., relating to Chapters 1, 2 and 5 of the Explanatory Memorandum to the Bill). Thereafter our commentary is organised in accordance with the order adopted in the Explanatory Memorandum.

Strengthening the non-binding vote: the "two-strikes" test

Responding to a significant "no" vote

The BCA has previously stated that it supports efforts to assist and encourage boards to be more open and transparent about executive remuneration and to more effectively communicate remuneration strategies and goals.[5]

The BCA believes that where a significant "no" vote has been cast against a remuneration report, boards should be encouraged to respond to shareholders in a cost-effective and timely way. It is currently good practice for boards to consider a large "no" vote and to address those concerns accordingly.

(a) Difficulties with the provisions as drafted

However, we continue to see significant practical difficulties associated with a prescriptive legal requirement for the company to report back to shareholders in a subsequent remuneration report where a "no" vote of 25 per cent or higher on the remuneration report has been received.

The adoption of the policy underpinning the provision assumes boards will receive clear indications of specific 'shareholder concerns'. But in our view it will not always be clear as to what shareholder concerns led to a "no" vote and/or whether there is a strong consistency of view regarding specific concerns.

BCA member companies have, on occasion, received high "no" votes without any communication of concerns or dissatisfaction from institutional shareholders. It will also be difficult for companies to canvass the concerns of retail shareholders who often vote against remuneration reports without providing comment or communication at all to the companies.

It is also important to acknowledge that in some cases, votes against the remuneration report reflect a broader dissatisfaction or 'protest vote' rather than concerns regarding particular remuneration strategies or outcomes.

By including a legal requirement in the Corporations Act for companies to report back to shareholders, there is a risk that companies will be unable to comply with – or inadvertently breach – the law because they cannot ascertain the appropriate information about which shareholders are interested. It is also difficult to imagine how the appropriate regulator would effectively administer and enforce compliance

[4] Schedule 1, Item 15.
[5] BCA Submission to the Productivity Commission Discussion Draft on Executive Remuneration in Australia, November 2009, p. 6.

with this reporting requirement in a way that is meaningful in an objective and measurable sense.

(b) An alternative approach: ASX Corporate Governance Council to work with companies on an "if not, why not" reporting trigger

The BCA does not support inclusion of this provision into the law. Instead, we continue to be of the view that how companies respond to a "no" vote should be referred to the ASX Corporate Governance Council for consideration as a good practice recommendation, rather than enabled through legislation.

An "if not, why not" reporting trigger could provide guidance on the different types of 'reporting' and communication that companies can undertake, without being prescriptive about the form of communication. This would retain the flexibility for companies and their boards to respond to shareholders in a timely manner suitable to their own circumstances and is likely to produce a more effective outcome in practice, in terms of both quality and cost.

As it is already common practice for large shareholders to engage directly with boards on serious remuneration concerns and for companies to respond fully to those concerns, an "if not, why not" reporting requirement reduces the risk of excessive compliance burdens for business.

The "two-strikes" test

Whilst we acknowledge that the "two-strikes" test is a compromise or alternative to a "binding vote against remuneration", the BCA is strongly opposed to the introduction of these provisions into the Act.

(a) Our in-principle objections

As we have previously stated, our in-principle objections are:

- The proposal elevates the issue of the remuneration report above other key strategic issues to be decided by the board.
- It puts inappropriate power in the hands of minority shareholders and could be used for unrelated motives (e.g., to effect a change in control).
- Effectively on the second vote a minority of shareholders is able to require a resolution be put to spill the board. Although the spill resolution requires >50% vote in favour, the proposed requirement to put the resolution based on a minority vote against the remuneration report disregards the views of the majority.
- There are other mechanisms available to disaffected shareholders for removing the board including dissatisfaction with remuneration (e.g., by ordinary resolution).

(b) Potential consequences of adopting the policy

Consequences of the "two-strike" test, and the potential power that this could provide to minority shareholders may include the threat of a "no" vote or a stacked board being used to intimidate directors away from performing their fiduciary duties in the interests of the company as a whole and rather towards the interests of particular minority shareholders.

