Institute for Business Ethics

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The Case against the Business Case and the Idea of "Earned Reputation"

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About the cover:
In 1999, the tenth anniversary of the St. Gallen Institute for Business Ethics, the first chair in business ethics in a German-speaking country, was marked by a lecture series in which renowned scholars, such as Richard Sennett or Jürgen Habermas, among others, discussed the challenge of how to realize an „economy within society" (cf. vol. 27 of the St. Galler Beiträge zur Wirtschaftsethik, *ISBN 3-258-06156-4). The image that was chosen to advertise this lecture series was a window of a 1339 Frescos of Ambrogio Lorenzetti and shows economy as part of the civil life. The search for a concept of modern business in a republican spirit is of central importance to the institute whose ambition it is to contribute fruitful impulses to the discussion on economic and business ethics in theory and in practice.*

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The Case against the Business Case and the Idea of "Earned Reputation"

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Abstract

"Ethics pays in the long run." This still is the mantra of most practitioners and scholars in the field of business ethics. The paper at hand questions this widely held, instrumentalist view on the relationship between "ethics" and profits on epistemological and thus fundamental grounds. We will argue, first, that the positivist search for any correlation between "ethics" and profits, in order to prove, or even to refute, the "business case for ethics", fails from the start, since "ethics" as such cannot be measured empirically. Further implicit assumptions of the "business case" are exposed and critically assessed, among them the belief that profit seeking, as such, is ethically neutral. We will show that the instrumentalist concept of business ethics implies an opportunist attitude and ultimately amounts to an ethics of the right of the powerful. The paper concludes with the notion that business integrity is a necessary prerequisite for business activity – or any other activity, for that matter – to be labelled "legitimate". Moreover, integrity gives way to the possibility of a truly deserved, and justifiably *earned* corporate reputation, which in turn might form the basis for a successful business on legitimate grounds.

1. ‚Ethics pays in the long run' – a true statement?

Instrumentalist or functionalist assumptions still penetrate if not dominate the practical as well as the academic debate on corporate social responsibility. "Ethics pays in the long run" – such is the more or less explicitly stated credo, underlying numerous practical initiatives and theoretical concepts. Practitioners and managers as well as many experts in the field of business and economic ethics and even large parts of society as such are convinced that "sound ethics is good business in the long run"[1]. Granted that this "modern" (although, at its core, a rather pre-modern) adage has lost some of its plausibility in recent times,[2] but the deep seated economic long-termism still largely dominates the scene – often it in the more moderate terms of the so-called "business case for corporate social responsibility", which is axiomatically presented as an empirically fallible hypothesis.

Our following elaborations will tackle the issue at its normative core. That is, we will quite simply try to find an answer to the question whether or not ethics does in fact pay. Our thesis is, however, that this very question is inadequate, since it inevitably trivializes the ethical complexity of the problem it addresses. This becomes manifest in the proposition of a long-term harmony between ethics and profits presupposing a pre-modern concept of ethics as a catalogue of supposedly valid norms, whose observance can be empirically measured (2). Likewise, it must presume the ethical neutrality of profit seeking and making as such (3). Further, it can be shown that this ethical concept, which we call instrumentalist, must proceed opportunistically, at best (4). Ultimately, the concept amounts to a darwinist ethics of the right of the powerful (5). Nevertheless, the popular intuition behind such economic long-termism is, quite possibly, not entirely wrong. But it must be looked at from the right angle and it must be rela-

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1 Companies and managers were asked to give their approval or disapproval to this statement in several surveys conducted in the years 1961, 1977, and 1987. The ratio of agreement ranged from more than 98% to „general agreement" . For the results and interpretations of the survey see Ulrich/Thielemann (1993: 891ff.).

2 According to a study conducted by the Center for Corporate Citizenship at Boston College, only 64 percent of interviewed managers still agreed to the following statement: "Corporate citizenship makes a tangible contribution to business' bottom line". 47 percent of interviewed company representatives agreed to the statement that „Many companies promote corporate citizenship, but are not truly committed to it." See Rochlin (2005: 15). According to another recent study, a mere 68 percent of interviewed CEOs stated „Corporate social responsibility is vital to the profitability of any company" (PricewaterhouseCoopers, 2002: 18). However, the question was not posed with a specific reference to a long-term perspective.

tivized considerably. Based on these insights, we will suggest an alternative perspective on the possibility of a positive relation between ethics and profits: the concept of "earned reputation" (6). In our opinion, this is the only walkable path for a conception of business ethics that avoids both the Scylla of economic reductionism (Instrumentalism) and the Charybdis of economic inefficacy ("ethics of the red figures" (Kuhn 1993: 5; transl. by authors)). Also, it is a clear statement for the basic possibility of business consulting on ethical grounds, or, more generally, for guidance of business practice by an ethically enlightened management theory. Such ethically sound consulting and guidance aims at the improvement of the economic prospects of a business without getting trapped in the pitfalls of an instrumentalist understanding of ethics. It paradigmatically rejects the reduction of social responsibility to mere charitable donations of some parts of a corporation's profits to good causes. Hence, ethically principled business consulting is possible; but it is only possible based on the concept of earned reputation.[3]

The assumption that ethics pays in the long run is rather old in general and represents a – in the history of thought still relatively recent – kind of market-metaphysical perspective.[4] It becomes manifest most prominently as the "spirit of capitalism" in protestant ethics (Weber 2002). Against this background it seems surprising that it is presented, especially by practitioners and consultants, as a new insight today. It is first of all the positions and statements of the decision-makers in the economy that are interesting in this regard.

Heinrich von Pierer (2003: 11; transl. by authors), former Chairman of the German multinational Siemens AG, for example, claims that "a corporation should act morally responsible simply because immoral behavior does not pay. Moral behaviour is advantageous in the long-run." Similarly, also former Chairman of Volkswagen AG, Bernd Pischetsrieder (2004: 95, 99; transl. by authors), states that "in the long-run, economic success is impossible without ethics." Finally, for Richard M. Kovacevich (2006: 1), Chairman and CEO of Wells Fargo, it is "that simple": "We have a responsibility to our customers and our

3 The theses developed in this regard are based on and expand on Thielemann (2003a), as well as Thielemann/Ulrich (2003: 19ff.).

4 Long-termism, though, can be traced back at least to Adam Smith (1978: 538f.), who in his Lectures on Jurisprudence (1762-3) claimed that the virtues of "probity and punctuality" are "reduceable to self interest" of the dealer who "is afraid of losing his character" and not being able to still do business in the future. "The very appearance of cheat would make him lose." James M. Buchanan (1991: 208) referred to this as the "discipline of continuous dealings". Arthur Lisowsky (1927: 432ff.), who was professor of management at the University of St. Gallen, denoted ethics a strategic success factor as early as 1927.

communities because we cannot be financially successful unless they're financially successful – and vice versa." Businesses are "discovering ethics", says pastor Herrmann-Josef Zoche (2006; transl. by authors), who is actively working as a business consultant, "because they start to notice that it provides an economic benefit to them."

Experts in the field of business ethics often take this stance implicitly. German ethicist Josef Wieland (1999: 67, 78f.; transl. by authors), for example, postulates a so-called "ethics of governance", which, according to him, is to be understood as an "element of an economic problem", which is to "facilitate cooperation of self-interested actors within and through business." Thereby, he refers to so-called "moral resources", "moral goods", or "moral parameters", which need to be allocated. Since the actors are presumed to act from self-interest, it is unclear, however, why these are to be considered "moral" resources and not "immoral" ones. The same goes for the question about how this all relates to ethics.[5]

In this analysis, we will use the terms 'ethics' and 'morals' in a colloquial sense. They denote the entirety of legitimate and responsible, that is, 'right' action.[6] The business case argument turns "ethics" – ranging from the recognition of everyone's freedom and dignity and the respect of human rights, to the prevention of fraudulent behaviour and environmental degradation, to securing equality of opportunity, fair distribution of income and the fair treatment of all stakeholders (including one's competitors) – into a mere function of economic success and of the goal to increase profits and shareholder value. Thereby, the difference to Milton Friedman's credo that "the social responsibility of business is to increase its profits" (Friedman 1970, 1962) is reduced to mere rhetoric. At its core, Friedman's credo still lingers in such functionalist positions, as, for example, in the following excerpt from the Swiss multinational banking institute UBS' stakeholder report: „By creating values for our shareholders we also create values for all our stakeholders (Ansprechgruppen)." (UBS 2000: 5; transl. by authors) In their report, available only in German, UBS, the world's largest wealth management bank, managing assets of roughly USD 2 trillion, used the term "Ansprechgruppen", which literally translates as "addressers groups", instead of the widely established term "Anspruchsgruppen" ("stakeholders", literally translates as "claimants"). Hence, UBS permits their stakeholders to address the

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5 An answer will be provided in section 4.

6 For example, we find notions like "ethical business conduct", or "moral business conduct", both claiming the same, i.e., that the business conduct in question is to be regarded as ethically (or morally) justified.

bank; but, such is the message, they are not to raise any claims (Ansprüche), since the company's own interests or the ones of its shareholders, respectively, perfectly coincide with them a priori, thanks to the harmonizing capacities of the 'invisible hand' of the market. The same rationale is expressed by German management icon Horst Albach (2005), advocating "Management science without Ethics". "Dealing with business ethics", according to Albach (2005: 809; transl. by authors), "is redundant", that is, ethically redundant, because "management science" – understood as a theory of the firm which clarifies the conditions for "the maximization of the financial value of the company" – "is business ethics" at the outset (Albach, 2005: 813, 809; see also Thielemann/Weibler (2007)).

From this perspective, it would be "redundant" or even ethically "detrimental" to publish CSR-reports, join the UN Global Compact or adopt any other set of measures that aims at the establishment of business legitimacy and responsibility while at the same time increasing profits.[7] Evidently, the focus on profits or shareholder value denotes the decisive measure for good business activity in both the Friedmanian and the instrumentalist conceptions. They merely differ in regard to the kind of measures and strategies needed to generate and increase profits. "Business ethics", in the instrumentalist conception, turns into an "instrument" of the company to generate profits (Wagner, 1999: 82).[8] Companies must, in order to preserve their profitability, embrace "ethics", that is, they need to somehow respond to the expectations of stakeholders who perceive themselves as citizens rather than as homines oeconomici. Such stakeholders are anything but indifferent about how responsible or irresponsible the businesses from which they buy their products or by which they are employed are behaving.[9] Hence, corporations feel they must do "something" under the banner of ethics or of other related expressions such as corporate social responsibility, corporate citizenship, or sustainability, which all raise, in some way, the general claim of

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7 Such is the message, for example, of the survey on CSR published by "The Economist". See Crook (2005).

8 David J. Vogel (2005a: 21) states in this regard: "Were Friedman now to revisit this subject, he would find much less to concern him. Virtually all contemporary writing on CSR emphasizes its links to corporate profitability." Insofar, the "melding together" of "enlightened value maximization and enlightened stakeholder theory" (Jensen, 2002: 245) has already taken place. And "stakeholder theory", instrumentally understood, does not need to be persuaded anymore that "we cannot maximize the long-term market value of an organization if we ignore or mistreat any important constituency" (p. 246).

9 Friedhelm Hengsbach (2006: 42, 44; transl. by authors) speaks of "homines morales" – "consumers, shareholders, managers, employees, the social environment, communities, civil society movements" which "cannot be reduced to ‚homo oeconomicus' who exclusively pursues his own self interest." See also Amalric/Hauser (2005: 29).

legitimacy and responsibility of business conduct. The reason for them to do this, such is the instrumentalist assumption, is to increase, or at least to sustain, their profits: "ethics" is a necessary instrument for the generation of profits. It is an investment which, as any other investment, will yield a payoff in the future.

2. Ethics as a success factor? – The ‚business case for CSR'

In recent times and especially in the Anglo-Saxon language area, the functionalist assumption ("ethics pays in the long run"), which its adherents firmly believe in, has been cut back to the empirically revisable hypothesis of a "business case for corporate social responsibility": "Is there really a link between CSR and a company's financial performance?" (CSR Europe, 2006) The answer usually goes: yes, there is. "Corporate social performance and financial performance are generally positively related across a wide variety of industry […] contexts." (Orlitzky, Schmitt, and Rynes, 2003: 406) In their meta-study, which covers 30 years of research and 52 studies in the field of "statistical associations" of "corporate social/environmental performance (CSP)" and "corporate financial performance (CFP)", Orlitzky/Schmidt/Rynes claim to prove the "validity" of the thesis regarding the link between "enlightened self-interest" and "social responsibility" (Orlitzky et al., 2003: 409, 423). Hence, there is neither a need for regulatory policy or "government regulation in the area of CSP" nor one for genuine management integrity or action "from duty" (Kant, 1997: 10ff.), since the respect for "legitimate stakeholders" and the "balancing" of their claims (according to their legitimacy) "are most likely adopted voluntarily", which means, "based on managers' cost-benefit analysis of a firm's investments." (Orlitzky et al., 2003: 424f.)

