

Response of Andy Zelleke, Doctoral Research Fellow in Organizational Behavior Harvard University

I am a doctoral research fellow at Harvard University. My dissertation is an interview-based, comparative study of the British and American corporate governance models. I appreciate the invitation to submit comments in response to your Consultation Paper on the role of non-executive directors. The following are a few thoughts:

- The role of non-executive directors cannot, of course, be completely disentangled from the role of *executive* directors.
- My research interviews with about 40 FTSE 100 directors (mostly non-executives, but also some CEOs and executive chairmen) suggest that there are two very distinct perceptions of executive directors' contribution to corporate governance. For some, executive directors contribute substantially to governance by bringing badly needed information and company familiarity into the boardroom. For others, executive directors add nothing to governance *per se*; they are on the board because they want very badly to be on the board, and their board appointments function more or less as non-pecuniary compensation. Under the latter view, the same knowledge and information that non-executive directors bring to the table can be elicited by having them attend board meetings as *non*-directors, as is commonly done in American companies.
- From an American perspective, the British practice of having four or five executive directors on the board seems hard to reconcile with a governance/oversight conception of the board's primary role; how can a subordinate of the CEO's purport to oversee the CEO's stewardship of the firm? Of course, from a British perspective, the characteristic American practice of having a combined CEO/chairman raises a similar issue, perhaps even more starkly. In both cases, one (but only one) of the reasons that the practice persists is that boards believe they would be penalized in the market for executive talent if they deviated from the prevailing national model: British companies would lose out on the highest-caliber executives below the level of the CEO, who would take jobs where they *could* also sit on the board; and American companies would be unable to hire the top CEO candidates, who would go where they were getting the chairmanship as well.
- Your commission is in a position to substantially change this calculation for British boards. Recent history suggests that there will be a high compliance level (at least among FTSE 100 companies) with your commission's recommendations. If, for example, you were to recommend that boards consist of two-thirds or three-fourths non-executive members--going substantially beyond the executive/non-executive "balance" recommendation of the Hampel Commission, which had itself gone beyond what the Cadbury Commission had

recommended--it seems likely that many companies would comply. They would anticipate their peer companies' compliance, and a corresponding reduction in the market "penalty" they would otherwise have had to pay as pioneers in a market where top executives fully expect board seats to accompany important executive appointments.

- This begs the question, of course, as to whether a higher proportion of non-executives gives a company better governance. People looking for conclusive empirical evidence linking one governance structure or another to superior company performance are understandably disappointed. Nonetheless, the general consensus in the United States--reflected recently in the New York Stock Exchange's proposed listing requirements--is that more independence on boards is better. Independence does not solve the board's information problem; but few believe that having more executive directors on the board would solve this problem either.

- One of the most important favorable developments in American corporate governance over the past decade or so has been the acceptance of the view that the board's primary role is to monitor management and ensure its accountability. A large number of executive directors is simply seen as incompatible with that board role. Moreover, there is an emerging view that smaller boards (say, ten members) are likely to be more functional as small groups than large boards. Reducing the number of executive directors would permit the appointment of more non-executive directors without having to expand boards beyond a desirable point.