(c) Other unintended consequences

Whilst the provisions are intended to provide a framework around executive remuneration so that shareholders can be assured of an “able and trustworthy” board, in practice they are likely to have significant unintended consequences, which will potentially be to the detriment of the company and shareholders.

By way of illustration:

- Boards could become ‘distracted’ from important strategic decisions that act to the benefit of the company, and be disproportionately focused on issues of executive remuneration.

- A “no” vote or the threat of a “no” vote can place the company in a position of considerable uncertainty, which could lead to a detrimental share price reaction.

- A “no” vote or the threat of a “no” vote might potentially subject boards to undue shareholder influence on a range of issues put forward by minority shareholders that are not related to executive remuneration.

- The risk of a board spill and subsequent instability would affect access to and the cost of capital and a preparedness of investors to hold the company’s stock.

- The “two-strikes” proposal would, on our understanding, take Australia’s corporate governance system beyond overseas’ frameworks with attendant risks in terms of competitiveness (particularly in capital markets). Effectively, this may be seen as creating an additional risk premium for investing in Australian companies.

- Where a board is spilled, the company may lose the experience, skills and the corporate knowledge of the directors that have been serving on the board. This is especially the case where board members who have been ‘spilled’ may be understandably disenfranchised and reluctant to stand for re-election.

- This situation is exacerbated by the requirement that in certain circumstances, directors who have failed to be re-elected must nevertheless continue as directors, with continuing personal liability, in order to satisfy the requirement for a minimum number of directors.

- If the board were to be spilled, the executives upon whose remuneration the shareholders had voted would in any event remain employed by the company and would in fact assume the responsibilities of the board until such time as a new board is elected.

(d) Practical issues which arise from the new provisions

There are a number of practical difficulties with the draft provisions. For instance, the “spill resolution” would be required to be included in the notice of meeting after only one minority vote against the remuneration report.

There are difficult timing issues here as a “cart before the horse” situation arises because shareholders who vote by proxy, which is usually the vast majority, are being required to vote on a spill resolution without knowing the result of the second non-binding vote. In other words, casting a vote on an outcome which is still hypothetical, and without the critical piece of information required to make an informed vote – the actual outcome of the second non-binding vote. This breaches a fundamental principle of company law.

It is very difficult to suggest a way in which these practical issues could be overcome and we would welcome further discussion on this point.

(e) CAMAC advice on simplified reporting

As pointed out in other submissions, it would be premature for the “two-strikes test” to be introduced at this time when there is uncertainty over potential changes to how companies can achieve a simplified remuneration report.

The government has asked the Corporations and Markets Advisory Committee (CAMAC) to consider the issues. Should CAMAC recommend a prescriptive approach (instead of a principles-based approach to reporting) it could be more difficult for companies to report remuneration in a way that meets with the approval of shareholders.

In the interests of transparency and good regulatory process, legislation on the “two-strikes” proposal should not be introduced until such time as there is greater clarity as to what form the simplified remuneration report subsequently takes. It could create unnecessary confusion and complexity if the Corporations Act is amended for these reforms and then amended again in relation to the form of the report.

Improving accountability on the use of remuneration consultants

The Explanatory Memorandum outlines a number of key reforms in this area. These include disclosure relating to the use of remuneration consultants, requirements around who may engage these consultants and to whom those consultants may report. Most concerning of all is the fact that breaches of the provisions will be offences under the Corporations Law.

The BCA agrees that boards could be encouraged to report in more detail, and with more useful information including the types of issues and advice they considered when making executive remuneration decisions.

Indeed, we note with approval the comments in the Explanatory Memorandum at 8.136 of the Regulatory Impact Statement:

“It is noted that, while advice of remuneration consultants may be influential in determining a company’s remuneration decisions, the primary responsibility for remuneration arrangements rests with company directors.”[6]

However, we believe the provisions as drafted go well beyond reforms which are required in this area. We would also note that there are few, if any, other provisions of the Corporations Act which would require non-executive directors to be personally responsible for contracting on behalf of companies.