The empirical evaluation of the hypothesis of a "business case for CSR" – or even explicitly of a "business case for ethics"[10] – must be based on a correlation between "ethics" and "profits", perceived as measurable facts, for example, as a "relationship between corporate social/environmental performance (CSP) and corporate financial performance (CFP)" (Orlitzky, et al., 2003: 403); furthermore, the term "corporate social performance", which is interpreted as "weighing and addressing the claims of various constituents in a fair, rational manner" and

[10] See for example Heath/Norman (2004: 201) who speak of an "extensive literature debating the business case for ethics and CSR."

used interchangeably with “social responsibility” (Orlitzky et al., 2003: 405, 403), is clearly perceived as of normative-ethical meaning.[11] With regard to such a perceived “correlation” or “statistical relationship between CSP and CFP” (Orlitzky et al., 2003: 424), however, it seems fair to ask how to ascertain that we are dealing with “socially responsible” corporate activity, and not with “socially” irresponsible conduct.

2.1 The measuring problem

The following statement renders the measuring problem very evident: “CSR Europe believes that companies have both moral and financial reasons to practice CSR. The moral ones tend to be quite clear, while the financial ones are still more difficult to measure. They are usually referred to as the ‘business case for CSR’.” (CSR Europe, 2006) To be sure, it is precisely the other way around. Granted that there might be certain technical (operational) problems in regard to measuring financial performance (since, from an investor’s perspective, it is tomorrow’s returns that count for today’s investments), but there are no conceptual problems that unfold at the level of principles. Profits can be measured. On the “ethical side” of the equation, however, we are facing such conceptual ambiguities. The question that the business case literature usually blinds out is the following: based on what criteria are we able to conclusively classify a certain action (or omission) as ethically legitimate and responsible? The statement that those who want to “achieve a sustainable value creation [i.e. sustainable profits] […] must adhere to moral principles and convictions and bring them to life in the normal course of business life,” (Wieland, 2004: 15; transl. by authors)[12] provokes the question of how we can be sure that we really deal with “moral principles” here. Are all possible conflicts between different claims connected to a company’s business activities in fact settled in a fair way? This might only seem to be the case. After all, not everything that appears legitimate is in fact legitimate – this is one of the very core insights of modern, post-conventional ethics. Not everything that is labeled “legitimate” actually contains legitimacy, so to speak.

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11 Without such a claim, even if it is raised just implicitly, a theory or viewpoint is not termed “instrumentalist” in our nomenclature. This holds even in case of purely instrumental treatment of stakeholders.

12 Thus, the functionalist-ethical thesis could be rephrased as follows: the abidance by categorical imperatives happens in the mode of hypothetical imperatives.

In a modern, pluralistic society, ethics is systematically controversial. With regard to the interaction between stakeholders and corporations this results in "conflicting business morals" (Scherer/Palazzo, 2007: 1099). As such, the search for a general correlation between "ethics" – conceived as the entirety of legitimate actions and omissions – and profits as two conceivable material entities is absurd at the outset. The business case hypothesis presumes a pre-modern "catalogue-ethics", that is, ethics that derive from a catalogue of fixed norms (following the paradigm of the decalogue), which can be "applied" in practice (See Thielemann, 2000). The hypothesis then assumes that it is the "application" of these norms, whose validity is taken for granted, that pays in the long-run.

Needless to say, there is no such catalogue. This insight is the very essence and starting point of modern society (See Habermas, 1991: 30, 122, 202). We must find our own answers to the normative-ethical questions with which we are confronted every day. The discursive struggle for moral insights in times and situations in which traditional norms and ethical certainties lose their regulative power is the rule rather than the exception. That is why the search for a "business case for ethics" basically fails from an epistemological perspective alone; this is because it assumes that somewhere out there is a predetermined catalogue of norms and all we need to do in order to act morally is conform to and apply these norms in our everyday lives. However, since modern ethics is quite literally the epitome of controversiality, there is no way it can produce material norms (that is, per se legitimate prescriptions for human action) a priori. What it can do, however, is to determine a formal principle for the justification of situation-specific practical norms,[13] that is, the one moral principle in all its different interpretations and aspects;[14] such as the principle that ethical evaluation takes precedence over all particular interests (and as such over narrow shareholder claims), or the principle to subject the pursuance of profits to its legitimacy, which is to be determined in holistic stakeholder dialogues. Modern

[13] Without sharing Ulrich Steinvorth's position regarding the distinction between classical and modern ethics in all its aspects, we support his opinion that modern ethics attach moral obligation to the "conditions and peculiarities of the reasoning subject" while classical ethics emphasize the "conditions and peculiarities of the assessed objects." (Steinvorth 1990: 56; transl. by authors) This distinction can also be expressed as the difference between principles and norms (See Thielemann 2004: 75ff.).

[14] Hence, even though there is "only a single" categorical imperative, Kant's moral philosophy states several versions of it (See Kant, 1997: 31).

ethics is to be framed perhaps most plausibly as discursive ethics.[15] It aims at determining the formal decisive measure for dealing with conflicting values and interests (one's own interests included) – through Kant's categorical imperative, for example, which notably does not provide any specific norms,[16] but merely the one moral principle which serves us as a guiding ideal for clarifying whether we (or others) are acting in a legitimate and ethically responsible manner.

2.2 The practice of „ethics-measurement"

The failure in regard to the positive or positivistic determination of the "ethical side" of the afore-mentioned perceived correlation between ethics and profits can be shown specifically: In their meta-study, Orlitzky/Schmidt/Rynes (2003: 408f.) refer, among other things, to "CSP disclosures" as a "measurement strategy" in order to assess the existence – or the extent? – of some form of "corporate social performance" (in short "CSP").[17] As such, they simply assess whether in any of a specific company's publications, be it in its annual report or in a specific stakeholder-report, there are any paragraphs or chapters referring to notions such as "ethics", "social", or "social responsibility". The more of such "ethical" terms and sentences can be found, the better they perceive the company's "social performance". Hence, they interpret a company's "disclosures" as "surrogates" or evidence of an "underlying social performance", without, however, indicating any specific determinant or principle based on which a "good" social performance and thus a legitimate and responsible business conduct in general is to be defined. Also the study "Does Business Ethics Pay?" is based precisely on this method of "CSP disclosures". In its findings, the authors state: "There was superior Market Value Added in companies which referred to their ethics' programmes in the annual report, compared with those who did not." (Webley and

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15 The discourse-ethical position represented in this analysis is not to be understood as procedural ethics – discourse as a recipe for legitimacy, so to speak –, but as reflective ethics (See Thielemann, 2004).

16 This was misconceived by Kant, which is reflected in his (in-)famous elaborations on the "categorical" prohibition of lying (See Kant, 1889: 361ff.).

17 We leave it open here, whether normative validity claims like legitimacy, fairness, or justice can adequately be understood gradually. What is remarkable, however, is that empirical "business case"-studies seem to naturally assume there are no problems in regard to such an understanding. Such grading of "much" or "little" social responsibility might make sense in the case of "duties of love [i.e. beneficence] to others" (Kant, 1997: 38), that is, duties of solidarity. But it is highly questionable in regard to "duties owed to others" based on fairness or non-interference.

More, 2003) Not surprisingly, this leads them to conclude „that a commitment to business ethics does pay.“

The category of "observable outcomes", in contrast to earlier "units of text" in Orlitzky/Schmidt/Rynes, deals with observable manifestations of "social" or "ethical" conduct of a company: are there any specific programs or activities purporting some "ethical" content? Here, the authors mention "community services, environmental programs, corporate philanthropy" as possible examples for such programs (Orlitzky et al., 2003: 408). The same method can be found in the above-mentioned study "Does Business Ethics Pay?" "Concepts such as integrity and fairness", as the study claims, "are generally only measurable using indirect indicators." Whether or not the corporation has a "code of ethics" is perceived as one such indicator: "Having an accessible ethical code was then used to investigate the relationship between ethical commitment and financial performance over the four year period." (Webley and More, 2003) Thus, they find that "companies with a code of ethics generated significantly more economic added value (EVA) and market added value (MVA) in the years 1997 - 2000, than those without codes." Consultancy Arthur D. Little draws the practical conclusion: "Corporate Responsibility offers direct improvements to the bottom line." (Arthur D. Little, 2003: 9) It is worth noting that Enron had a code of ethics as well…(Thielemann, 2005a: 37; Vogel, 2005a: 36f.)

Another method for measuring "ethical performance" is the reliance on one of the countless "CSP reputation ratings" such as the list of the "100 Best Corporate Citizens" published by the "Business Ethics" magazine (Raths, 2006), or the section on "Social Responsibility" contained in the list of the "Global Most Admired Companies" by "Fortune" magazine (2006). Equivalents in the German speaking area are the "Good Company-Ranking" published by "Manager Magazin" (Kröher, 2005) or the "Deutsche Preis für Wirtschaftsethik" (German business ethics award) (Wickert, 2005). Other instruments worth mentioning in this regard are "Socially Responsible Investment (SRI)" indices, "Dow Jones Sustainability Index (DJSI)", "FTSE4Good", as well as further indices by various rating agencies that are published with references to notions like "sustainability" or "responsibility" – often in combination with "risk exposure".[18]

Hence, by "outsourcing" the ethical question, the task is being reduced to a simple calculation: take the "Business Week Mean Ranking of Financial Per-

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[18] For a helpful overview, visit the website of the Institute for Management at Humboldt University Berlin: www.wiwi.hu-berlin.de/im/csr/index.php?menu=service&site=service/akteure-sri.html.

formance" and the list of the "100 Best Corporate Citizens" and correlate. This will show that the returns of the 100 Best Corporate Citizens are more than 10 percent higher than the ones of the other S&P 500 companies. „This may be", as Verschoor (2002: 20) concludes, "the most concrete evidence now available that good citizenship really does pay off on the bottom line."

The ethical nonchalance of such studies is astonishing – at least for those dealing with ethics and its foundations professionally, that is, from a philosophical perspective. The question is whether these studies ultimately aim at proving more than the rather trivial insight that companies that appear in such lists, that is, companies that exhibit business practices that somehow and possibly could be associated with some sort of ethical awareness, companies that use some sort of ethical terminology in their official statements, or companies that do things that normally understood as expressions of corporate social responsibility[19], are more profitable than companies that do not appear in such lists, that do not have any code of ethics, etc. Quite evidently, these studies aim at much more than the simple illustration of such correlations. Their goal is to empirically prove the "business case for ethics" (see e.g. Margolis, Walsh, and Krehmeyer, 2006).[20]

From a normative-ethical and as such ethical-critical perspective, the key task would be to closely assess the ethical substance of these various "ethical" manifestations, indicators, and lists. This is a daunting, perhaps principally impossible task to perform, at least with regard to proving a possible "business case for ethics" for all the companies listed in the various "ethics-rankings" out there. At the very least, it extends far beyond the focus of this analysis. Nevertheless, as we will see in the next section, even some (more or less) random glances at these lists can be highly revealing.

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[19] See also Vogel's (2003a: 31) formulation: "Studies that employ a narrower range of criteria capture only some of the policies *usually associated* with corporate responsibility …" (emphasis added). The question is whether this *conventionalism* (in the sense of "catalogue-ethics"), critically described by Vogel, can be healed by referring to a "broader range" of practices and norms, as Vogel assumes.

[20] See also Vogel (2003a: 33): The "claim that some firms may benefit financially from being more responsible", as a result, "does not satisfy CSR advocates. The reason they have placed so much importance on 'proving' that CSR pays, is because they want to demonstrate, first, that behaving more responsibly is in the self-interest of *all* firms, and second, that CSR *always* makes business sense." In other words, they want to show that the profit principle (or more generally stated: self-interest) coincides with ethically justifiable norms as a matter of principle, i.e. that the logic of utility maximization *is* the moral principle.

