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USE OF TECHNOLOGY & INNOVATION IN STRENGTHENING GOVERNANCE AND REGULATION

HOW DO WE BECOME SMART REGULATORS

ROLES OF THE HEALTH REGULATOR, REGULATORY AUTONOMY, LAW & GOVERNANCE

INTRODUCTION

- We live in the world where the only thing that is constant is change.
- Even change has changed. Change used to be gradual but change is now rapid and exponential
- Cutting-edge technologies are eliminating jobs and entire industries are being wiped out.



INTRODUCTION CONT...

- Machines have become employable.
- However, it is not all gloom as new opportunities and tools have emerged to make it possible for individuals to create themselves, create art, and change the world.
- There may not be as many jobs as there used to be , but there may be more opportunities arising out of the ashes of the broken system to generate meaningful success.



INTRODUCTION CONT...

- It is however true that companies that do not disrupt themselves become outpaced.
- Every single business and industry is being disrupted by the emerging technologies such as Artificial Intelligence, Drones, 3D Printing, Virtual Reality, Blockchain, Internet of Things, Augmented Reality, Big Data, and many more.



GOVERNANCE , LAW, REGULATION AND REGULATORY AUTONOMY DEFINED

- Good corporate governance is not just another term used in business but is a culture that needs to be adopted by all individuals within the organisations and a culture that is set at the top .
- Failure by the governing body to adopt an ethical culture will result in major destruction for such entities which will lead to their downfall (Steinhoff, KPMG, Eskom)



GOVERNANCE , LAW, REGULATION AND REGULATORY AUTONOMY DEFINED

- Governance is intrinsically linked to performance and is concerned with how organisations are led and directed.
- It is pertinently concerned with power and decision making in the organisation, ensuring that power is not abused but shared and that decisions are made by the right people at the right levels
- It relates to the transparent and ethical way by which leaders attempt to achieve the objectives of the organisation and how they are held accountable for their actions and omissions.



WHY IS CORPORATE GOVERNANCE IMPORTANT?

- Organisations are set up to achieve a specific mandate and as such organisations should be governed in a way that moves them towards achieving their mandate/ strategic objectives
- It is entirely dependent on members of the governing body to set a strategic direction and exercise oversight on the implementation of that strategy.
- The governing body in execution of this function has to display ethical leadership premised on good corporate governance practices.



AGENCY THEORY

- The juristic person on its own is incapable of acting and discharging its objectives and functions and therefore needs natural persons to act on its behalf.
- The creators of the organisation, therefore, engage the directors, as professional managers, to operate the organisation on their behalf. This is what is known as the “agency theory”. The principal hires an agent to perform a task on its behalf.



CONFLICT OF INTERESTS

Generally fiduciary duties require those tasked with governance function by virtue of serving as a governing body, to act in good faith, for proper purpose and in the best interest of the organization. This is because they stand in a relationship of trust (a fiduciary relationship) with the organization, and a member will break this relationship of trust if he /she acts in his /her best interest to the detriment of the organization.



CONFLICT OF INTERESTS CONT...

The fiduciary duties include various sub - duties such as:

- i. A duty not to exceed powers: this duty is breached if members act outside their authority whether contained in the act, the charter or any other authority conferring document;
- ii. A duty to exercise their powers for a proper purpose: an example would be if the members used the organisation's resources for own benefits;
- iii. A duty to maintain an unfettered discretion: This appeals to the duty to act objectively, independently and without interference;
- iv. A duty not to compete with the organization : This will include avoidance of tendering for the same work with the organization avoidance of conflict between the organization and the member's personal and/or financial interest.



STANDARD OF BEHAVIOUR

- Council is a collection of individuals, each with his or her own views, interests, and concerns. Some individuals on the Council, notably the CEO and the President, carry more influence than others. A central issue in corporate governance is, therefore, the balance of power and influence between individuals on the governance structure. In a well-governed organisation, there should be checks and balances that prevent one individual or group of individuals from dominating the governing body and its decisions.
- In a badly governed organisation, there will be an opportunity for autocratic leadership, where the board is opinionated by one individual. While the particular individual might be enlightened and manage the organisation well, there is also a risk that under a dominant individual, an organisation might be used in the self-interest of that individual.



REGULATORY AUTHORITY/ AGENCY DEFINED

- Governmental or quasi- governmental bodies that establish, monitor and enforce laws within their area of responsibility.
- These have quasi-legislative functions, executive functions and judicial functions
- The limits of their powers are established by legislature and the scope of their responsibility is their jurisdiction



THE PRIMARY PURPOSE OF A REGULATOR

- Regulatory bodies exist to ensure that individuals and public at large are not subject to unreasonable risk created by a lack of independent knowledge.
- Regulations help give the public confidence that an individual or business has met the minimum standards
- They use the rule making process to establish uniform policies .



STRATEGY AND INFORMATION TECHNOLOGY GOVERNANCE

- Members of the governing body are tasked with setting of strategy, policy setting and oversight, whilst management deals with operational tasks of implementation of strategy.
- In exercising their duty of care directors (councilors) should ensure prudent and reasonable steps have been taken in regard to IT governance.



STRATEGY AND INFORMATION TECHNOLOGY GOVERNANCE

- In South Africa King IV report, Principle 12 states that the Board should govern technology and information in a way that supports the company setting and its strategic objectives.
- Accordingly, when developing the company's strategy, the Board must have cognizance of its Technological and Information requirements and Governance and set a direction for how these matters should be approached.



STRATEGY AND INFORMATION TECHNOLOGY GOVERNANCE CONT...

- The pervasiveness of information technology in business today mandates the governance of IT as a corporate imperative.
- IT has become an integral part of organizations and is fundamental to support, sustain and grow the business.
- It goes without saying that IT has permeated the health space as well.

The application of machine learning (ML) algorithms and other cognitive technologies in the medical setting to improve patient experience including diagnosis, treatment and outcomes (AI Healthcare) has become the order of the day.

- Telehealth is a fast-growing practice .



- While the governing body is tasked with strategy and foresight management should be responsible for:
- Implementation and execution of an effective technology and information management strategy, which should include:
 - a) Integrating people, Technologies, Information and Processes across the organization.
 - b) Integrating Technology and Information risk.
 - c) Business Resilience.
 - d) Proactively monitoring Information to identify and respond to incidents.
 - e) Managing the performance of outsourced service providers.
 - f) Assessing significant investments in the Technology and information.



THE MANAGEMENT OF INFORMATION IS IMPERATIVE AND INCLUDES:

- i. Sustaining and enhancing the organization's intellectual capital.
- ii. Supporting the confidentiality, integrity and availability of information.
- iii. Protecting the privacy of personal information and
- iv. Monitoring security of information.



MANAGEMENT OF TECHNOLOGY ON THE OTHER HAND INCLUDES:

- i. Ensuring the organization's technology architecture enables the achievement of strategic and operational objectives.
- ii. Managing risks pertaining to security of technology.
- iii. Monitoring and responding appropriately to developments in technology.



CONCLUSION

- Organizations that do not disrupt themselves will be disrupted and will lose the competitive edge.
- Governing bodies are responsible for strategic inclusive of IT governance strategy.
- There is never a perfect time, the time is now.



dankie
enkosi
thank you
ngiyabonga
ke a leboha haholo
ndo livhuwa
ndza nkhenisa