[6] Explanatory Memorandum at 8.136.

For example, non-executive directors do not sign contracts with the company's auditors. Rather, the board will approve the appointment and the proposed fee, and the responsible executives then formalise the engagement.

It may also raise a number of concerns in relation to a series of unintended risks for both the company and the directors involved. Directors would need to rely on the company executive to advise on the terms on which consultants are engaged, and to ensure that the contracts of engagement are commercially and legally appropriate. This may not be something on which directors have personal expertise.

Alternatively, the directors would have to commission external legal and other advice on the contracts which they are entering into. In our view, all of this goes well beyond the proper role of non-executive directors.

If implemented as proposed, the responsibility for direct oversight of numerous advisory consulting relationships would impose a considerable time burden on non-executive directors. It is conceivable that this may justify an increase in fees paid for directors and would be a significant distraction from their more important responsibilities.

In any event, we also believe that such matters as are relevant are better dealt with under ASX Corporate Governance Council's Corporate Governance Principles and Recommendations.

Disclosures in relation to the use of remuneration consultants

Under the new provisions companies will be required to disclose:

- the name of the consultant
- the name of each director who executed the contract under which the consultant was engaged
- the name of each person to whom the consultant directly gave the advice
- a summary of the nature of the advice and the principles on which it was prepared
- the amount and nature of consideration provided under the contract for the advice
- the nature of any other work the consultant did during the financial year for the company,
- the amount and nature of consideration for the other work described above.

The BCA sees this list as overly prescriptive and potentially it undermines the usefulness of the information to shareholders. Indeed, it may well make the remuneration report larger but not necessarily more informative.

We believe that it is up to boards – and not consultants – to set remuneration policy and make remuneration decisions, and therefore the responsibility for the remuneration report and executive pay decisions rests with the board. Disclosure that the board makes about advice that they have received should be limited to what the board believes, in its discretion, is useful for shareholders to know.

We have raised a number of detailed concerns in relation to this issue previously and indeed we are disappointed that the government has not adopted the approach in Recommendation 10 of the Productivity Commission report. That recommendation did not recommend a black-letter law approach, but rather proposed that the ASX Corporate Governance Council make a recommendation in relation to disclosures on expert advisers.[7]

The BCA supports an “if not, why not” reporting requirement under the ASX Corporate Governance Council’s Corporate Governance Principles and Recommendations (as endorsed by the Productivity Commission). This would allow companies to explain their practices and the use of consultants. Such an approach is also more likely to provide useful information and data, which could in turn improve shareholder understanding and the promotion of best practice. Care should also be taken to ensure that any proposals do not discourage boards from seeking advice.

Finally, we note that remuneration in the public sector for a range of positions is set by the Remuneration Tribunal. In the interests of transparency and accountability, a question arises in relation to what disclosures are required to be made in terms of the advice given or received by the tribunal in the course of its deliberations.

The requirement that remuneration consultants are engaged by non-executive directors and must report to non-executive directors or the remuneration committee, rather than company executives

The BCA agrees with efforts to ensure that where the board considers executive remuneration issues, it should do so without undue influence from executives. As noted previously, our preference is for such matters to be dealt with by way of the ASX Corporate Governance Principles and Recommendations.

The government has however adopted a legislative approach and in this regard we have very serious concerns about how the provisions, as drafted in the legislation, can work in practice, both from the perspective of achieving the government’s objectives and also the regulatory burden imposed on companies.

(a) How remuneration consultants are currently used in companies

One of the best ways for the BCA to demonstrate the difficulties posed under the new laws is to do so by way of an example.

The generic scenario below illustrates that a range of consultants can provide advice on specific and targeted issues in relation to remuneration, are engaged by a variety of different personnel within the company (at various levels) and are engaged in different periods over the year.

If we applied the provisions as drafted to the illustrative Company A scenario, then three clear issues arise:

- the breadth of the definition of a remuneration consultant
- the breadth of the circumstances in which such a consultant must be engaged by a non-executive director,
- finally, the range of circumstances in which the advice must be given to the non-executive director.