2.3 The practice of „ethics ratings“

Such lists reveal a quantitative understanding of "ethics", which reminds us of utilitarian ways of thinking. The list of the "100 Best Corporate Citizens", which is developed by the rating agency KLD Research & Analytics, for example, refers to the "strengths" and "concerns" in regards to the companies' relations to seven groups of stakeholders.[21] From these strengths and concerns they derive a "net score". In regard to the company's relation to its employees, for example, the concern "workforce reductions" can be balanced out by strengths in the areas of "cash profit sharing" – among the remaining employees, evidently – and "employee involvement" – perhaps in the sense of internal entrepreneurship following the credo: each employee as an individual profit-center? This same logic is applied even to "human rights". Finally, all "net scores" in the respective areas are added up to a total score, which ultimately determines the company's ranking in the list of the "100 Best Corporate Citizens". "Excellence in business is about more than profits for shareholders – it's about serving a variety of stakeholders well. To put it another way, it's about having your good deeds outweigh your misdeeds." (Asmus, 2004)

Such additive logics seem to be a general characteristic of "social" company ratings.[22] For example, in order to qualify for the FTSE4good listing, candidates must meet 2 out of 7 requirements in the category "Social & Stakeholder Criteria" (see FTSE, 2006: 4). Hence, in order to be accepted, it is generally sufficient for a company to adopt a "code of ethics or [any] business principles" and appoint a "senior manager" who is in charge of "charitable donations" or of the management of so-called "community relations". Respect (and promotion?) of human rights seem to be of concern only for those companies that do business either in the "Global Resource Sector" or in so-called "Countries of concern". Furthermore, with respect to the latter category, only companies employing more than 1000 people or generating revenues of more than £100 million within the respective countries (such as Myanmar or Kazakhstan) seem to be worth being assessed from a human rights perspective.

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21 www.business-ethics.com/whats_new/100best.html#How_the_List_is__Put_Together. A list of indicators can be found at www.kld.com/research/socrates/indicators.html.

22 A systematic critique of this addition-and-subtraction logics that aims at a hypothetical aggregated good thus characterizes utilitarian thinking can be found in Thielemann (1996: 51ff).

2.4 Ethics is controversial

The above-described methods of SRI funds to classify companies as "ethical" – and thus to implicitly certify their business conduct as legitimate and responsible – quite expectedly led to opposition from civil society and NGOs. The German association of critical shareholders (Dachverband der Kritischen Aktionärinnen und Aktionäre), for example, denotes FTSE4good's practice to focus on the human rights record only of narrowly specified companies (i.e. the ones operating in the global resource sector or in countries of concern) as misguided. Evidently, it implies that the vast majority of companies are assumed to fulfill the respective criteria at the outset (Lübke, 2001). For example, medicinal-pharmaceutical companies, as the Dachverband's chairman Lübke notes, are considered of no concern in regard to human rights and are automatically awarded a positive rating. This is despite recent and very prevalent controversies around the pharmaceutical sector, such as the one about the lack of patients' access to affordable HIV/AIDS drugs in developing countries.[23]

Evidently, such harsh critique regarding the lax practice of "certifying" corporations as morally unproblematic is connected to the fact that more than 90 percent of all Fortune 500 companies are listed in one or several of the various SRI-indices (Hawken, 2004: 15ff.). Microsoft, for example, is mentioned in several such lists, despite the fact that, as the prominent critical observer Paul Hawken states, it is a company "known for its ruthless, take-no-prisoners management tactics, a company that was indicted by the U.S. Justice Department for violating of the Sherman Antitrust Act, fined by the European Union for violating the law for its competitive practices, and sued by twenty State Attorneys General for numerous charges including antitrust." Walmart, Monsanto, or Halliburton, whose questionable business practices have led to harsh public reactions, are further corporations that, according to Hawken, are unjustifiably listed in various SRI-indices.[24]

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[23] Even pharmaceutical companies themselves acknowledge this controversy. In 2003, for example, Novartis held a symposium on the topic of „Human Rights and the Private Sector" and released Corporate Citizenship Guidelines specifically on this issue. In this guideline, the company emphasizes that it is aware of the existence of "specific human rights-related issues linked to the pharmaceutical business" (Novartis, 2003: 3).

[24] There are specific websites for the critical observation of these companies, such as for example http://walmartwatch.com, www.monsantowatch.org, www.halliburtonwatch.org. See also the entries on www.corpwatch.org as well as on Wikipedia (www.wikipedia.org), where, in the case of Wal-Mart, there is a lively debate about the neutrality regarding the way their business practices are presented.

Ethics is controversial – not just from a systematical point of view but also factually. A good example is the „Deutsche Preis für Wirtschaftsethik" (German Award for Business Ethics), which is awarded by the medium-sized German consulting company compamedia and prominently supported. Not surprisingly, the award is based on the credo: "ethical business conduct pays".[25] As such, even a corporation in the Uranium sector was granted the label "pioneer in ethical conduct", which led some of the members of the jury – among them also prominent representatives from environmental groups and associations – to publicly step down from their position, claiming to be "ethically abused" (the task of the jury merely was to choose a winner out of a pre-determined list of five "pioneer"-companies) (Wyputta, 2005). Soon thereafter, more then 30 environmental groups, citizens' rights initiatives, political party committees, as well as two of the chosen "pioneers of ethical conduct" themselves requested the revocation of the ethics-award from the respective "Atomfirma" (nuclear company).[26] Apparently, the controversiality of ethical questions and issues is catching up with the attempts of such "ethical" classifications of companies.

Also the list of the "100 Best Corporate Citizens" contains various companies whose business conducts are rejected as illegitimate and irresponsible by large parts of civil society. Granted that the journal "Business Ethics", which publishes this list, periodically mentions those "controversies" (Asmus, 2004), but it is questionable whether this really helps to improve the foundation of the "business case for ethics"-thesis, for which the list of the "100 Best Corporate Citizens" is often used. After all, it makes the "ethical side" of the equation blur, to say the least, or perhaps even vanish. "Ethics" cannot be measured, but only judged discursively. Without being able to "objectively" classify a company, or even myriads of companies, as morally responsible, however, the determination of any positive correlation between ethics and profits is utterly impossible.

3. The non-neutrality of pursuing profits

So far we have analyzed the "business case for ethics" and concluded that this endeavor will inevitably fail on epistemological grounds at the outset. From the perspective of a modern, post-conventional ethics, we can only define *generally* the one formal moral principle, but not a material catalogue of norms. (When referring to the „business case for ethics", we *are* speaking in general terms and

[25] www.ethics.de/documents_ethics/sinn_zweck.asp (transl. by authors).
[26] www.bund-nrw.de/urencopreis.htm.

not about the ethics of a specific corporation.) The moral principle is a measure of orientation, which determines the "conditions of the possibility" (Kant) of legitimate judgment and action. It is not an object in the world, but our view on the (social) world, i.e., the perspective we must adopt in order to be able to ethically assess actions and norms.

Now, even though analyzing the "business case" in regard to ethics in general (i.e. in regard to the moral principle) must necessarily fail, we could still analyze its validity for certain presumptively valid (legitimate) norms, such as, for example, the abandonment of corruption, the payment of taxes according to the letter and spirit of tax laws, that is, without the detrimental use of tax havens, a reasonable ratio between management compensation and the salaries of employees, compliance with ILO-norms in a corporation's own facilities as well as in the facilities of its suppliers, a reduced impact of a corporation's activities on climate change, or any other norms that might represent legitimate and morally responsible business activity. However, irrespective of the fact that even these are anything but clearly defined norms and even their content is thus disputable (and is in fact subject to practical disputes), we would still have to take into consideration that at any point in time any of these norms can be in conflict with other potentially legitimate or illegitimate norms and claims – also and especially with shareholders' claims for increased profits or income, that is, those claims raised on the "business-side" of the alleged correlation between "ethics" and profits itself.

The "business case" is based on the same mistaken perspective as an understanding of economic and business ethics as "applied ethics": it implicitly presumes the ethical neutrality of economic action (as the condition for the application of ethics) and thus withdraws the economic sphere from ethical reflection (Ulrich, 2008: 80ff.; Thielemann, 2000). Hence, economic action, as such, is seen as a purely functional, value-free affair. However, a critical look at the "business case for ethics" reveals that "ethics" and "profits" cannot be regarded as independent from each other. This insight unfolds in several dimensions.

For example, a good "ethical performance" could have been "bought" by outsourcing 40 percent of the workforce, increasing the workload for the remaining employees, imposing market power on consumers, putting pressure on suppliers, and then donating some of the herewith generated profits for a good cause. Strictly speaking, this somewhat extreme case illustrates a conflict between different norms and claims. The problem could be solved, at least in principle, through extending the catalogue of norms based on which we analyze the legitimacy of a corporation's pursuance of profits. This would lead to bad "ethical performance" for corporations adopting such practices (we shall again ignore the utilitarian problem of offsetting the somehow "lower" valued claims of the ones by the somehow "higher" valued claims of the others). However, this particular case is worth mentioning, because such practices are typically not perceived as relevant for morally responsible business activity. We are, in this case, not looking at isolated "external effects" of economic activity, but at its "internal effects", that is, at those effects that are usually shielded from ethical reflection (See Thielemann, 1996: 280ff.).[27] Calling our attention to these ethical aspects can improve our understanding of the actually existing conflicts between economic profitability and other legitimate claims.

3.1 „Healthy profits" – distributional questions

Less easily to heal, however, are those norms and claims which are eo ipso connected to the degree of profit orientation (including the actual amount of profits), that is, questions of distributive justice. This can be demonstrated by looking at a promise that is generally connected to the attempts to prove a "business case for ethics". This promise simply states that those who "want to invest their money with a clear conscience do not have to abandon return." (Bangart, 2006; transl. by authors) Or even more bluntly stated: "Healthy returns for a clear conscience!" (Frey-Broich, 2006; transl. by authors) However, granted that such allegedly "sustainable" or "ethical" investment might indeed correspond to a number of legitimate norms and even promote morally responsible behavior, but what if this very process leads to an unduly large share of total value creation (in terms of revenues) flowing into the pockets of capital, meaning, what if returns turn out to be *too* "healthy"?

Evidently, discretionary returns are ethically unjustifiable. After all, incomes – and as such also returns, that is, incomes on capital – are always generated through the division of labor. This holds for both incomes generated at the level of businesses and of the economy at large. As such, they are always part of a

[27] A widely shared opinion has been summarized by Albert Löhr (1991: 284, transl. by authors): "the practical triggers [for corporate responsibility] can be of various nature and might, in their entirety, best be described by the term 'external effects'" In this regard, it is worth noting that "external effects" denote a rather small part of all ethically relevant conflicts connected to corporate activity. The main part is connected to the company's relation with exchange partners (employees, consumers, suppliers) and thus to be considered market internal effects. Thielemann (2000b: 11, 22).

social product (See Thielemann, 2006), which is inevitably connected to questions of fairness or distributive justice (not merely solidarity), respectively. Hence, from a justice perspective, how must we distribute this social product among all those who made a contribution to its collective generation? What is a fair compensation for their contribution? Currently, we observe increasing shares of GDPs being absorbed – with increasing success – by returns on capital and capital services.[28] Evidently, such redistribution from real economy to capital and providers of capital services (managers, financial services providers, consultants) raises the question of legitimacy and fairness. However, this question can logically not be answered in terms of the "business case", since the likelihood for the "business case" to occur increases precisely with a growing share of the total value creation being distributed to the side of capital. Needless to say, this is in itself an ethically relevant – and prevailing – question. Not surprisingly, the current debate thus regularly blinds out such questions, since they would inevitably take the "business case" ad absurdum.

The indivisibility of the ethical claim becomes manifest in this very aspect. It must include also the pursuance of profits itself. Hence, the pursuance of profits is by no means to be interpreted as an ethically neutral, formal goal (see from a

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[28] This is reflected, for example, in the disproportionate growth of so-called "High Net Worth Individuals" (Capgemini/Merrill Lynch, 2006). In Germany, the income of labor decreased by 3.1 percent between the years 2000 and 2004 while the income of companies and capital increased by 11.1 percent (Löpfe and Vontobel, 2005: 147). The capital quota (the share of capital incomes of GDP) increased from 27,8 percent in 2000 to 33,0 percent in 2005 (Statistisches Bundesamt, 2006). Statistically, Germany's national income growth between 1992 and 2001 was absorbed entirely by the top decile. The rise of the "economic elite" (top 0.001%) was largely fueled by entrepreneurial and property incomes (Bach/Corneo/Steiner, 2007). Also, the "finance quota", that is, the share of total GDP that goes to labor and capital incomes in the financial services sector, increased continuously during the last years and reached 30.5 percent in 2005 (Vontobel, 2002: 19ff.; Löpfe and Vontobel, 2005: 51f.). In Switzerland, those working in the financial sector "generated", or merely obtained, 75 percent of the growth of employee incomes achieved in the period between 1994 and 2000 (see Vontobel, 2002: 41). The US-economy, according to an analysis conducted by Citigroup, has turned into a "Plutonomy", where "the rich absorb a disproportionate chunk of the economy". (Kapur, Macleod, and Singh, 2005: 21) One percent of households accounted for roughly 20 percent of overall income in 2000 (Kapur, Macleod, and Singh, 2005: 3), compared to around 8 percent during the post-war period and 16 percent before World War II (Harvey, 2007: 15). The top 0.1 percent of income earners in the US increased their share of national income from 2 percent in 1978 to 6 percent in 1999 (Harvey, 2007: 16). The lion's share of the increase in US national income over the past 30 years has been captured by the top decile of the income pyramid (Irvin, 2007: 4f.) The financial net worth of the top one percent equals the one of 95% of the remaining households (Kapur et al., 2005: 3). The largest part of these incomes, or accumulated incomes, is, quite surprisingly, not capital income directly, but managerial salaries. "The rich in the U.S. went from coupon-clipping, dividend-receiving rentiers to a Managerial Aristocracy indulged by their shareholders." (Kapur et al., 2005: 3).

critical perspective Ulrich, 2008: 398ff.), but is, at its core, inherently partial – just like any other interest-based orientation. Thus, from this non-independence of ethics and profits derives that we need to look at profits as one out of many potentially conflicting claims, which must thus be ethically weighted against one another. In other words, profits are a legitimate claim; but they are not the ultimate end of business activity. What must be regarded as ultimately decisive are ethical reasons.

