Those Who Live in Glass Houses

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The front cover of the 2008 annual report of Swiss listed Swatch, controlled by the founding Hayek family, displayed the following message.

This level of emotive, raw, honest, and public expression from a respected long-term quality listed business is exceedingly rare, and it made me wonder – what could have upset them so much that they would resort to this? Would this have simply been rubber-stamped by their public relations, legal, and compliance departments at the time? I doubt.

I can name one example of the sort of thing that has the potential to boil the blood of business founders, entrepreneurs, and executives: Annual General Meeting Attendance and Proxy Voting .

As with many things in life -a solid concept at the outset can eventually turn into a nightmare. When limited liability companies and stock markets were invented, over a hundred years ago, some or other genius decided that it would be a great governance idea for every company to be forced to have an annual gathering of its owners, and to also offer them an opportunity to vote democratically on a number of strategically important business matters. [*This was clearly long before the phrase was coined that the best argument against democracy is a 5-minute conversation with the average voter!*]

The problem started developing from about 1975, when the average holding periods of listed stocks started plummeting, from over 5 *years* to the present day reality - less than 6 *months*.

This is the *average*, implying there are many market participants who own stocks for a lot less than 6 months. We learnt in November in New York that the latest industry fashion is something called 'zero-day options', which enables traders to hedge their portfolio positions while they are in meetings or go out on their lunch breaks.

The real issue today is that the rules have not been adapted to the reality that people who own stocks for a lot less than 5 years or 6 months are not in fact acting as owners, nor investors even, but rather as gamblers. My question is, should gamblers really be entitled to attend an AGM, ask short-term oriented questions, challenge the strategies of serious long-term intentioned business leaders, and vote proxies intended for owners? Should there not perhaps be some sort of test of ownership behaviour? After all, to the best of my knowledge every democracy in the world has a minimum voting age. The implication is clear – people must first earn the right to vote by at least reaching a certain age. Granted, that is unfortunately not an exceedingly high bar for citizens, but at least there is *something*.

The typical list of proxies we come across consist of several strategic business matters with far-reaching long-term consequences and real world impact. The appointment of directors. The approval of executive compensation. The approval of financial statements. The appointment of auditors. Changes to the memorandum of incorporation (the constitution if you will).

These strategically important business matters were all intended for responsible company owners to carefully evaluate on merit and vote on, who could be relied upon to vote mindfully knowing that they will also directly experience the positive or negative outcomes of their own decisions down the line. Somehow, this design and noble intention has collapsed into a farce of sorts whereby the powerful people who sit atop the pyramids of massive pools of global capital have outsourced their proxy voting responsibility to third party advisors that have no skin in the game as owners nor any real understanding of how a business actually works. It gets crazy when same said powerful people start writing public letters addressed to, I kid you not, 'every CEO and board member in the world'. This has, over time, understandably resulted in heightened levels of distrust between company executives and shareholders. Fortunately, we do come across plenty of company executives who can still think for themselves, discern between gamblers and owners in their shareholder base, and choose to act accordingly.

One logical and simple remedy might be for the authorities to change the rules so that only market participants who can clearly evidence their acting as true owners can attend AGM's and vote proxies. Talk about chucking the cat in amongst the pigeons though.

Our work continues...

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