[7] Productivity Commission Inquiry Report, *Executive Remuneration in Australia*, No. 49, 19 December 2009 at p. xxxiv.

(b) The "Company A" scenario

Company A has five members of its executive team who would be considered key management personnel ("KMP") for the purposes of the Act. They also have a senior executive team of 10 general managers reporting to the five KMPs. The remuneration and employee benefits and other related issues are managed within a rewards team, which is part of the human resources division of the company. The executive remuneration is comprised of cash, short-term incentives ("STIs") and long-term incentives ("LTIs") which include allocations of shares, options and rights, subject to performance hurdles. Company A has a remuneration committee of the board comprising three members of their main board.

At the commencement of the year as part of an annual review of remuneration and remuneration practices, the reward team typically engages remunerations consultants ("Rem Co"), as well as the consulting division of a major accounting firm, to provide advice ("Accounting Co"). This work is ongoing.

From February to March the remuneration committee of the board engages Rem Co to benchmark salaries for the non-executive directors and the managing director. The managing director also engages Rem Co to provide advice on salary benchmarking for his or her direct reports and the salary level of executives reporting to them. Rem Co ensure that, as far as possible, different partners in their firm advise the board and management.

The reward team also engage another remuneration consultant ("Rem B") to look more generally at employee benefits. Importantly, in setting remuneration, the company is very concerned to ensure that there is a very clear process whereby remuneration is linked to measurement of performance against key performance indicators ("KPIs").

During the year, additional consultants are also engaged to consider issues relating to whether performance hurdles have been met on share plans and how rights should be valued. These consultants are engaged directly by the rewards team and also the finance division.

Legal and tax issues relating to remuneration can also arise, for example, if or when certain key events occur. Company A might restructure and this might result in a severance package being negotiated for the chief financial officer of the Australian division of the group. The government may also make some changes in the Budget to taxation arrangements, which impact on salary packaging at all levels of the company. In these instances legal and tax experts would be engaged by the rewards team, legal division, employee relations and tax teams in the company.

(c) Application of the provisions to the example above

To illustrate how the new law will apply to the example above, it is necessary to have regard to the definition of remuneration consultant and the operation of Part 2D.8 and in particular proposed section 206K, which requires a non-executive director to engage the consultant and proposed section 206L, which requires the advice to be given to the non-executive director.

The definition of remuneration consultants in the Schedule 1 Part 1 Section 9 is as follows:

Remuneration consultant means a person:

(a) Who, under a contract for services with a company, provides advice relating to the nature and amount or value of remuneration for one or more members of the key management personnel for the company.

If we apply the provisions noted above:

- The work on the overall remuneration framework could be covered.

- It could apply to a whole range of advisors who would not normally be considered as providing remuneration advice concerning the executives, which the legislation was intended to target:

  - In the above example, Rem B would be covered as their work on employee benefits generally could touch on the KMP.
  - Consultants who value the options and deal with the share plan for all employees would also be covered if KMP were members of the share plan, which is highly likely.
  - It could apply to the lawyers who are providing advice about legal contractual disputes with KMP about remuneration – in the example above, concerning the severance of the chief financial officer.

- On our understanding of the provision, it could potentially extend to cover everyday advice on STIs, LTIs, retirement benefits, tax and superannuation as the advice, although generic in nature, may include information about remuneration of key management personnel.

- The CEO will be prohibited from obtaining advice on the remuneration of executives who report to the CEO, and the expert HR executives will be prohibited from obtaining advice on any of the matters listed above, if those matters concern KMP.

On a plain English reading of the provisions a number of these engagements would have to be undertaken and be the subject of a report to the non-executive directors, otherwise the managers who retain the consultants, and consultants themselves, would be committing offences.

In practice, this will result in the non-executive directors becoming much more involved in the detailed commercial workings of the companies.