3.2 Profit maximization vs. profit orientation

Proponents of the "business case" do not differentiate between profit as principle, i.e., as a decisive measure for "good" corporate conduct, and profit as one legitimate aspect of corporate conduct. Kofi Annan, for example, called upon the leaders of the industries: "By joining the global fight against HIV/AIDS, your business will see benefits on its bottom line." (Annan, 2001) The connection between ethics and profits in his statement may be plausible in concrete cases; for example, by increasing the number of consumers and the pool of healthy workers and employees. However, at least insofar as we are talking about a duty of beneficence (Kant), which allows for variations in the degree of fulfillment, it seems just as plausible that the correspondence to the respective norm only pays *up to a certain point*. Nevertheless, of decisive – and for the undifferentiated "business case" thesis fatal – importance is the following aspect: granted that the correspondence to an ethical norm could indeed have led to the generation of profits (or the avoidance of losses), but the increase in profits could possibly have been even higher, had the business not or only to an irresponsibly low degree corresponded to the norm and invested its money in more lucrative endeavors.

This problem has been clearly elaborated on by David J. Vogel (2005a: 32f.):[29] "It is possible that some more responsible firms might be even more profitable if they were less responsible." Granted that there might be a "link between responsibility und profitability", but this does not necessarily mean "that firms would be even more profitable if they were more responsible." In the contrary, they might even be more profitable by acting less responsibly (once again, we ignore the problem of ethical gradualism presumed by this perspective). An argument that does not acknowledge this possibility at least in individual cases,

[29] See also his more extensive analysis (Vogel, 2005b).

that is, an argument that simply presumes that responsible behavior *always* leads to maximum profits is out of touch with reality. "There may be declining returns for behaving more responsibly."

Any sophisticated economic argumentation that takes the basic assumptions of the standard economic theory into full consideration would rely on the (simple) dichotomy between "profitability" and "value destruction": *either* a managerial activity is profitable *or* it leads to value destruction. Hence, even if the correspondence to a certain norm leads to an increase of a businesses return on investment from, say, eight to ten percent, this would only count as "profitable" if not, through the circumvention of the norm – or through following it only to an irresponsibly low degree –, the return on investment could have been increased even higher (for example, up to 12 percent).

For standard economic theory "profitability" means profit *maximization*. Profit maximization means to do *whatever* it takes to increase profits *as much as possible*.[30] From this perspective, which is set out, inter alia, by the concept of "Economic Value Added" (see Abate, Grant, and Stewart, 2004), the above example would qualify as a case of "value destruction": granted that it generated a surplus and as such a return on capital, but this return could have been even higher, had the capital been invested in different activities (which may have conflicted with the respective norm). From this perspective, an investment or a specific business activity is to be qualified as profitable only under the condition of zero opportunity costs. Only under this condition does a business create (shareholder) value.

It becomes quite evident with how ambitious of an endeavor the "business case" thesis is confronted, even if it is only used with reference to certain specific norms (instead of "ethics" as the entirety of all legitimate and responsible action and omission). It must either show that the compliance with a certain norm coincides precisely with the most profitable way of acting, or it must explicitly state that it does not aim at "profitability" (in the sense of profit maximization, opportunity costs, or "economic value added"), but simply at surpluses larger than zero.[31]

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[30] Evidently, profit-*maximization* is ethically not justifiable. It elevates particular interests to the level of the moral principle, which is being replaced by the "profit principle". This is a purely formal argument; it is independent from profits as such (i.e. it refers to the "maximization"-term). However, there absolutely is a material implication to it.

[31] This difference is sometimes recognized: „Sustainable business strategies may lead to positive financial outcomes but also to a relative economic disadvantage if, for example, the increase in

In practice, however, the economy is increasingly shaped and determined by profit *maximization*. Taking the gloves off with what economic textbooks usually preach, McKinsey writes that "value creation" needs to be established as the "paramount objective of all management endeavors" (Ihring, Kerschbaumer, 2001: 5; transl. by authors). Obviously, this has not been the case so far. Profit-maximization presupposes a gradual learning process toward economization, that is, economic radicalization: we are not born with the attitude to understand the world exclusively in terms of profitability and to relentlessly search for and eliminate inefficiencies, or all non-market values from the economy. (Thielemann, 2005b: 12-16) The current management methods, which have triggered much of the critique regarding the "power of capital", are a manifestation of this process. This critique deals with the radicalization of capital, that is, with a kind of management that is focusing vigorously on its maximization, and which leads, inter alia, to downsizing and layoffs "even in the absence of organizational decline". (Palliam/Shalhoub, 2002: 433; see also Thielemann, 2005b). This might be the reason why certain norms are seldom complied with (as we will show in the following paragraphs) – it simply does not pay *sufficiently* to do so.

3.3 Questions of exigibility

Beyond the question of the fairness regarding income distribution and the a priori not justifiable normative elevation of profits to the ultimate principle of business activity, there is a third, in some regards opposing aspect that shows the non-neutrality of the pursuance of profits (or the "business-side"of the equation between "ethics" and profits in general). This third aspect simply points to the pursuance of profits or income as such as a legitimate claim (like any other), which means, however, that it is not ethically neutral. Hence, from a business ethics point of view, a potential conflict between a legitimate norm – take a reduction of CO_2 emissions as an example – and the generation of profits is to be dealt with as a problem of exigibility (and not as one of "impossibility" of ethics) (Thielemann, 2000: 60; Ulrich, 2008: 139ff.). With Bertolt Brecht we could express this insight, which emphasizes the rights of the moral subject (hence, of an actor who is expected and, based on his or her own reasonable insight, also interested in responsible behavior), in a somewhat more pointed manner: "Food is the first

profitability through less responsible business activities is greater." (Salzmann, Ionescu-Somers, and Steger, 2002: 1).

thing. Morals follow on."[32] (Brecht, 2005: 55) For those who live under constant pressure, in states of poverty, and at the limit of their capacities, the burden of complying with otherwise ethically binding norms (that is, "morals") might become unreasonably high. In other words, those who factually lack the freedom to choose in regard to their own actions, because the potential harm inflicted on them would be too high, cannot be held morally responsible, as they otherwise would be. (The underlying message here aims at institutional ethics: it calls for a change of the conditions these people are facing).

Evidently, this case denotes a rejection of the "business case". However, questions of exigibility, or of fairness apply also to situations in which the "business case" for a specific norm presumably holds (partially) – i.e. with respect to the less capable and thus less competitive market participants: if and insofar the compliance with certain moral norms (even just to a certain degree) pays, hence, if they can effectively be regarded as an *investment*, weaker and thus less competitive companies may be put under *additional* pressure. One could argue that this is ethically desirable and denotes a positive aspect or even the essence of some sort of "ethics-competition". However, we could also see it as an additional ethical problem. There is no answer to this a priori, which is why a complete assessment of the relation between ethics and profits must take this point into consideration too. Hence, we found another reason why we cannot per se assume the existence of a "business case for ethics".

This connection can further be clarified by referring to the problem of so-called "reverse causality" (Vogel, 2003a: 30ff.): The business case usually presumes that "firms are more profitable *because* they have adopted better environmental practices", or, with regard to employees as stakeholders, "because their [effectively responsible] labor policies increase shareholder value." (Vogel, 2003: 30, 32). In cases like these, the coincidence between compliance with certain presumably legitimate norms and increased profitability seems to come about effortlessly, so to speak; it would simply be foolish not to adopt these responsible business practices, and one could wonder why firms would not have done so long before. However, the presumed coincidence between "ethics" and profits could also work the other way around, so that "more profitable firms *are able* to devote more resources to environmental protection", or "*can afford* to treat their employees well" (Vogel, 2003: 30, 32, emphasis added). Responsible

[32] Brecht does, of course, not make a statement against morals as such. Rather, his statement is in itself explicitly moral (or ethical) and as such paradox. Evidently, this is a permitted technique for novels and makes good sense in this regard.

conduct, howsoever specifically determined, then is not a "free lunch", but an *investment*, that is, an effort which leads to increased returns in the future.

So far, the "business case" discussion has not systematically addressed this important difference between a costless enhancement of profits on the one hand and one based on investment-like efforts on the other.[33] The notion of "reverse causality" captures the core of this connection only insufficiently, insofar as the ethical non-neutrality of profit pursuance is not specifically addressed. The specific problem of exigibility in question here derives precisely from the fact that only relatively competitive and thus financially strong companies are effectively able to afford to invest in certain forms of "good" social and ecological performance, and thus are able to reap the profits from such endeavors, provided there are any. If so, they are able to put their weaker competitors under further competitive pressure. Thus, these weaker competitors would lose out in two regards: first, they would achieve relatively smaller incomes for themselves and their economic stakeholders or they even would be economically eliminated, and, second, they would get bad ethical reputations – for example, as notorious polluters of the environment.

It might not be a coincidence that by far the strongest correlation between "corporate social performance (CSP)" and "corporate financial performance (CFP)" occurs in the area of philanthropic donations (Orlitzky et al., 2003: 423). Such donations generally play a prominent role in *conventional* attempts to measure the ethical side of the equation. "Corporate citizenship" is often even reduced to "beneficence" or charitable ethics. Evidently, it is a rather easy task for a multi-billion dollar company to set up a philanthropic program which might, as in the case of pharmaceutical companies, likely reach quite considerable dimensions.[34] This could be one of the reasons why the hit-lists of financially strong companies, as seen above, often largely coincide with those of companies classified as "ethically" outstanding: "Financially successful companies spend more because they can afford it, but CSP also helps them to become a

[33] It has done so at best implicitly: arguments that emphasize responsible business practices' potential to reduce business risks are based on the presumed avoidance of potential costs in the future. For example, respecting human rights makes good business sense, because, and as far as, it helps to circumvent possible boycott risks and the like. Arguments that point to long-term economic payoffs deriving from charitable donations or certain ecological expenditures, on the other hand, are based on the investment logic.

[34] The pharmaceutical company Merck regards profits as a "prerequisite for a company to have the wherewithal to mount a major philanthropic program." According to Merck, "doing well [i.e., realizing profits] is a precondition to doing good." (Sturchio, 2001: 5)

bit more successful."[35] (Orlitzky et al., 2003: 424) Needless to say, business ethics cannot be reduced to mere charitable ethics (See Ulrich, 2008: 402ff.; Thielemann and Ulrich, 2003: 30ff.; see exemplarily Bluestone, Heaton, and Lewis, 2002). However, this is not even the main aspect of the argument we are aimed at. The main point is that this denotes an odd petitio principii and insofar a self-fulfilling prophecy: "ethics" is defined in a way that a priori correlates with profits, which then provides the "wherewithal" for philanthropic donations, which, quite possibly, indeed lead to some increase in profits (due to enhanced reputation, that is, the susceptibility of many stakeholders to such rather cosmetic measures). Less successful companies or companies struggling with difficult economic conditions will likely not be able to keep up in terms of philanthropic donations and end up at the bottom of the rankings, both in terms of profits and of "ethics". Since this mechanism cannot per se be denoted fair, it provides another argument against the "business case" – which would naturally have to be based on a holistic account of ethics.

4. Opportunism – the neglected difference between legitimacy and acceptance

So far, we have mainly followed the positivist assumption, which proponents of the "business case" tend to make as a matter of course, to regard the relation between "ethics" and profits as an empirical one. However, what is interesting from a post-conventional, that is, Kantian, or non-positivist ethical perspective, which per se forbids such "positive" interpretations (at least of ethics as such), is the question of *why* there should be – as proponents claim – a positive correlation between ethics and profits?[36] Formulated this way, the question inevitably leads to the ethically decisive *principle* for business activity, as it is presumed and declared normatively binding by the "business case"-thesis. Hence, our task is to assess whether or not this withstands critical ethical reflection.

