

**THE EVOLVING ROLE OF ‘GOOD GOVERNANCE’ IN UNIVERSITY PROGRAMME
MARKETING SINCE SARBANES-OXLEY 2002**

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ABSTRACT

All universities are in business because they must attract students to survive. Although some prefer publicly to minimise the business aspects of education, others are untroubled by the association. A sudden arrival on the agendas of all universities was the business-focused Sarbanes-Oxley (SOX) Act in the United States in 2002. The educational purist and the worldly pragmatist alike had to look at this cuckoo-in-the-nest and work out what to do with a United States (U.S.) Act of Congress that was never intended for not-for-profit enterprises worldwide. Could “good governance,” as defined by this business-related Act, be an external marketing issue for universities?

CONTEXT

So, what has been the effect of the SOX (2002) on the university-public interface internationally? What are the issues and in what ways might universities everywhere react and adapt? External observers like John Mattie (2004), were swift to comment on the financial and regulatory aspects of SOX as it could be applied to universities, but the observer comments were confined to management structures and accounting procedures rather than broadened to the interface between universities and students. In investigating this wider context, two main areas of concern arose in verifying the linkage between SOX and the marketing of universities. First, did academia recognize the evidence for the relevance of SOX to its domain? Second, what were the key elements of SOX that were causing concern? Once the extent of this concern had been established, a resulting model could be overlaid on the widely-used system in which universities consider themselves to have three broad categories of marketing audience: internal, external, and “the wider community.” The researcher determined that, by looking at a range of marketing communications as they apply to different pre-SOX and post-SOX audiences, the effects of the SOX would become clearer. This research, in turn, would lead to a model that could be used for planning university marketing communications strategies.

EARLY UNIVERSITY REACTIONS

Evidence that academic bodies recognised SOX (2002) as an issue was plentiful. Early reactions to SOX in the U.S. were swift and included guidance notes issued by the influential U.S. National Association of College and University Business Officers (NACUBO) in 2003. Some

universities went so far as to publish their own position vis-à-vis both SOX and NACUBO (Purdue University, 2003). In the U.K., in anticipation of the SOX, the University of Cambridge published its consultation paper on governance reform, which showed that the effects were not confined to the U.S. (Cambridge University, 2002). Any action by a single university is likely to affect other institutions through the demands that are made on accrediting bodies, external examiners, and employment contracts (many academics work in more than one institution). Positions for or against SOX approaches could not remain internal and the effects began to be seen in public communications from universities themselves and also in guidelines from external academic bodies. For example, the U.K.'s Higher Education Funding Council for England (HEFCE) suggested that for efficiency and effectiveness, university governing bodies should be "of no more than 25 members" (Higher Education Funding Council for England, Point 9, p. 16). This was in stark contrast to the practice in some institutions (e.g., Oxford University) where the entire congregation of 1,700 academics is entitled to vote on key issues, although it is rarely called upon to so vote (Oxford University, 2006). The tensions that can arise when it is called to vote have been closely followed in newspapers (cf. Macleod, 2006).

KEY DIFFICULTIES

Three key sections of the SOX (2002) requirements ensured that, even while SOX was being debated as a high-level, mostly internal, governance issue for universities, some aspects would spill over into the operational levels and into the public (market) domain.

The first of these concerned the accountability for financial reporting in academic institutions where membership of the governing council was usually drawn from academic, rather than purely managerial ranks. Were the council members now supposed to comply with Section 302 and be capable of certifying the accuracy of financial reports? Cambridge, then recovering from the costly CAPSA information system mistakes (Finkelstein & Shattock, 2001), certainly anticipated this (Cambridge University, 2002).

Second, under Section 404 of SOX (2002), financial reports must assess the quality of the management of internal controls; however, in academic institutions, could one satisfactorily separate the financial and the academic to enable this to take place? In 2002, credit transfer (Excelsior College) and nonresearch institutions (e.g., Phoenix) had less of a problem with this division than did more traditional establishments; however, because higher education has evolved rapidly in the last 5 years with newer institutions undertaking more teaching and research (Excelsior College, Edinburgh Business School) and older institutions allowing more off-campus and accreditation of prior experience and learning (e.g., University of Versailles - Saint-Quentin, University of Delhi), the issue has become applicable to almost all universities. As "long" ago as 2004, the question was being reposed: Is it even necessary to create such a division of the financial and the academic (Shattock, 2004)?

