The Role of Directors is No Longer a Tea and Biscuit Affair

Panelists-from-left-to-right,-Dr.-Uditha-Liyanage,-Mr.-Tanky-Wickremaratne,Challenger-Mr.-Lalith-De-Mel,-Dr.-Hans-Wijayasuriya,Mr.-Ajit-Gunewardena-and-and-Mr.-Naomal-Goonewardena

A power-packed panel consisting of Naomal Goonewardena; Partner, Nithya Partners, Ajit Gunewardena; Deputy Chairman, John Keells Holdings PLC, Dr Hans Wijesuriya; Director/CEO Dialog Telekom PLC, Tanky Wickremaratne; Former Chairman, Hayleys PLC, Dr Uditha Liyanage; Director, Post Graduate Institute of Management and ably led and challenged by Laith De Mel; Chairman Hemas Holdings shared their views, concerns and experiences on "Key Areas Reserved for the Board" with a full-house audience at the Cedar Room of the Cinnamon Grand at the 3rd module of the Corporate Stewardship and Board Governance programme conducted by the Sri Lanka Institute of Directors recently.

Setting the stage for the discussions to follow, Naomal Goonewardena remarked that primary objective of the Board is to act in the best interest of the Company and its shareholders whilst ensuring compliance with the Articles, Companies Act and other relevant legislation. The powers of the Board could not be delegated. In performing its role, the Board must not act recklessly or be negligent and this could only happen if the Board had adequate representation of the necessary skills and expertise. He added that there are very serious burdens cast on the board of Directors. Section 219 of the Companies Act obligates Directors to ensure that the company has means to pay its debts as and when they fall due. Failure in this respect may result in Directors being personally liable. The Board must also confirm the company's solvency prior to any form of distribution to its shareholders. These onerous accountabilities are resulting in companies finding it difficult to attract the right persons to serve on boards. He concluded that the "role" of a director is very serious. It is no longer a tea and biscuit engagement. You have to be competent in addition to being independent. In a conglomerate, for example, the Board has to be satisfied that the remuneration of Executive Directors is fair and reasonable. Interest Registers have to be maintained and appropriate disclosures have to be made. Given the aforesaid, there is, of late, reluctance on the part of eligible persons to take up directorship in companies, particularly companies in distress.

Mr.-Naomal-Goonewardena-explaining-a-point

Responding to Lalth De Mel's question whether there was over regulation, Hans Wijesuriya stated that Regulations bring to the Board the interests of a multitude of stakeholders, both inside and outside of the Board Room. Given the enormous amount of time spent by Boards on discussing compliance and conformance, there has emerged a situation where such debate and discussion could lead to identifying both opportunities and threats. All regulation had 2 dimensions; one being the sector specific regulation which was quite heavy in the Telco Industry Group and to his knowledge the Banking and Financial Services Industry; and two being those of a general nature as dictated by the Companies Act, SEC and CSE etc. Sector specific regulations from a strategic point of view are very important. Investments are very heavy in the Telco Industry. Regulations play a very important role in making such investment decisions and the question is not merely how it affects you today and from day to day, but how it will affect your tomorrow. It is important that regulation, once effected, must be followed by all… if not you allow the emergence of an un-level playing field. Given the "mountain" of regulations, Non Executive Directors are very often intimidated by them. When a new member is inducted there is invariably a period of learning. It is therefore important to have a mix and a blend of experience and new blood. This learning curve is a reality which we must live with. Ultimately… everything is common sense. We have to ensure that there exists non-discriminatory behaviour.

Lalith De Mel, who, throughout the evening, directed the discussions and presentations with insight and style, invited Uditha Liyanage to express his views. He said that the starting point of the responsibilities of a Board is to agree on strategy. He stated that there are 3 types of companies and therefore 3 types of Boards engaging in 3 levels of strategy. In Type 1; – the CEO working with departmental heads will present a set of numbers – budgets and plans for the ensuing years. The board will look at these numbers and those achieved last year and push for higher numbers. The CEO will be pushed to achieve a higher level of performance. Fortunately most companies have gone beyond this level.