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[35] The authors take it for granted that "Corporate social performance" equals to [amounts to?] "philanthropic donations".

[36] "It is not sufficient to know that it is as it is. The task of science rather is to find out why it is as it is." (Gutenberg, 2000: 24; transl. by authors). Also Margolis/Walsh (2003: 278) see a need for a "causal theory to link CSP and CFP". However, this would have to be connected to a theory of ethical justification (including its critique).

4.1 "Reputational risk"

The often-mentioned reason or cause for the perceived positive correlation between ethics and profits is the avoidance of so-called reputational risks (or even "ethical risks") (Webley and More, 2003; Ewing and Lee, 2004; Francis and Armstrong, 2003). Alternatively, we could also call it a risk of lacking *acceptance* by stakeholders. Usually, this connection is introduced with a reference to the ever-rising "expectations" of stakeholders in regard to corporate behavior. The question then is: what ethical significance do these "expectations" actually have? The large Swiss banking institute UBS has an answer to it: "We recognize the demands that are placed on us by different stakeholders, and have *therefore* made corporate responsibility part of our culture and our identity, integral to our business model." (UBS, 2001: 111; emphasis added)[37] Hence, from this perspective – which is clearly based on a claim for ethical legitimacy – it is the orientation on these "various" and relatively new societal "expectations" that justifies "corporate responsibility". Consequently, the "correspondence with ethical criteria [is] … a part of our risk management processes", aimed at the avoidance of "reputational risks" (UBS, 2000: 17, transl. by. authors). Evidently, the realization of such reputational risks would prove to be detrimental to corporate profits.

Now, what does such an orientation on the currently prevailing societal "expectations" – or, as Orlitzky et al. (2003: 424) put it, stakeholders' "preferences" or "outcomes desired by the public" – have to do with ethically justified business conduct? Why, or in other words, on what justificatory basis can we denote corporate policies that are directed at the compliance with societal "expectations" an expression of "corporate responsibility" and thus to consider them legitimate and ethically responsible? The typical answer to this question is: because we are dealing with „expectations for *responsible* corporate conduct", or, stated the other way around, with "reputation risks" that derive from the fact that stakeholders perceive certain business practices as "ethically reprehensible" (Amalric and Hauser, 2005: 29, 32; emphasis added). Or in the words of German business ethicist Josef Wieland (2004: 15; transl. by authors): A "morally enlightened business strategy" is a precondition for "sustainable value-creation"

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[37] According to UBS (2005: 139) "corporate responsibility" at UBS means to "ensure that UBS aligns business practices with changing societal expectations." Also according to Amalric/Hauser (2005: 28), "stakeholder expectations for responsible corporate conduct" denote a "main source of a scope for corporate responsibility".

(which means: for a sustainably profitable business strategy), because (and insofar) stakeholders in fact perceive certain aspects of corporate activity "as a moral question".

Such a position can be fully indifferent regarding specific ethical questions (as for example the justification of certain claims or the legitimacy of certain business practices). I.e. the concerns of stakeholders regarding existing business practices are to be considered "weighty" quite "irrespective" of their "validity" (obviously interpreted as ethical rightness or legitimacy), provided there is a sufficiently strong public "pressure for legitimacy" (Wieland, 2004: 21f.; transl. by authors). Hence, it simply depends on the *factual acceptance* by the relevant (in terms of financial success) stakeholders, which are often, probably even most of the time, not to be considered as morally indifferent homines oeconomici, but as interested in whether or not business is conducted in an ethically justifiable way.

4.2 Defining legitimacy through acceptance?

What would follow for (business) ethics if one thought these implications out? It would mean that acceptance and legitimacy are to be regarded as one and the same, i.e. that legitimacy is to be measured and defined in terms of the (possible) factum of agreement (and accordingly, illegitimacy through the withdrawal of agreement). Leo Schuster, as a rare exception, openly pointed to this widely held (mis-)understanding, which is commonly contained (but not dealt with) in functionalist accounts of ethics: "legitimacy in society is defined as the correspondence of the banks' [or more generally: of all companies'] conduct with society's ever-changing values according to the zeitgeist." (Schuster, 2001: 186; transl. by authors)[38] However, at a closer look, this adaptation to the "zeitgeist" turns out not as the epitome of legitimacy (ethical-normative rightness), but as the one of another well-known concept: *opportunism*.

Opportunism is a direct result of purely instrumental motives – be it in terms of profits, shareholder value, or any other instrumental goal. Those who turn their own interests, or any other predetermined goal, into the *ultimate determinant* for their actions, are not interested in the legitimacy of business activity, but

[38] See also Deephouse/Carter (2005: 329), who define "legitimacy" as "social acceptance resulting from adherence to social norms and expectations". Also for Credit Suisse Group (2003: 7) it is a part of a company's "social responsibilities … to constantly adapt to new circumstances …", i.e., to the ever-changing societal expectations.

merely, and at best, whether or not some suggested criteria for CSR "*are perceived* as … legitimate … by the stakeholders", and whether they are suitable for preventing "non-governmental organisations (NGOs), disgruntled employees, or distraught consumers, activists" from launching "boycotts or marches against companies that can cause long-term damage to a company's reputation." (Márquez and Fombrun, 2005: 306f.; emphasis added)

This neglected difference between legitimacy and acceptance is not only a philosophically important and at its core ideology-critical construct;[39] it is also deeply rooted in our common sense, that is, in the notion of opportunism. It seems at least intuitively evident that to "jump on the bandwagon", that is, making one's own moral convictions – if existent – dependent on what others think, i.e. to pretend to share others' convictions with the intent to create opportunities to achieve advantages (or to avoid disadvantages), cannot be an expression of integrity; it is, quite the contrary, one of lacking character. At least intuitively, we are very well aware that there is a difference between "legitimate" and "regarded legitimate".

4.3 The deficiency of acceptance as an orienting measure

What precisely is wrong with determining the legitimacy of business activity based on what "matters to stakeholders"?[40] What exactly could be wrong with designing the criteria for "socially responsible investment" as to reflect "a broad consensus on what constitutes good corporate responsibility practice globally" (FTSE, 2006: 2)? Why is it misguided to tailor "Citizenship activities" so that "the perceived legitimacy of the company" is enhanced (Gardberg and Fombrun, 2006: 332)? After all, the public, which includes these stakeholders by

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[39] That is why discourse ethics introduced the distinction between "de facto" and "true", "illusory" and "rational" consensus (Habermas, 2001: 93ff.; see also Thielemann, 1996: 238ff.). Regarding the distinction between legitimacy and acceptance see Ulrich (2008: 400; Thielemann and Ulrich: 2003: 24ff).

[40] This is how Chatterji und Levine (2005: 6) define the "validity" of the "measure" of companies' "social performance". However, the authors' concept is not fully opportunistic. They absolutely see the possibility that stakeholders might be "misled" (2, 21). As a conclusion, the authors propose a criterion for the determination of "social performance" which is based more on the ethical matter than on the factual agreement (acceptance) (7): „More generally, to construct an ideal [i.e., valid] non-financial performance measurement system, there needs to be an understanding of what the most significant externalities are in different contexts." In other words, the authors concede that any responsible conduct can not be claimed to exist without those who claim this performance being ethically responsible taking the stance of evaluating this practice as responsible (or "significant" with regard to "social performance").

definition, is constituted of mature, ethically aware citizens. Should they not be able to judge for themselves, whether or not the business activities of a company are legitimate and whether or not it conducts its business in an ethically responsible way?

To be sure, the unbounded critical public is the "ultimate" instance of ethical assessment – not only in the field of business ethics.[41] However, we must look at it from a procedural perspective: we must comprehend ourselves as a part of it. A mere focus on the facticity of acceptance (or on the possible facticity, as it is contained in the notion of "reputational *risk*"), that is, a mere focus on societal "expectations", on "trust", on the "experienced legitimacy" etc. promotes a wrong perspective as normatively binding: a perspective which declares one's own critical judgment (the one of corporate decision-makers as the moral subjects of business ethics) as redundant (see Thielemann, 2003a). It lacks the basic readiness of actively participating in the public deliberation process. Instead of making „*public use* of his reason in all matters" (Kant, 2001: 136),[42] it suppresses important information and significant aspects worth considering. This is neither honest nor universalizable: not everyone can focus his or her actions on the moral acceptance by others. Somebody in this game must focus on the ethical matter itself. Managers, if they want to repudiate the allegation of opportunism, must get involved.

4.4 Where the quest for acceptance fails ethically

The previous section addressed what we could call the ‚ethics of conviction'-based[43], or at least the formal side of the critique of a purely acceptance-based perspective. This critique provides the *foundation* for classifying such a perspective as *opportunistic*. Additionally, there is a consequentialist side of the critique, which is, however, connected to the ‚ethics of conviction'-based one: after all, who knows in its entirety what happens inside a company day by day? Who knows all the business practices conducted by the thousands of large and millions of small and medium companies every day? Many stakeholders, that is,

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[41] With reference to discourse ethics and the Kantian ideal of the "public use of reason", see Ulrich (2008: 62ff.).

[42] Also Scherer/Kustermann (2004: 53; transl. by authors) criticize the prevalent idea in Business & Society research that "moral evaluation … does not originate in companies but only in society."

[43] We refer to the Weberian Notion of „Gesinnungsethik", usually and quite misleadingly translated as "ethics of ultimate ends" (Weber, 1991: 120).

citizens, would surely ethically disapprove much of what happens in the business world – if they actually knew about these things.[44] And then there is still the need to ethically assess the often complex and contested issues. Ethically aware citizens who more or less randomly discover a "black sheep" on one of the pertinent lists of "ethically responsible" companies, are inevitably confronted with the question: "Are we really getting the information we deserve?" (Favell, 2006)

That is why there are NGOs, that is, civil society experts, for particular areas of interest and conflict. It is the abundance of relevant facts and the ethical complexity of their evaluation that makes NGOs an indispensable part of any modern, democratic society; they serve for increasing awareness and improving judgements among citizens and are, as such, by no means "anti-democratic" elements, as some might argue (On this discussion see Leggewie, 2002). But in the light of the plenitude of potential 'sensitive issues' connected to conducting a business, even NGOs do not have the capacities to cover them all. A business that focuses only on ensuring acceptance (or avoiding public protest) can take advantage by suppressing ethically questionable issues, withholding the *full* truth from the public, and, of course, by euphemizing the activities of the company wherever possible.[45]

The above-mentioned fact of pluralism takes a merely acceptance-based 'reputation management' or 'Public Perception Management'[46] ad absurdum: to

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[44] "For stakeholders to act upon an organisation's activities they must be made aware of these activities. Those who are unaware of, for example, labour rights abuses in developing countries, will not be able to punish those organisations conducting the abuses." (Neville, 2005b: 8).

[45] A remarkable and significant contribution by the Chartered Institute of Marketing (2004), the world's largest association for marketing professionals (UK), states: "Ethics is a code of practice and can be manipulated. Sometimes, companies use the flexible term 'ethics' to provide a cover for activities which might be underhand – or which do not tell the whole truth."

[46] The term "Perception Management" was originally coined by the US department of defense, which defines it as "Actions to convey and/or deny selected information and indicators to foreign audiences to influence their emotions, motives, and objective reasoning … ultimately resulting in foreign behaviors … favorable to the originator's objectives. In various ways, perception management combines truth projection, operations security, cover and deception, and psychological operations." (Department of Defense, 2006: 746) Applied to management consulting, this means – in the words of the leading provider Burson-Marsteller: "Our process is simple. Understand the current perception of the target audience. Determine what perception is needed to change the target audience's behavior. And then design a campaign that will help create that new perception." (www.burson-marsteller.com/pages/about) Interestingly, Burson-Marsteller offers their services also under the label of "social responsibility". The company has stopped using the term "Perception Management" after being accused of conducting "deception management" and to euphemize corporate misdeeds (see for example www.nadir.org/nadir/initiativ/agp/uscaravan/1029.html, www.resist.org.uk/reports/bac-

whose expectations should CSR activities cater if different stakeholder groups have different expectations? The answer lies in the final and insofar concluding critique of the ‚Business case for ethics'.[47] That is to say, an opportunistic focus on acceptance might not even be necessary from the perspective of strict profit-maximization, that is, for "ethics" (or what is declared as such) to pay off in the end. Ultimately, large corporations will hardly take consumer boycotts of marginal groups seriously, as long as these small groups do not succeed in drawing the media's attention to the allegedly irresponsible business practice and denouncing it as a social problem (although there is a need for risk assessment in regard to the likelihood of the respective groups to succeed in this respect). The company simply does not depend on acceptance by weak stakeholders. Granted that strictly self-interested actors are principally indifferent towards moral perceptions of others (and thus take an opportunistic stance), but nonetheless opportunism does not pay in any case – often it would simply be "too costly", possibly even unreasonably costly.

