

# Arnold Bloch Leibler

## The different facets of corporate philanthropy within Australia

by Mark Leibler AO

For the forum 'Light the fire within philanthropy – realising the benefits' to the Young Presidents' Organisation Melbourne Chapter at the Cranlana Ballroom, Melbourne 7 August 2002

I begin by acknowledging the peoples, particularly the elders, of the Kulin Nation, the traditional owners of the land on which we stand.

There are many facets to corporate philanthropy within Australia, just as many reasons to give and a rich array of benefits that are available to be realised.

Let's start with commercial business enterprises. What obligations do they have to the community?

To answer this question necessitates making a fundamental distinction between family companies, with management closely linked to ownership, and other companies, particularly public companies, with their shareholders widely dispersed.

In the case of closely held family businesses, it is possible to appeal to the family to give generously to deserving community causes, and to do so without there necessarily being any connection between the business concerned and the causes which are the objects of the philanthropic giving. With such philanthropy the business enterprise becomes a conduit through which wealth can be transferred from the family to those charitable causes that family members consider to be deserving of benefaction.

With publicly held businesses it is quite different. The fundamental obligation of each and every public company is always to maximise returns to shareholders. That is axiomatic. But maximising returns is not necessarily limited to the size of the next dividend, or the financial measurement of the returns to shareholders that each and every philanthropic benefaction by a business enterprise will produce.

Today, there is a growing trend for substantial and successful public companies to be engaged in philanthropic giving. But this cannot simply be described as 'altruistic generosity'. If a public company's philanthropic initiatives are highly regarded by the community as making a positive contribution to society, then this will enhance the reputation of the company as a good corporate citizen which, in turn, will have a positive impact on its customers, its employees and its shareholders. In that sense, targeted philanthropy, particularly to social justice and environmental causes, will clearly maximise returns to shareholders.

And the benefits are mutually shared. An approach to a family business may solely be because the cause being canvassed is worthwhile and deserving of support. When approaching a public company, this is not enough. What must also be demonstrated is how support for the cause, how the discharge of a company's social and environmental responsibilities, can contribute to the way in which the company is perceived, to create a positive image which, in turn, will contribute to maximising shareholder returns.

Put another way, it is generally considered that the highest form of philanthropic giving occurs when a gift is made anonymously. I know that there are some families who initiate a major part of their giving in this way, without seeking any public acknowledgement or credit. But anonymous giving could hardly be justified by public companies, because if no one knows about the gift it is very difficult to see how it can ultimately contribute to shareholder wealth.

The best articulation of the role of philanthropy in the context of the public company that I have come across was in a recent interview with Michael Chaney, the very successful CEO of Wesfarmers, who said the following:

*"There are a lot of companies that say philanthropy has no place – but philanthropy to me differs little from sponsorship or advertising. It enables you to demonstrate that you are a good corporate citizen, you are willing to put something back into the community where there is no profit motive, and that causes the community to support you... I think it gives you a higher price earnings ratio as a result".*

But corporate philanthropy is not just limited to family and public companies. Of course it must, and in many cases does, extend to the professions.

Law firms and various other professional service providers are often now providing services free or at vastly reduced prices in matters that meet certain public interest criteria.

Here, a primary motivation to do public interest work is a desire to give back to a society in which professionals hold an esteemed place. That privilege should never be forgotten and it should never be abused.

Many professions are finally recognising that the brightest and the best young graduates will choose those firms or companies with a commitment to more than just making money.

Young professionals are demanding that their employers commit to the social justice and environmental bottom lines to the same extent as profit making. Increasing numbers of businesses recognise the importance of meeting these aspirations, and in doing so, have discovered another effect – older employees say public interest work has helped renew interest and enthusiasm in their careers, even when they themselves are not directly involved in the work at hand.

Any such philanthropic contribution, however large or small, should:

- be focussed;
- be built to take advantage of the organisation's historical, cultural and geographical context;
- be based on a sophisticated strategy that has the support of the organisation's leaders; and
- apply the organisation's expertise in new and challenging areas in the public interest, where and when it is most needed, with genuine empathy for and commitment to the client and the cause.

May I offer up Arnold Bloch Leibler's public interest law practice as but one example of an organisation of professional service providers taking a principled approach to corporate philanthropy. By so doing, I am not aiming to trumpet our approach as better than any other. Rather, I aim to impress upon you what I believe are some of the keys to successful corporate philanthropy.

At Arnold Bloch Leibler we like to think that our without fee and not for profit legal service contributions in the public interest are innovative, dynamic and interactive.

We take what we are best at in our private commercial practice and apply it for the benefit of others in the community. We recognise the mixed motives behind public interest law work. We do not patronise. And we avoid paternalism.

Our public interest law clients range from native title claimants, like the Yorta Yorta peoples of the mid-Murray region of Northern Victoria and southern New South Wales, for whom we have had the privilege of working with for over nine years, and indigenous performance groups, like the Neminuwarlin dancers of the East Kimberley who are set to take the forthcoming Melbourne International Festival for the Arts by storm, to various environmental and cultural organisations.

Always a strong supporter of Jewish charitable organisations, philanthropy is a core part of our long standing Melbourne based but recently expanded to Sydney practice.

Melbourne is Australia's philanthropic centre. This is undoubtedly due to Melbourne's unique blend of cultures, each with their own set of adaptive philanthropic practices.

I like to think that the Jewish community brought a specific philanthropic tradition to Melbourne. Melbourne's Jewish community has drawn from its long, rich tradition of giving and has put it into practice in the modern Australian context.

Because Jews are acutely aware of the injustices that have befallen their forebears and continue to affect their fellows, both Jewish and non-Jewish, the strong philanthropic streak in us demands that any injustice suffered must be overcome. Hence, a significant part of Arnold Bloch Leibler's pro bono practice is directed at assisting the causes of the minority, the oppressed and the ignored. This is why our long, strong and proud association with indigenous causes is no co-incidence.

I recently described elsewhere how Noel Pearson spoke at our 'in house' retreat in April this year on the connections between the Jewish and Aboriginal struggles for land justice. In a powerful speech, Noel identified three valuable lessons learned from his interaction with the Jewish community in his time with us at Arnold Bloch Leibler. They are worth repeating here:

- a strong community does not hinder individual pursuit. Rather, the community is a source of strength to the individual;
- the necessity of engaging in the western world to achieve cutting edge, bi-cultural success, whilst maintaining tradition and a land-based identity, notwithstanding persecution and non-recognition; and
- never forget, but always defend, the truths of history.

Without ever assuming, not even for a moment, that we can fully appreciate the sense of trauma and injustice that continue to be felt keenly and justifiably by Australia's first peoples, we are attempting to assist the indigenous struggle for land justice, where we can and when requested to, by applying to it our expertise, and with real empathy. And so many other corporates represented here tonight are doing the same.

But I am not standing here before you merely making a pitch for corporate philanthropic support of the indigenous struggle for land justice, or the reconciliation cause, however tempted I am to do so personally and as a director of Reconciliation Australia, and however central these challenges are to the future health of this country. You will be your own best judges of the recipients for your philanthropy. I hope that I have confirmed for you some ideas on how to create the sparks to "light the fire within" that must surely be lit by each and every Australian business, however large or small, whether public or private, to continue fuelling the important work of corporate philanthropy.

Thank you.

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*This publication is intended to provide a general outline and is not intended to be a complete or definitive statement of the law on the subject matter covered. Further professional advice should be sought before any action is taken in relation to the matters described in this publication.*

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