Whilst we appreciate the importance of boards being accountable for the setting of remuneration and the need to ensure there are no conflict of interest issues arising in setting remuneration, the amendments around retention and disclosure of remuneration consultants do represent a substantial change and extension of the role of the non-executive directors into what might properly be thought of as daily management of the company. It is not and cannot be the role of non-executive directors of public companies, who meet once a month, to undertake daily management and commissioning of advice on remuneration issues that affect KMP. We have dealt with this above in more detail under our general comments in this section of our submission.

Additionally, if the provisions become law, companies would have to establish procedures which effectively "hived off" advice sought in relation to the key management personnel and other executives.

Significantly, this would be the case even in circumstances where the advice is generic in nature and of general application.

The BCA opposes the offence provisions

The BCA is also strongly opposed to breaches of the remuneration engagement provisions (206K and 206L) being deemed criminal offences under the Act.

The government has not set out in the Explanatory Memorandum why breaches of these provisions are sufficiently serious that they warrant this level of sanction against the parties providing the advice. Whilst we appreciate that conflicts of interest are serious matters, we do not consider that the actions of remuneration consultants should be the subject of "offence" provisions. Additionally, such offence provisions are being implemented on a strict liability basis. In other words, inadvertence or mistake are irrelevant.[8]

As stated above, in a number of key areas we believe the provisions are drawn too broadly and will, in the current form, cause confusion over what is and isn't covered, especially in terms of who is a remuneration consultant and what "advice" is covered.

Given this, it is all the more important that there is sufficient clarity in relation to the circumstances in which the provision will apply.

Other approaches or amendments to improve the legislation

Whilst our preferred approach is not the one adopted by government, nevertheless we consider these provisions could be improved if the definition of remuneration consultant were narrowed. It would also be useful to define what is "advice" for the purposes of the application of the provisions.

For example, advice might not include the remuneration framework and LTI's which are of more widespread application in companies.

We would also raise for discussion whether an alternative might be predicated on the way in which auditor independence is currently provided for in the Corporations Act[9]

The key points of the operation of this section are that it requires disclosure in relation to the non-audit services, but in these circumstances it places, in general terms, the responsibility for ensuring independence back with the directors – rather than the auditors.

Finally, we would welcome a discussion as to whether a regulation-making power might be included within the section, as well as whether the Australian Securities and Investments Commission (ASIC) will be issuing any guidance notes or policy statements in respect of its interpretation of the provisions.

[8] Although note the operation of proposed section 206L (2) and section 206L (5).
[9] See Section 300 (11) (B) of the Corporations Act.

The "no vacancy" rule

The BCA does not support the amendments which will require public companies to obtain the approval of members for a declaration that there are no vacant board positions, should the number of board positions filled be fewer than the maximum number specified in the company's constitution.

The rationale articulated in the Explanatory Memorandum is that the "no vacancy" rule is in fact inhibiting appropriate shareholder oversight of boards. Additionally, the discussion in Chapter 5 of the Explanatory Memorandum is based on a premise that boards can use this rule to prevent other outside nominees from being voted onto the board to, in other words, maintain a "closed shop". This raises issues of diversity.

The BCA fully supports efforts to increase diversity on boards and initiatives to encourage the appointment of more female directors. Additionally, efforts to encourage the nominations committee to actively consider the diversity of the board when making director remuneration decisions are also welcome.

However, we do not believe that an appropriate way to deal with these issues is through such an approach as the "no vacancy" rule. Indeed, it is hard to see how these issues are related to the concerns about remuneration.

The provisions may well have significant negative outcomes. For example, the loss of flexibility in how a company board operates, as indicated below. Additionally, in practice, the new provisions may have the reverse effect with companies responding by formally reducing the maximum size of their board.

As we noted in our submission to the Productivity Commission, typically, corporate constitutions provide for a minimum and maximum number of directors, and allow boards to decide how many directors are appropriate within the constitutional scope. Many boards choose to appoint fewer than the maximum allowed and may vary this decision from time to time, depending on circumstances and perceived needs of the company at the time.

There are many good reasons for boards to choose to appoint fewer than the maximum number of directors. For example:

- The board may wish to limit its expenses.