This might be the reason why certain business practices, as opposed to frequently promoted activities connected to philanthropic donations, are usually left unaddressed by the corporations – as for example plausible statements regarding the proper payment of taxes according to the letter as well as the spirit of the laws of the respective countries in which companies operate (that is, without the manipulative use of transfer pricing) (Henderson Global Investors, 2005a; www.taxjustice.net), or questions connected to the corporate distribution of incomes, including management remuneration, which contributes to the widening internal wage-gap, or statements regarding the growing problem of work-related stress (Henderson Global Investors, 2005b; DAK, 2006; Reich, 2002; Krugman, 2006: 5). Generally, companies tend not to take a stand in regard to precisely those complex questions that cannot be pressed into clear-cut norms and therefore call for elaborated deliberations. Those are the questions that do not merely arise at the periphery of business activity, but at its very core. An example in this regard is the question about the legitimacy of layoffs (or compressed work schedules) while profits increase or the one about corporate subsidies in times of flourishing businesses. These are the questions that demon-

kground/lmu.html). However, this only holds for the USA. The website of the Dutch branch still states: "Our philosophy is 'Perception Management'. This means we hold the same perception that stakeholders have towards organizations. In consult with the client we investigate in which areas these perceptions need to be adjusted." (www.burson-marsteller.nl/pages/readmore)

[47] See section 5.

strably (see e.g. Lunau and Wettstein, 2004) are of strong interest to the broad public in general and the affected individuals in particular. But precisely these questions are hardly ever elaborated on in the social and environmental reports of companies. The study of Loew/Clausen/Westermann on "sustainability reporting" concludes that there is only "a low propensity to openly communicate problems" (Loew, Clausen, and Westermann, 2005: 31f.; transl. by authors).[48] Hence, the most effective means by which to refute the accusation of opportunism would be to reply to the argumentatively strongest public critique in an open and honest way. However, the current state of "ethical" reporting is still far away from meeting this requirement – perhaps because the argumentatively strongest stakeholders are not necessarily the most "relevant" ones for the company.

5. Long-term focus and the right of the stronger

The assumption that "ethics pays in the long-run" has become somewhat of a commonplace in the recent past. Accordingly, proponents of an orthodox, strictly economic doctrine, as for example the one based on shareholder value, have started to emphasize their focus on the long-run – which is than taken as a self-evident justification for it. But why should ethics pay in the long-run and not in the short-run? It is surprising that a large part of the discussion on business ethics is based on this conviction, but no one, at least as far as we can see, has ever even only asked the question – let alone answered it – why this should be the case.

5.1 In the long-run – of what?

There is a need for some clarification: when speaking of the long-run, it is not the durable existence of the company, that is, the object of investment that the ethical-functionalist formula refers to, but the (positive) balance sheet of the investor.[49] Tying his or her capital to a specific corporation must not necessarily

[48] This is a widespread perception also in the broad population. See Lunau/Wettstein (2004: 142).

[49] The preservation of the company and its existing network of relationships is itself to be considered an ethical value – a value, however, which is not to be taken as absolute. If it is this insight that the "ethics pays in the long-run"-formula refers to, we are dealing with a tautology, since both sides (business ethics on the one and the durable preservation of the company on the other) coincide at least partially at the outset.

pay for the investor, not even in the long run – what if, for example, the company announces a return of ten percent, while another one predicts twelve percent?

> „The way that the economy works today, with instantaneous information, global capital flows, and Internet-based stock trading, fewer and fewer shareholders are genuinely committed in any way to the companies that they 'own'. Giant mutual funds buy and sell millions of shares each day to mirror impersonal market indexes. Programs instruct traders on which shares to buy or sell and when – although rarely on why. Then there are the recently arrived day traders, who become shareholders of a company and then ex-shareholders of that company within a matter of hours, as they surf the market for momentum plays or arbitrage opportunities. These are the shareholders – who may not have any interest in the company's products, services, employees, or customers – whose interests you [a CEO] are now pledged to maximize." (Simons, Mintzberg, and Basu, 2002)

This corporate logic of unconditional profit increases (i.e. profit maximization) for the benefit of any respective investor, who is actually quite indifferent about the particular object of investment, has been captured quite accurately by a Japanese journalist who was interviewed by biologist Paul Ralph Erlich. His response to the question of whether the durable conservation of the species would not be in the interest of the whaling industry (which is a kind of a "businesss-case" argument) was as follows: "If it [the whaling industry] can exterminate whales in ten years and make a 15% profit, but it could only make 10% with a sustainable harvest, then it will exterminate them in ten years. After that, the money will be moved to exterminating some other resource." (Meadows, Meadows, and Randers, 1992: 187f.) Evidently, the long-term gain of the second investment option is higher in total. It corresponds to a focus on maximum profits and not just on any surplus higher than zero. Profit-maximization assumes eo ipso a long-term focus (of the investor). Hence, "long-term profit-maximization" turns out to be a pleonasm, and "short-term profit-maximization" a contradictio in adjecto.

5.2 Long-term focus and stakeholder power

What role does the focus on the long-run play in the ethical-functionalist thesis? The answer to this question can be found in stakeholder theory, as developed and established by R. Edward Freeman. As is generally known, Freeman provides a twofold definition of stakeholders: "A stakeholder in an organization is (by definition) any group or individual who *can affect*, or *is affected* by, the achievement of a corporation's purpose." (Freeman, 1984; emphasis added)

While the second aspect of his definition, taken at its face value, points to a normative-ethical understanding – after all, corporate activity could violate legitimate claims (although one could ask how this includes questions of positive justice, including those of fairness) –, the first one implies a strategic power-based approach to stakeholder consideration. Thus, stakeholders are seen simply as constraints to profit-maximization. As such, the company acts in its own prudential interest when taking the power of others into consideration. If the bank robber carries a loaded gun, to use an analogy, it is in my own interest to hand over the money without resistance: the costs of refusing would be too high. Costs are nothing else than constraints, valued by the utility criterion.

Now, what is the connection between these two components in Freeman's definition? Or are we, after all, dealing with a contradiction? This is not the case. Freeman simply distinguishes between manifest and latent power. Those who influence others *risk* experiencing *counter actions*, particularly when those influenced feel treated unfairly. The practice in question might yield a benefit in the short-term; but precisely *because* of this short-term benefit, there will be a long-term and thus overall disadvantage. Thereby, as Freeman states unmistakably subsequent to his often-cited definition, the formation of these counter forces can either happen relatively quickly or take some time. This confirms the ultimate identicalness of these two seemingly contradictory elements.[50] The difference between a merely short-term and a long-term pursuance of self-interest lies solely in the time which potentially powerful opponents might need to realize their power (this connection holds purely formally, that is, independent of homo oeconomicus' specific preferences). Hence, the long-term economic thesis regarding the coincidence of "ethics" and profits gives itself away, and can be refuted, just by its inherent focus on the long-term pursuit of self-interest.

This *dependency* of respecting potentially legitimate claims on stakeholders' power and influence is implicitly contained in the "ethics pays in the long-run"-formula. Claims are recognized *in proportion to* stakeholders' power, that is, their power to influence the bottom line of the company. This answers the question of who those "key stakeholders" or "significant stakeholders", to which large parts of the business & society literature keeps referring, really are. Hence, it is those stakeholders who are (in one way or the other) in a "key position" *in regard to the company's achievement of profits*, that is, those who are relevant or significant *for*

50 "Groups which 20 years ago had no effect on the actions of the firm, can affect it today, largely because of the actions of the firm which ignored the effects on these groups." (Freeman 1984) See also Ulrich (2008: 424f.); Goodpaster (1991: 59).

the company's bottom line. Hence, "key stakeholders" or "important stakeholders" are nothing else than "powerful stakeholders".[51]

This connection is seldom stated explicitly – perhaps because this would likely turn out to be "counterproductive". However, there are some exceptions: "The stakeholder approach tries to accommodate all groups with relevant claims according to their significance and capacity to influence." (Schuster, 2001: 186; transl. by authors) "The company derives its 'License to Operate' from its ability to meet the expectations of those stakeholders who have the power to influence the overall performance or even the existence of the company."[52]

5.3 Power or legitimacy

Typically, the current stakeholder theories are rather unspecific in regard to what it is that ultimately counts: the legitimacy of claims (which is always to be deliberated anew) *or* the power of the ones who voice them. This is the case even when dealing with questions regarding the "prioritization" of claims (obviously, they do recognize potential conflicts between those claims). Mitchell/Agle/Wood (1997: 882) approach the question of "Who and what really counts" as follows: "In sum, we argue that stakeholder theory must account for power and urgency as well as legitimacy." Hence, their answer simply ignores the decisive question regarding the *ultimate* criterion for the recognition of claims.

The cover-up of the power-strategic foundation of stakeholder recognition is sometimes established methodologically – for example, through declaring one's own theory as merely "descriptive", that is, as neither "normative" nor "instrumental" (Jawahar and McLaughlin, 2001). Whether or not this distinction, which goes back to Donaldson and Preston (1995), is tenable and makes sense is questionable. After all, it implies the ethical neutrality both of the "instrumental" as well as the "descriptive" point of view (From a critical perspective, see Thielemann, 2003b).[53] However, the "description" (or rather: the causal explanation) of stakeholders' "importance" for management is clearly normative, implying an instrumental perspective: stakeholders' "importance" is dependent on their "po-

[51] See for example Gardberg,/Fombrun (2006: 335): "Achieving legitimacy depends on a company's ability to identify, comprehend, and respond to the demands of powerful … stakeholder groups." "Legitimacy" is evidently confused with acceptance here.

[52] www.stakeholderview.ch/d/aboutus/visions-keypoints/keypoints.html (transl. by authors).

[53] As opposed to the common reception of their text, Donaldson and Preston do not see the distinction between normative, instrumental, and descriptive stakeholder theory as freely eligible alternatives. On the contrary, their "conclusion" (Donaldson and Preston, 1995: 87f.) shows unmistakably, that they promote an explicitly normative stakeholder theory.

tential to satisfy critical organizational needs" as well as on their "potential" to "threaten organizational survival". *Fact is*, as it is claimed, that the "priority" given to certain stakeholders by "top managers" is "substantially influenced by the power attributed to those stakeholders." And *that is why* this power, that is, the "dependence of firms on stakeholders for resources", constitutes the "importance" and thus the ultimate criterion for their consideration and recognition (Jawahar and McLaughlin, 2001: 405, 398, 402).[54]

Scherer and Palazzo (2007: 1099) are among the few scholars who dealt in-depth with the power-dependence of stakeholder-recognition (which is closely connected to the "business case" thesis and thus necessarily presupposes a normative stakeholder theory) in the business & society field. (Good) "corporate social performance" is seen as ultimately determined "by the interests of the company's most powerful stakeholder groups", since "positivist" business & society or CSR research portraits the relation between "corporate social responsibility", that is, stakeholder claims, and profits as a "causal relationship" and thus as connected based on power and not based on meaning and justification (see also Scherer/Palazzo/Baumann, 2006: 513f; Scherer/Kustermann, 2004: 52ff.; Neville/Bell/Mengüç, 2005a: 1193). Stated the other way around, this means: The claims of those holding too little or no power at all will not be recognized.[55] "If some of these stakeholders [communities, regulators, and potential employees] favor socially responsible businesses *and have power to reward it*, reporting such metrics can increase the level of social performance that maximizes profits." (Chatterji and Levine, 2005: 2) And if stakeholders do not have the power to "reward" corporate policy, their claims will neither be addressed

[54] Further, more or less explicitly power-based stakeholder definitions are provided by Kochan/Rubenstein (2000: 369ff) and Post/Preston/Sachs (2002: 16ff.). Interesting – and in regard to ensuring acceptance probably rather counter-productive – seems the Swiss banking multinational UBS's evinced understanding of "Corporate Responsibility". According to the bank, a "gap" between "what stakeholders expect and what we practice" becomes unacceptable only when "this gap represents either a risk or an opportunity" – for their own shareholder value, of course. And only if stakeholders might influence the bank's profit potential is there a need for considering "appropriate measures" (UBS, 2005: 139).

