A matter of trust: Aligning public, corporate and regulator expectations

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CHECK AGAINST DELIVERY

Introduction

Thank you for inviting me to speak at your Forum today.

It is of course timely to be asking ourselves questions about trust. And equally timely to wonder whether the expectations of trust from different players in the financial services system can be aligned.

I hope to explore with you this afternoon how we can view trust from different perspectives, and look at how to lift confidence in financial services.

The role of trust

The theme for this year's ASIC Forum was 'Maintaining trust'. In his opening address at the Forum, ASIC's Chair, James Shipton, shared that trust between people is a relationship built between them. He said:

> We need confidence that the people in banking, insurance and funds management will keep their promises, act in our interests and live up to community expectations. We also need to trust that directors, auditors, mortgage brokers and financial planners will do their jobs with competence and honesty.

Trustworthy relationships are predictable in their nature. You expect your doctor to be looking after your interests at every visit. Certain things about your relationship with your doctor are givens – that your information will be managed confidentially and privately, your symptoms will be assessed competently and carefully, and your doctor will behave ethically.

You would have no reason to expect your bank, financial adviser, broker, or the director of a company to behave with lesser standards.

Using a framework of trust developed by the CFA Institute, James Shipton noted that rebuilding trust must be done by establishing that people in finance are trustworthy, which is demonstrated through their levels of *competence*, their level of *care* and their *ethics*.

Community expectations

Now, I want to remind you that the finance industry performs a fundamental role for our community. People rely on the industry's products and services, and their financial wellbeing hinges on them. Trust is a crucial element of a well-functioning financial system. The global financial crisis showed just how quickly the gears of the financial system can seize up and stop working when trust is lost.

As you are aware, every cent in the financial system is other people's money and financial services companies and their staff are custodians of that money. And although financial relationships are becoming increasingly digitalised, behind each digital transaction lies the expectations of a real person.

From a consumer perspective, finance by its nature is complex to understand. Adults today need to make more financial decisions than previous generations. Add to this that financial products and services involve sometimes very large sums of money, products are perhaps purchased infrequently, and the final value of these products may not be realised for a long time after purchase.

The financial ecosystem is complex – complex in nature and complex for users to navigate. To use this system to their benefit, to achieve their financial goals, people need to trust in it.

I think that there would be little argument between us here today that in the public's mind, the words 'trust' and 'financial services' do not currently sit easily together. Indeed, the Royal Commission will assess whether conduct, practices, behaviour or business activities by financial services entities have fallen 'below community standards and expectations'.

The Murray Report into the Financial System also helped to explain what is meant by community standards and expectations. The Murray Inquiry said that the purpose of the financial system is 'to facilitate sustainable growth in the economy by meeting the financial needs of its users', requiring it to operate in a manner that is efficient, resilient and fair.

It concluded that fundamental to fair treatment is the concept that financial products and services should perform in the way that consumers expect or are led to believe.

While the assessment of whether community standards and expectations have been met is still being explored by the Royal Commission, you can argue that community expectations are really about people believing that they will receive what you say you will deliver.

Listening to your customers

It is clear that there is a need for companies to look beyond the Net Promoter Score measure used to understand customer satisfaction.

Last December I had the pleasure of launching *Managing Culture: A good practice guide*, the guide released by the Institute of Internal Auditors and its collaborators. In my speech at the launch, I encouraged businesses to seek out stakeholders such as customers, suppliers, and regulators, and to look for evidence – both good and poor examples – of how the company's culture plays out in the delivery of their products and services.

Although there are clues to the expectations of your customers and community in every interaction with them, looking for evidence of how your values are playing out will confirm if you are trusted, if you are seen to be *competent*, if you have sufficient level of *care* and if outcomes are consistent with the *ethics* you say you have.

In the 2018 Deloitte Global Human Capital Trends report,[1] Deloitte states that:

> Organisations today are increasingly judged on the basis of their relationships with their workers, their customers and their communities, as well as their impact on society at large – transforming them from <u>business</u> enterprises to <u>social</u> enterprises.

and:

> Today, successful businesses must incorporate external trends, perspectives, and voices by maintaining positive relationships, not just with customers and employees but also with local communities, regulators and a variety of other stakeholders.