Dr.-Uditha-Liyanage-in-action

Type 2 looks at the competitive scene. The frequent questions in such Boards are; what is our market share now? What are our relative strengths? What is our source of business? What is our competitive advantage? There will follow meaningful discussions on these issues and the numbers will be argued out and agreed. Type 2 Boards are more into planning as opposed to strategy. Where do we want to go and how do we get there? Type 3 Board is in to strategy, asking a very different question. What do you want to be? What is your identity? Take the recent Sri Lanka Tourist Board strategy. Who is Sri Lanka Tourism? X number from UK, Y number from another country. What are the activities, we require, to attract X number of tourists from so many destinations. After 6 to 7 months of deliberations consensus was reached on what SL tourism should be. Compactness of our comparative advantage, diversity, authenticity was the key propositions. What is our source of competitive advantage? Asia's diverse, authentic, (key proposition), compact island (source of Competitive advantage) … he said. Another example is Singer Sri Lanka – a number of years ago, it was a brand owner, a manufacturer of brands, but to day it is different. It is not a brand owner. It is a retailer of appliances. If you do not define who you are and who you want to be; - the planning process becomes meaningless and superfluous. Boards need to ask this question on a regular basis – who do we want to be? This is a fundamental question. The boards must know who their companies want to be. A key role that non executive directors, in particular, can also play, is bringing a perspective from the outside by posing "out of the box" challenges.

"Tanky, in your experience does the Board go top down or bottom up? Does the Board take a serious role in telling the company what the strategy should be or does the board encourage the company to create strategy?" asked Lalith De Mel from Tanky Wickramaratne. Responding to this question, Tanky Wickramaratne said that he had worked in one industry for 30 years or more, where strategy formulation had been bottom up. The Board did not get involved in strategizing. That was done by the management and then the Board would engage in discussion. Strategy got formulated as a dynamic process, but with limited engagement of the Board. The Board did not question whether it was the right way to go. However, he noted that it was essential that Boards understood the strategy and were in a position to critique it constructively. The management must be in constant touch with Boards apprising them of actual progress and advising them of course corrections where applicable. In his experience, the Boards did not question "is it the right way to go?" but regularly asked whether things were proceeding in accordance with plan. He stated that this is now changing. You require various enveloping processes to ensure that strategy is successfully implemented. The relationship between the Board and the Executive has to be collaborative.

Ajit Gunewardena stated that John Keels Holdings was a typical type 3 Company with the vision and mission being discussed and debated at the Group Executive Committee and Board levels. There was participation of senior executive staff…but implementation was bottom up. Further, the operating model was such that the input and participation, where applicable, of all levels of staff, whether it was in strategy formulation or in strategy implementation was secured in an effective manner. However, the final discussions and agreement occurred at the Board and GEC levels. Responding to the question "how resources are allocated in a conglomerate," Ajit stated that every company thinks it is the greatest and has potential for growth. In a conglomerate this gets quite complicated and issues become emotive. The typical questions we ask are; is the Industry growing? Can we sustain the growth? Some may not scale up from a portfolio perspective and will fall away even though they are good companies as stand alones. We don't only use just one criterion such as EVA when we evaluate our investments. We look at ROCE quite critically. We have hurdle rate for the group and for each business we add a risk quotient depending on the risks inherent in that business. We also look at ROE, Earning multiples etc. In the middle of a raging war it was a half closed hotel, and we paid USD60million out of a balance sheet which did not have USD60million. How do we project the future? We had to project it on the basis of a post war Sri Lanka and that we were acquiring a business at a seriously discounted price that would generate the returns at the right time. It requires serious imagination. The dilemma we faced was; "How would we get our shareholder's support" for such an investment. We had to convince them that it was a wise investment on the long term. We had to fund it with a share issue. Today we look back and look very wise. We could have, equally, looked very foolish. Sometimes you can't do everything with science and logic. You have to use your gut and take a view of the scenario in front of you.

Lalith De Mel commented that succession planning of very senior executives was another key role of the Board. He said that his experience included 7 years in the public sector where no one worried about succession planning. The question of a successor was not an issue because, in general, the hierarchy changed with the changes in government. This he noted was a very serious matter because it would invariably impact on performance due to a lack of continuity in particular. Adding to the discussion on succession planning, Uditha Liyanage said when you are the CEO, you have your own agenda. So the Board must take an active role in identifying a successor. The CEO will talk abut it, but will not be serious about it. The questions to answer are; what are the attributes that the leader you are looking for should have? and what attitudes and values should he possess? To do this, the Board must take a view of the key challenges that the company is likely to face in the next 10 years. We have to find the right fit with the right person. Tanky Wickremaratne noted that it was important for the Board to be familiar with the 2nd tier of management if the process of succession planning was to be effective. Hans Wijesuriya stated that it was important that the identified successor is not a carbon copy of the incumbent. The successor must have the capacity and capability to improve the status quo.

Discussions also took place on Risk Management, Evaluating various alternatives and trust between the executives and non executives. It was agreed that ethics was a non-comprisable ingredient.

All in all, this was a great evening, - made so by the skill of an able challenger in Lalith De Mel whose command of the subject was par excellence.

Going by the proceedings at this module, the next module of the programme, being, “Contemporary Issues faced by Modern Boards” scheduled to be held in the Ivy Room of the Cinnamon Grand on the 22 April 2010 is an event not to missed.