[55] "Too little", in this regard, means: the consideration of stakeholder claims is more expensive than their ignorance. This logic emphasizes opportunity cost considerations under conditions of more or less bound capital. This might be why in his recapitulation of the stakeholder approach (which remains largely ambiguous in regard to the literally decisive question about the criteria for stakeholder recognition) Freeman (2004: 237) states: "Prioritizing stakeholders is more than a complex task of assessing the strength of their stake on the basis of economic and political power." Obviously, it is seen as complex because power constellations or the existing set of constraints, respectively, must be translated into cost calculations in light of the company's specific market position.

in a company's reporting, nor will according measures be adopted. The reason for this is evident: it simply would not pay to do so.

5.4 CSR as a niche phenomenon

This might be the background that *explains* why the practice of "business ethics" – which, evidently, is often conducted instrumentally – remains a niche phenomenon in the eyes of numerous critics. Granted that there are "pockets of success stories, where business drivers can be aligned with social objectives", but there is "a wide chasm between what's good for a company and what's good for society as a whole." That is why the "business case" only provides "a patchwork approach to improving the public good." (Doane, 2005: 25) Also SustainAbility, a consulting agency in the field of "corporate responsibility and sustainable development", states that despite the "corporate responsibility (CR) movement" having achieved "impressive momentum", the efforts so far "are being outpaced by the problems." SustainAbility concludes:

> „In effect, the current approach to CR [corporate responsibility] may be reaching its system limits. While a small but growing number of bold and visionary companies have made considerable strides and are to be commended for their achievements, their numbers will remain small as long as the business case for getting in front of the corporate pack remains weak." (Beloe et al., 2004: 3)

Amnesty International provides the reason, or better, the cause, for why CSR-efforts of companies have remained mere "islands of influence" without delivering "real progress on key dimensions of sustainable development." (Beloe et al., 2004: 34) A widespread opinion holds that ethically responsible business conduct, as, for example, the EU Commission's "Green Paper" on CSR maintains, is a voluntary affair, since there is a "business case" (Commission of the European Communities, 2001: 4, 6).[56] However, as Amnesty International objects: "Such a conception of CSR is flawed in that it fails to take account of the reality that voluntary approaches are generally implemented in response to consumer and community pressures, industry peer pressure, competitive pressures or the threat of new regulations or taxes." (Amnesty International, 2001) Hence, where this pressure is lacking, there will be no "business case".[57]

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[56] The Commission (2006) sticks to this standpoint also in its latest report (*Pole of Excellence*).

[57] See also Loew/Clausen/Westermann (2005: 31, 35; transl. by authors): "Where there is a lack of pressure, there is also a lack of risks and as such – at least in the short- and medium-term – a lack of economic benefits resulting from proactive engagement", or responsible business conduct in general. The report mentions the example of so-called "Non-Reporters" such as the

5.5 Sin-stocks

If CSR – understood as the imaginary epitome of legitimate and responsible business conduct – denotes a niche phenomenon and thus merely "*one* dimension of corporate strategy", that is, one option among others, rather than a "necessary condition for business success" (Vogel, 2003a: 20, see also 33, 41; emphasis added), then we would most likely find successful niches at the other end of the spectrum as well. On the stock markets these alternative niches are known as so-called "sin-stocks". To the same extent as more or less substantial flows of capital are directed towards "ethically clean" sectors and companies, that is, to those sectors and companies that more or less explicitly avoid ethically problematic fields and activities, it might also make sense for the anti-cyclical investor to invest in the abandoned sectors, such as tobacco, armaments, gambling, old, "dirty" technologies, or to invest in countries known for human rights abuses, etc. "What's interesting about these companies is that many of them are, in fundamental terms, terrific businesses." (Investors Chronicle, 2006) There is even an investment fund that has specialized on those "vicious" niches (www.vicefund.com) – its financial performance is, based on its own assessment, above average.

5.6 The bottom line: economism

The "ethics pays in the long run"-formula proved to be misguided, or simply wrong, based on various reasons. The "ethical criterion" in this conception is not based on legitimate claims, but on the power of stakeholders, or more precisely, it is dependent on the power constellation (including the power of the company – for example, as employer and significant location factor).[58] Ultimately, it depends on nothing but the actors' intention to pursue their profit-interests without ethical reservation. Thus, "ethics pays in the long-run" ultimately means nothing else than "we pursue the kind of 'ethics' that pays in the long-run."

German discount retailers Aldi and Lidl, which pursue, seemingly quite successfully, a "duck-and-hide strategy". Similarly, Kenneth Roth argued that voluntary standards would direct public pressure only to large and highly visible companies. This will put them in a competitive disadvantage against their lesser visible competitors (see Roth, 2005; for a similar argument see Hertz, 2004: 204).

58 Therefore, any „linkage between ethics and economics [i.e., profitability]" is, strictly speaking, not „contingent" and „subject to [arbitrarily?] shifting circumstances" (and thus „fragile" and „far from perfect"), as Lynn Sharp Paine (2000: 325-327) shows, but more precisely dependent on *specific* „circumstances": the power constellation.

Such a conception is to be characterized as economist because it defines legitimacy through profitability – a perspective that was summarized aptly by the Swiss novelist Max Frisch (1990: 465; transl. by authors): "reasonable is what pays off." Hence, the ethical justification of addressing claims lies in the extent to which their recognition leads to a payoff; you can "discover" it through competition, conceptualized as the sphere in which powerful interests collide.[59] "The *legitimacy* of stakeholder claims", in this conception, which "ought to improve corporate success", is based "on the (reciprocal) interest of management in the stakeholders, or the resources provided by them." (Schaltegger, 2004: 172; transl. by authors) And if they do not "provide" or cannot deprive the company of any resources, then their claims evidently seem to be considered illegitimate. From the perspective of stakeholders, we could, with German business ethicist Karl Homann, uncover the inherent economism of this conception within the conviction that any attempt to "implement" a norm "under the conditions of modern economy and society" – which, for Homann, are the conditions of "unfettered pursuance of one's own advantage" – affects the "normative validity" of this norm (Homann, 2002: 131, 257, 259; transl. by authors). The right of stakeholders to have their claims taken seriously is thus practically denied in a specific way; their ethical-normative validity (legitimacy) is determined by the question of whether or not they are *enforceable* ("can be implemented"). Or in other words: this kind of (necessarily metaphysical) ethics without morals inevitably results in an *ethics of the right of the powerful*, irrespective of what more or less subtle kinds of power are at play.[60]

Also many rating agencies in the emerging field of so called "sustainable" or "socially responsible investment" (SRI) sometimes, or perhaps even predominantly, derive their analyses from a power-based understanding of stakeholders. For example, the Swiss private bank Sarasin, which can be considered a pioneer in the area of "sustainable investments", in its "social analysis" is interested first of all in "how a company manages its relationships to the stakeholders who are *decisive for its long-term financial success*."[61] From this perspective, the perceived positive correlation between "ethics" and profits is little sur-

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[59] This is the deeper meaning of Hayek's formula of "competition as a discovery procedure" (Hayek, 1978). Regarding its metaphysical background, see Thielemann (1996: 213ff.).

[60] Cf. also Thielemann (1999: 124), (2000a: 38, 47), (2000b: 9). Likewise, Scherer and Palazzo (2007: 1100) conclude that the „positivist" view on stakeholders amounts to "the morality of the mighty".

[61] www.sarasin.ch/internet/iech/index_iech/private_clients_iech/private_clients_sustainability_iech/private_clients_investment_process_iech.htm (transl. by authors; emphasis added).

prising, since it is nothing else then a self-fulfilling prophecy, that is, a petitio principii. Companies that only consider those stakeholder-claims that are "decisive for long-term financial success" are, quite evidently, eo ipso more successful than those companies that consider all stakeholders' claims according to their legitimacy. An assessment of the correlation between "ethical" and economic performance becomes entirely redundant under these circumstances, as "ethics" is defined through profitability from the start. Perhaps this may further explain why many empirical studies believe to provide evidence for a positive correlation between "ethics" and profits.

6. The concept of earned reputation

An ethics without morals, as it is implied by instrumentalism ("ethics pays in the long-run") and at least suggested by the "business case for ethics", does not provide an adequate basis for legitimate and responsible business conduct. If we think it out unconditionally at the level of post-conventional, formal ethics – and this is all a modern society has to offer, from a general perspective – this concept leads into the opposite of an ethics that deserves to be called ethics. It violates the categorical imperative, whose second formulation as the "practical imperative" might well be rephrased as follows: what counts is not power, but good reasons.[62]

From this perspective, it stands to reason to adopt an ethics *with* morals, to base business activity on integrity, and to recognize also practically the inevitable primacy of ethics, without which no activity is justifiable.[63] It is against this background that SustainAbility suggests drawing the necessary conclusions from the limits of the "business case" and thus "to acknowledge and accept the ultimate primacy of the 'moral case' over the business case." (Beloe et al., 2004: 38) The question is: what will happen to corporate profits when corporations or their responsible leaders, respectively, indeed start to take ethics seriously? What if management really means ethics when it speaks of ethics (or related notions) instead of secretly yielding at the bottom line? What if it indeed starts to

[62] The so-called "practical imperative" states: "So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means." (Kant, 1997: 38).

[63] In order to avoid a widespread misunderstanding: this does not imply the renunciation of one's own interests, but rather a general willingness to subordinate them to the requirement of legitimacy. The moral subject's own interests are always and systematically included in the notion of exigibility (see Ulrich, 2008: 139ff.).

take stakeholder claims seriously from an ethical point of view rather than a merely strategic one, based on the criterion of power? Would such a company not be eliminated from the market right away?

6.1 Stakeholders with ethical sensors

The answer to the above questions is: could be, but not necessarily! Integrity of management could even provide a basis for corporate success (but not for *maximizing* it, however). What we need to realize is that corporations – despite the economist vision of a disconnected economy – are still embedded in society; and society consists of citizens with a deeply rooted interest in the legitimacy and the justifiability of economic activity. It does not consist of homines oeconomici. These citizens have a sensitive feeling in regard to whether management follows through with its ethical promises or just pretends to do so (see Bowie, 1999: 132, 136f.; Lunau and Wettstein, 2004: 29, 142).

> "'Business ethics' is a term that has been devalued in recent years. This is because some companies have used ethical policies to further their own ends – ethics can be twisted to suit a company's own ends. As a result, customers are beginning to consider some corporate social responsibility (CSR) schemes and fair trade products as marketing ploys." (Chartered Institute of Marketing, 2004)

Ethical credibility (which is to be distinguished from factual or prospective acceptance) cannot be "managed", for example through strategic "public perception management".[64] Stakeholders do not expect management to be guided by their (more or less clear-cut) expectations, *but to run the business with integrity*. And if the spirit of integrity actually guides business – which in the concrete case is always debatable –, in other words, if management actually makes its conduct dependent on its legitimacy, then their stakeholders, that is, employees, customers and citizens, surely will not refuse to lend their support to such a company. The company managed with integrity will be rewarded with stakeholder-support, i.e., paying customers, motivated, even enthusiastic, and loyal employees.

Perhaps this is indeed what proponents of the "business case" and the widespread opinion that "ethics" pays in the long-run often refer to. Perhaps they just lack the proper terminology to clearly distinguish this view from instrumentalism. And perhaps much of what is regarded an expression of the "business

[64] The conjunction between management and ethics is reverse: It is not "management *of* ethics" (or "ethics management"), but management *from* ethics (or ethically based management).

case" could be interpreted differently, that is to say, as an expression of *earned* (instead of surreptitious) *reputation*. For example, a producer of rain and waste water facilities, whose social-ecological benefit is clearly given, might well be awarded with an "Ethics in Business" certification for its products and its whole business philosophy. If, as a consequence and as happened in a concrete example, the company "gets approached by interested customers" (Hübner-Weinhold, 2005) and these customers start to buy its products *because* they see them as an expression of a reasonable and well-reflected balance between conflicting claims that inevitably derive from business activity, then this economic success is evidently based on an ethically responsible foundation. Or if, as in the case of another nominated company, the award is used for job postings in order to express the company's commitment to responsible business conduct and as a result attracts employees who fully engage in and commit to the company, then this can be interpreted as an expression of ethically justified support, which quite obviously is also beneficial to the company's economic success.