The messages received through these channels are clearly a key to harnessing future business success.

And in considering these inputs, I found it interesting that Deloitte posed a question for organisations to consider in these times of change: 'When we look in the mirror held up by society, do we like what we see?'

Operational insight

Asking this sort of question about your business is a way of checking your performance against what your customers would expect of you, and is a tool to stop complacency creeping in.

[1] Deloitte Insights, *The rise of the social enterprise*, Deloitte Global Human Capital Trends, 2018.

Interestingly, APRA's recent prudential inquiry into the Commonwealth Bank of Australia (CBA) highlighted what the inquiry panel called 'chronic ease', a tendency toward complacency and reactivity.

The inquiry panel drew a link to the deep and long-lasting work undertaken by other industries as they evolved their approach to risk culture. This involved developing a sense of 'chronic unease' in their businesses to positively drive all levels of staff to continuously look out for risks and ways to improve the business.

I would argue the need to have a sense of unease is applicable to the broader business of a firm, not just risk management. It is necessary to keep alert to all aspects of how business is done, and how business outcomes meet, or fail to meet, the corporate values that your organisation says it cares about. Being uneasy keeps you on your toes, keeps you asking pertinent, and possibly difficult, questions.

The APRA inquiry panel also described how, eventually, after doing much work, these more evolved industries began to focus on the bigger topic of 'do I care?', taking on a perspective that has a moral dimension.

Ask yourselves where your business lies on that spectrum of evolution towards being a business that builds a strong ethical perspective into your DNA:

- Is an ethical perspective considered during product development and service delivery, in the processes and policies you design, in your remuneration and reward structures?
- Do you have an ethical framework in place that helps your staff make the right decisions when there are important choices to be made?
- Do you hear conversations about the ethics of doing business in a particular way?
- Can you confidently say, 'we lived our corporate values in that transaction'?

What does your business really value?

I think leaders in business should be looking for signals that show how you support competence, care and ethical decision making.

One way to check this is by asking:

- What are the activities that get actioned and resourced?
- What are the behaviours that get rewarded (financially and non-financially)?
- As a business, what do you spend your time on; what problems do you and don't you choose to fix?
- How promptly do you remediate when things go wrong?

The decisions and actions your business makes about resources and funding indicates to me what your business values are, and what your business really cares about.

Do these decisions and actions really match the corporate values you have on your website, in your code of conduct, in your TV commercials, on your business cards?

Do you like what you see?

Building trust

Building trust through responsiveness

Being responsive to problems that arise in your business is key to building trust with your stakeholders, whether these be customers, suppliers, regulators or the broader community.

Actively looking for problems such as through internal audit is an activity that can pay big dividends, in terms of learning, spotting new opportunities and protecting your reputation. This takes time and resources to do well, but auditors are well placed in an organisation as independent and objective observers and inquirers, able to take a perspective across business units and the whole enterprise.

Problems and mistakes provide an opportunity for firms to learn and improve. Some questions to consider include:

- How are problems and mistakes managed and monitored?
- How does your company support staff to raise issues that they identify as part of their day-to-day work? In our regulatory work, we have observed firms ignoring concerns and issues raised by staff or whistleblowers, meaning that issues or concerns are not addressed promptly. This can lead to further breaches or cause customer losses to increase.
- Does your company monitor and analyse customer complaints to identify systemic issues?
- How does your company handle compensation and remediation: is ensuring that customers are remediated quickly a priority?

These questions are important to consider because how a company responds to problems is a strong indicator for external stakeholders of how trustworthy the organisation is.

Professionalism and raising standards

You may have heard of ASIC's call for a need for greater professionalism in the finance industry. Professionalism goes to competence, and a standard of performance you agree to meet. Professionalism is equally expected of participants in both the financial system and its regulators.

Raising standards of professionalism and competence will require commitment right across the financial services sector, to ensure improvements in the functioning of the financial system. We encourage the industry to work with standard setting and professional bodies to lift competence and standards.

Codes of conduct can also go to competence and professionalism. Codes provide a degree of transparency to the public and are part of the contract that is made with consumers of products and services.

But their effectiveness depends on the capacity and commitment of the sector to perhaps move to the right outcome.