- The maximum number of directors allowed in the constitution may be too large to enable effective decision-making on a regular basis.

- The board may wish to maintain space to allow for recruitment of highly-skilled directors as they become available (and before they take up other opportunities). This also allows for the appointment of specially qualified directors to meet emerging company needs. For example, a foreign director may need to be appointed if the company is venturing into offshore markets. During a takeover, it might be useful or necessary to appoint a director from the board of an acquired company to provide continuity, without the need to call for a shareholder meeting.

Additionally, current corporate constitutions can normally only be changed by special resolution of 75% of shareholders voting. By contrast, the envisaged resolution is an ordinary resolution, thereby overturning the constitutions which give directors a discretion by less than the special resolution majority. This creates an inconsistency within the Corporations Law.

From a practical point of view the operation of the provisions at the relevant annual general meeting (AGM) is also potentially complex and confusing. Realistically, if there is any possibility that the vote would be lost, boards would feel obliged to fill all casual vacancies prior to the AGM so that there was less chance of "maverick" directors being elected on the floor of the meeting. We would also question what happens if vacancies remain after the AGM. A question remains as to whether the company is obliged to fill vacancies subsequent to the meeting up to the maximum. This is one of many uncertainties in how this provision would actually operate.

We would urge the government to seriously reconsider the merits of this proposal and work further with companies through other forums such as the ASX Corporate Governance Council, with a view to achieving enhanced diversity of board directors.

Prohibiting KMP from voting on remuneration matters

The new provisions will prohibit KMP (and their closely related parties) that hold shares, from voting on their own remuneration arrangements as part of the non-binding vote. It will also prohibit KMP (and their closely related parties) from voting undirected proxies on all remuneration-related resolutions.

The BCA supports the policy intent of the provisions as it is already a well-understood principle that directors and executives should not vote on their own remuneration. However we note that the provisions do reserve a right to “prescribe” other persons who may be the subject of the prohibitions.

We would welcome further advice as to why such a provision has been included and in what circumstances it might be exercised.

Cherry Picking

Under the draft provisions proxy holders will be required to cast all their directed proxies on all resolutions. This is in contrast with the current provision, which provides that proxy holders other than the chair, are not required to cast all their directed proxies on all resolutions, but may choose which proxies to cast.

The Productivity Commission made a recommendation in this area in relation to voting on remuneration reports, however the government has chosen to make the provisions have *general application.* The only rationale advanced for this is:

“… however there is no reason why [the proposed new law] it should not be applied to member voting more generally.”[10]

We consider that such an approach is wholly unsatisfactory and has the potential to cause significant practical difficulties in relation to how proxies are administered and drafted. It is also our understanding that the vast majority of proxies are in any event directed to the chairman, yet this provision is broader.

[10] See Explanatory Memorandum at page 23 paragraph 6.6.

The practical problems include:

- Information would be needed in the proxy form highlighting that the chairman, key executives or directors would be unable to vote on issues (including remuneration) unless the proxy is directed; and

- The company would need to guide shareholders, by identifying a suitable person that could vote undirected proxies (presumably a person who is not a board member or key management personnel). The company would also need to explain that nominated person's intentions with respect to voting undirected proxies.

The effect of this is to introduce unnecessary complexity into the proxy arrangements with little added benefit for remuneration governance.

Prior to proceeding with an amendment of such general application, we believe that further explanation should be provided as to why such an approach is being taken, including the evidence upon which it is based.

Conclusion

The BCA welcomes the opportunity to comment on the Bill. However, we remain seriously concerned and opposed to the draft provisions, which seek to implement the "two-strikes" rule and the "no vacancy" rule.

We also hold a number of serious reservations in relation to the provisions relating to disclosure of the use of remuneration consultants. We strongly oppose the breach of these provisions being deemed to be offences of strict liability under the law.

Against these concerns we also note that the legislation was released for comment only prior to Christmas, with a very short timeframe for consultation. Accordingly, there may be other issues, which we wish to raise as the legislation progresses.

Yours sincerely

Graham Bradley
President