6.2 Earned reputation vs. instrumentalism

What exactly is the difference between such a conception of earned reputation[65] and the earlier criticized instrumentalism? The difference is first and foremost that in the former conception companies, and of course also stakeholders, are interested in the ethical point of view itself. Companies managed with integrity conduct their business based on the motto that profits shall be pursued only with legitimate and ethically responsible means – *even though there would be opportunities to do otherwise, which would likely lead to higher profits*. Legitimacy is the condition for their business success and not the other way around, as promoted by instrumentalism, which makes "ethics" (i.e., respecting legitimate claims) dependent on profitability. In the conception of *earned reputation* there is an interconnection between "ethics" and profits as well; however, the causality is precisely the other way around (and holds only partially): the motto of instrumentalism is: "we operate responsibly as far as it pays off" (which denotes a contradictio in adjecto, of course), while the maxime underlying the concept of earned reputation is: "we are successful, because we operate responsibly". In other words: "We receive stakeholder-support, *because* we care about the ethical matter itself." In times of saturated markets, this stakeholder-support, deriving

[65] „Earned reputation" includes, and is based upon, „deserved reputation". It is "deserved reputation" that is actually obtained.

from true ethical commitment, might be of decisive importance in order to stand out from competitors.

This reversed causality between ethics and profits cannot be grasped in terms of a purely "objective" correlation between facts, however. We can only understand it (and critically distinguish it from instrumentalism) through a *change of perspectives*. Since we cannot measure ethics, but only critically evaluate whether or not the legitimacy of a specific business practice is justifiably claimed, we can only speak of a (partial) causality between "ethics" and profits if we adopt an ethical perspective of judgement (instead of a technical perspective of observation).[66] We cannot, with an attitude of intentio recta, denote ethics as an object "out there", but must switch to the reflective attitude of the intentio obliqua.[67] Hence, in order to be able to distinguish between deserved and undeserved reputation (that is, well-founded agreement from unjustified acceptance), we must presume the capacity of ethical judgment, that is, integrity in an uncompromised sense, for all involved parties, i.e. for management as well as stakeholders. And we cannot outsource this question to rating agencies.

Such a connection between "ethics" and profits does not denote a "paradox", as Josef Wieland or Norman E. Bowie believe.[68] Quite the contrary, it is the ethical foundation, that is the universalizable reason of business success: hence, to be successful, because of conducting business with integrity and as such to really deserve one's stakeholder-support. On the other hand, a company "paradoxically" switching and maneuvering between integrity and opportunism might likely be shown the "red card" by its stakeholders. Disappointed stake-

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[66] For the distinction between "observation" and "understanding" (which is to be related to judgment), see Habermas (2001: 12ff., 363ff., transl. by authors).

[67] The intentio recta denotes the "absent-minded attitude" of the "natural consciousness", "which is focused on objects and framed according to the model of looking at things out there." Intentio oblique, on the other hand, denotes the critical attitude of reflecting on our views (Böhler, 1984: 323f.; transl. by authors).

[68] See Wieland (1993: 25; transl. by authors): "In order for the economic effect [i.e., stakeholder-support] to occur, the moral dimension must be present as such (that is, not merely as a derivative of economic calculation)." See also Wieland (1999: 81). Norman E. Bowie (1999: 129f., 132ff.; 1988) too refers to a "paradox of profit", which, as he contends, maintains that "the more a business consciously seeks to obtain profits, the less likely they are to achieve them." (1988: 97) Hence, "only if business people are so motivated [by moral motives] will they reap the full advantages of morality." (1999: 131) Prudential motives and thus an "instrumental use of reason", on the other hand, might likely fail to lead to the intended enhancement of the bottom line; since "the public [or the stakeholders in general] often is more Kantian than Kant", it would, according to Bowie, be "counterproductive", "if managers truthfully announced that they were doing these good things in order to increase profits" (see 1999: 132f., 146).

holders will turn their backs to such a company rather than rewarding it with their support.[69]

6.3 A new ethical momentum

This conception is not to be interpreted as a new kind of harmonism. Even though integrity can build the foundation of successful business, this does not mean that ethics – understood as the epitome and entirety of legitimate and responsible business conduct – pays in the long or even in the short-run. The counter-arguments developed above, as for example the non-neutrality of profit-orientation, are not simply rendered invalid. That is why the harmony between ethics and success can only be a partial one.[70] In other words, there is only a corridor for economic success (in the sense of profits larger than zero) based on true business integrity. But it seems that we have hardly tapped its full potential yet.

In reality we can currently observe specific ethical momentum. At its core are substantial questions about legitimacy and responsibility of business policy – instead of merely opportunistic compliance with existing "expectations". The two big Swiss retailers Migros and Coop, for example, have entered a kind of "ethics competition" regarding whom of the two implemented stricter environmental and social standards. At times they even explicitly encourage their cus-

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[69] What Wieland (1993: 81, transl. by authors) calls a "moral-economic paradox" might rather be the difficulty (from a profitability-perspective) to avoid counter-productive effects. These derive from what Wieland promotes as "poly-linguality" of the company – that is, from the fact that the language used within management circles and for investors is different from the one used for the public –, e.g. if it becomes all too obvious that the company perceives "value-management" as a mere financial "success factor" (see Thielemann, 2003a: 305f.).

[70] As opposed to this insight and counter to his lengthy more differentiated elaborations and his hint to "moral conflicts" (which evidently are seen to exist only "in the short term"), Bowie (1999: 144 ff.) ultimately concludes that there is no contradiction between "maximization of profits" and recognition of legitimate claims of stakeholders. Granted that he rejects any "instrumental use of reason" or of "ethics" (135), but his argument implies that acting "from duty" does not result in different outcomes either – or at least only insofar as one is supposed to act (or to pretend to act?) "from duty" merely in order to "reap the full advantages of morality." Ultimately, Bowie "buys" his harmonism by declaring profit-generation or even profit-maximization without further ado a moral obligation and by rendering the recognition of stakeholder claims dependent on the circumstance that "those beneficent acts must be consistent with the obligation of managers to seek [and to maximize] profits." Morality, that is, integrity, is reduced to a mere side-effect of an economist conception, which (re-)defines legitimacy in terms of profitability. With the distinction between profit seeking and profit maximization, and a clear understanding of the difference between instrumentalism and earned reputation, such stopgaps and, even on Bowie's own accounts, such contradictory conclusions are quite unnecessary.

tomers to shop ethically responsibly – evidently, this is the only way to increase the share of according products and to stay ahead of the pack in the growing number of "sustainability ratings" out there.

This specific ethical momentum, which leads to a continuous "raising the bar",[71] seems to derive from the fact that it gets increasingly difficult for companies to circumvent the "unforced force of the better argument" (Habermas, 1993: 163). The more differentiated the public discourse about corporate responsibility becomes, the more difficult it gets for management to publicly comment (or even only to confront employees) on possible accusations in regard to more or less grave ethical mishaps; for corporate representatives it gets increasingly frightening to take part in public discussions, where they could be asked by moderators or the audience to defend corporate activities which in fact are indefensible.

At the same time this means that companies are increasingly drawn into ethical discourses. And at some point, to use one of Ludwig Wittgenstein's metaphors, the initially functionalist "spade" typically, though not always, tends to turn toward true integrity, that is, towards guidance through the ethical matter itself and as such toward the concept of earned reputation.[72] Risse (2000: 32) gives examples of "argumentative self-entrapment", where a process "starts as rhetorical action and strategic adaptation to external pressures but ends with argumentative behavior." (See also Scherer/Palazzo, 2007: 1111) The case of BP illustrates another type of example. The Petroleum giant admits in its latest sustainability report that its products are responsible for five percent of the world's carbon dioxide emissions, and presents, as a consequence, a holistic system of counter-measures in order to take a leading role in the search for solutions in regard to climate change (Bangart, 2006; BP, 2006: 40f.). This can hardly be interpreted plausibly as an expression of opportunistic adaptation to existing expectations – rather, it justifiably causes "raised eyebrows" within the public (even though there is, evidently, still a lot to criticize. Corporate watchdogs will, also in regard to BP, not run out of work in the near future). Referring to the distinction between "preferences" and "constraints", established in economic theory in order to explain behavior, corporate integrity, like in the examples given

[71] See the paradigmatic title of a book on the UN Global Compact: Fussler/Cramer/Vegt (2004).

[72] This metaphor was used by Ludwig Wittgenstein (1968: § 217) for establishing a mode of justification, which avoids sliding into an indefinite redress: "If I have exhausted the justifications I have reached bedrock, and my spade is turned."

above, can have two roots.[73] Beside the ethical insight in what constitutes a responsible business strategy and model (i.e., a change in "preferences") a change in corporate conduct (leaning towards more responsibility) might also stem from assessing (always uncertain) future economic success factors (i.e., constraints) and, concordantly, opting in favor of the more responsible possible business strategies. The future is always uncertain – and that is why we face the question on which of the possible scenarios to base our business strategies. Obviously, BP still wants to be an energy provider in 50 years from now – however, it wants to do so based on regenerative energy sources (the alternative would be to adopt a hit-and-run strategy: to exploit and market fossil fuels as aggressively as possible and invest the money elsewhere once the party is over. It seems to be open, which one of the two strategies will turn out as the more profitable one for the investors). This milder form, which focuses on the responsible assessment of constraints instead of ethically refining conduct and strategy directly, is an expression of business integrity too.

6.4 Limits of earned reputation – the necessity of a political framework

We are speaking of a *corridor* for earned reputation (rather than a complete coincidence between "ethics" and profits) because the relevant factors influencing corporate profits by far exceed the circle of morally motivated and responsibly acting stakeholders. This is not only due to a lack of critical awareness of the public, or the demands for this public awareness possibly being too high for the agents of civil society – for example, because the capital goods sector, as opposed to the consumer goods industry, is considerably less exposed to public scrutiny.[74] Rather, we need to look at the systemic (rather than lifeworldly) character of the (global) market and competition mechanisms, which expose the assumption that the (world) economy must be ethicized through the pressure of stakeholders as rather clumsy idealism. This holds even under the condition of

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[73] „Preferences", however, need to be conceived as *reasons* (or good arguments). Within the confines of so called "methodological individualism", i.e., the assumption of strictly privately (arbitrarily) determined ends, morally binding claims of justifiable behaviour appear to be without substance. See Thielemann (1996: 126ff.).

[74] This is one of the key insights of Naomi Klein's book "No Logo" (2002: 421ff.).

hypothetical inclusion of all actors, that is, even if management and investors all acted with integrity.[75]

Thus, the concept of earned reputation does not construe a new kind of "business case" – at least not an all-embracing one. Rejecting the promotion of a "business case" per se is inevitably connected to the insight that business ethics cannot be limited merely to "business" as such, i.e., the confines of a single corporation. Rather, integrity in business must be embedded in *regulatory ethics* (see Ulrich, 2008: 315ff). The systematic task of such regulatory ethics is to make sure that the responsible actor is not put under unreasonable pressure by the competitive process and thus ends up as the loser in the market game, or eventually get eliminated completely. *Moral bindingness,* resting on nothing but the ethical insights of actors directly, must therefore be complemented with *legal* [i.e., sanctioned] *bindingnesss*, that is, with the regulatory framework, determined in public-political deliberation. In a modern, highly complex society and economy, both forms of bindingness are indispensable and mutually support each other.

The above-mentioned report by SustainAbility, which advocates a "clearer understanding of the business case (*and its limits*)", emphasizes the "crucial roles that governments must play" in regard to ultimately "*create* a stronger business case" in those areas in which the public pressures of civil societies are not sufficient (Beloe et al., 2004: 8, 3; emphasis added; cf. also Paine, 2000. 326f). Also companies should participate in these attempts through living up to their *regulatory co-responsibility* (see Ulrich, 2008: 414ff), that is, their responsibility to advocate sanctioned rules which enable "competing with integrity" (DeGeorge, 1993). Such advocacy, not to be confused with lobbying, is not only in their *ethically* well-understood self-interest to find a way out of the problem of exigibility in the face of competitive pressures, but also emphasizes and reaffirms their willingness of taking ethics seriously. As such, it provides additional and significant opportunities for ethical exposure and thus for earning well-deserved reputation.

However, considering the opposition to initiatives like the UN Norms on Business and Human Rights by large business associations and even those companies that have voluntarily accepted the largely congruent principles of the UN Global Compact (Wettstein and Waddock, 2005), companies seem either not to really take their own ethical declarations seriously or there is simply still a lot of

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[75] On the question about the extent to which the market nexus is to be interpreted as a "system" or as "lifeworld" (Habermas), see Thielemann (1996: 20ff., 288ff.), (2000), and Ulrich (2008: 120ff.).

work to do in regard to the promotion of a more “enlightened” perspective on the problem. Only a combination of legitimizing pressures from civil society, resulting in according ethical initiatives and opportunities, and a (preferably slim) legally binding global regulatory framework, which is at least able to overcome the “prisoner’s dilemma” in regard to key aspects and issues, is able to create the momentum needed for a lasting „ethicization“ of the economy. However, we can only clear the way to this alternative by disengaging from the illusions created by the “business case” and by adopting a more differentiated perspective on the relation between “ethics” and profits.

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