Codes of conduct can support trust by:

- raising individual standards of performance, and
- providing certainty for consumers about the conditions under which financial products and services are provided.

Strengthening the organisation/regulator relationship

Relationships

So, turning our minds to the relationship between the regulated and the regulator in our financial system …

This was the topic of a presentation by Professor Christopher Hodges from Oxford University at this year's ASIC Forum.

Professor Hodges' starting premise is that the culture in organisations needs to be *ethical* to meet the expectations of all stakeholders. He shared his Ethical Business Practice model that can guide organisations in this quest.

Professor Hodges spoke to the need for an *engaged relationship* between the regulated and the regulator. This relationship is dependent upon organisations providing evidence that they can be trusted. Once again, we might turn back to the notion of organisations demonstrating evidence of competence, level of care and ethics.

In our recent statement to the Royal Commission, ASIC noted that much of the time, large-scale financial services entities engage constructively with ASIC to ensure compliance with the law. However, we also provided examples of where engagement isn't constructive and consistent. This includes finding that large-scale financial entities too often take overly technical legal points, or fail to make timely breach reports, or fail to constructively respond to notices for the production of documents.

ASIC does consider how a company engages with us. Is the firm transparent and open, taking a 'no surprises' approach? Boards and senior leadership within firms should take responsibility for ensuring that a culture of disclosure and open communication with regulators is a norm within their organisation.

Well-run companies should welcome strong and effective supervision – as the regulators in the system play their part they can provide another channel of information to companies and boards, a unique view from the outside.

Directors and auditors

The financial ecosystem is, of course, always changing.

We continue to encourage directors and governance professionals to focus on the fundamentals of corporate governance – integrity, transparency, accountability and acting for a proper purpose.

Monitoring culture may be a challenging ask for those who are not fully involved in the daily operations of a company.

However, at the heart of the responsibility at the top is the need to know, the need to understand, the need to check and change course if necessary, all with an eye on the customer and their needs.

The APRA prudential report into CBA demonstrates the complexity of governance tasks in a large enterprise.

Just one of the recommendations in the report I'll mention here is the need for key governance roles to have the necessary independence to provide effective challenge to the business. Effective challenge is a cornerstone of good practice.

I recommend the APRA report to you – it is clearly very compelling reading for any company board in any industry.

I want to highlight the importance of strong internal audit in developing a healthy corporate culture.

The APRA report noted CBA's 'internal audit function discovered many of the most serious conduct and compliance issues faced by CBA'. Unfortunately, that report went on to note how 'levels of senior oversight contributed to a lack of urgency in closing these issues'.

On ASIC's radar

A final point about ASIC's challenges.

In ASIC's Corporate Plan we have detailed what we see to be our five long-term challenges. The first-mentioned challenge is aligning conduct in a market-based system with investor and consumer trust and confidence.

Within this challenge we have noted some factors that we believe are affecting the quality of financial advice and financial reporting, audit and insolvency practices. These include areas we have covered today:

- gatekeeper competence
- professionalism
- independence, and
- ethical standards.

Conclusion: Future challenges and opportunities we face

We know that the regulatory system is not just supported by formal rules, but norms, industry practices and community expectations. We need to ask not just if something is legally permissible but also whether it's the 'right thing to do'.

Does the mirror you hold up to your performance show you doing the right thing by your customers, by the community?

There will need to be a lot of hard work on the part of the financial services sector and regulators to regain trust and there must be courage to do something differently to stem the tide of distrust.

As a regulator, we often hear the argument that moving first puts an organisation at a disadvantage, while other non-movers continue to benefit from their existing business model or position.

However, if this position is causing people to lose trust in the business or the financial sector, it's ultimately an unsustainable position for everyone concerned. Stakeholders in the system need to work together to overcome these barriers.

For our part, we will continue to encourage firms to shine the light on their own culture and see if it is sufficiently fit for purpose and customer-centric at its heart. Firm reputation, trust and brand loyalty are vital to long-term business success.

Lastly, on a practical note, may I recommend one final resource to you if you haven't read it – *Managing Culture: A good practice guide*, the guide released by the Institute of Internal Auditors and its collaborators. The guide explores the foundational elements of a sound risk culture and is a vital resource for practitioners.