Third, and more straightforward, SOX (2002) section 802 mandates criminal penalties for altering documents and requires keeping full records. In theory, this appears reasonable; however, in practice and if applied to nonfinancial areas of academic life that nevertheless have financial implications (e.g., programme design, quality assurance), it runs counter to the widespread practice of vigorous discussions in academic committee meetings that are then

summarised in brief minutes whose wording is often agreed upon later and outside of the meeting ostensibly to preserve and promote a collegial harmony through a “gentlemanly” burying of discussions that commercial contexts would classify as disputes with budgetary effects.

Therefore, if SOX (2002) were to be applied within academic life, should (or could) it only be in areas of finance, or should it be adapted to the context and the principles spread to all areas of operation, including the purely academic? For one, the University of Vermont decided that it was a case of inclusive institutional ethics because it works to “...transition from a traditional compliance-management program to an articulation of workplace behaviors and cultural norms that reflect core values” (Johnson & Jefferis, 2007).

SURVEY BASE

For a preliminary study, a number of institutions or semi-independent institutional businesses with a high proportion of distance education students (e.g., Edinburgh Business School) were selected because these were most likely to be reliant on widely accessible media for their marketing communications. Also selected were five universities in the U.S., Europe, and India that, although primarily residential, were generally considered academically excellent and whose respective governments and national press could be relied upon to take a close interest so that changes in market presentation would be more easily detected. Where the university operated a college system (e.g., Oxford, Cambridge, and London), one college plus the general university information was selected (e.g., London City).

The researcher decided to use only publicly available documentation, whether it appeared on the Internet or in newspapers and university brochures because the purpose of the study was to determine how good governance affects marketing to the public. This was decided because according to SOX (2002) good governance requires transparency and the focus of the study was on the outcomes, not the processes that led to them. This analysis could not be exhaustive of all the relevant communications that were posted in the public domain since January 2002; therefore, a search was conducted for items posted during 2002 and 2007 precisely that would address the survey questions.

The researcher assumed that all the subject institutions existing pre-SOX operated with three distinct, formal or informal, hierarchically ranked areas of institutional interactions:

1. Internal (mostly academic).
2. External (mostly money-related and regulation, but including prospective students).
3. Community and citizenship (potential employers, neighbours, casual learners, global academic groups).

The public and private nature of the chosen institutions was ignored for two reasons. First, it was not easy to separate equitably state from private interests across jurisdictions. Second, in a global academic market the academic and social reputation, rather than the legal-financial status of the institution, is of interest to prospective students, parents, and employers.

SOX AND COMMUNITIES HYPOTHESIS

Because public marketing documents were unlikely to refer directly to good governance or to SOX (2002), a framework for evaluating the evidence needed to be established. The key principles of SOX are six-fold: accountability, transparency, efficiency, equity, participation, and effectiveness. By adding the SOX principles to the three layers of interaction, the basic model of the governance task to be carried out became:

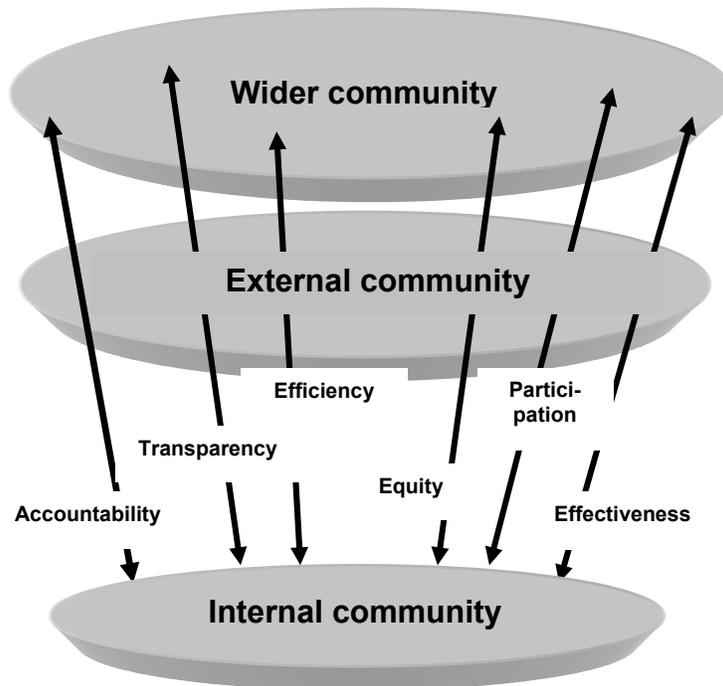


FIGURE 1. SIMPLIFIED PRINCIPLES AND COMMUNITIES MODEL

This simplified approach suggested that academic matters were no longer the domain of faculty, but of the community. This approach, although sometimes lauded and practised (e.g., some corporations help to define syllabi to increase graduate employability), nevertheless, has raised considerable concerns about the practicalities even within one layer, as was famously explained by Jean-Robert Pitte, when he was president of the Collège de Sorbonne, Paris. He robustly denied the validity of the university allowing dubiously representative student-bodies contribute to course design, stating that such was the role of professors and professionals, not first year students (Pitte, 2006). This view was even more important when a sample of the various stakeholder groups was added to each layer as in Figure 2:

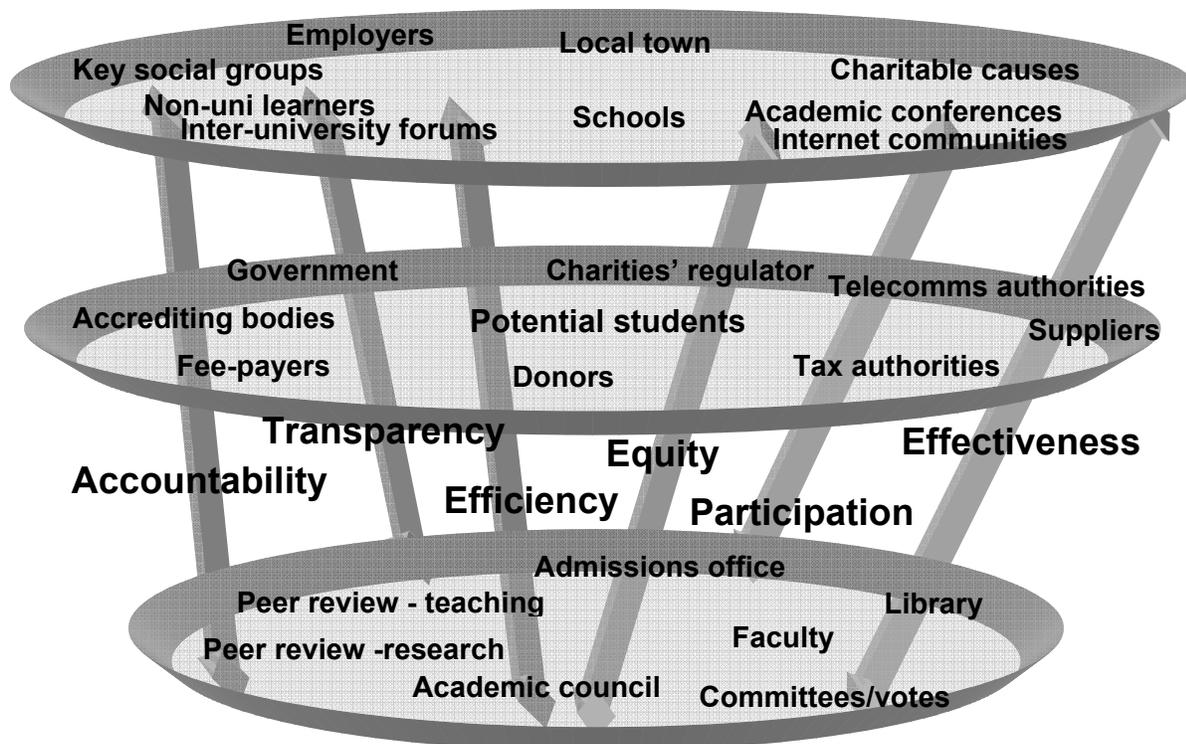


FIGURE 2: ILLUSTRATIVE PRINCIPLES AND COMMUNITIES MODEL

Figure 2 is a variation of the model: although the stakeholders in each level will vary according to the institution, the queries remain constant. Nevertheless, questions remain. Just how far should one spread participation, transparency, and accountability? Could one really have equity across all interested groups in subjects that, by the very nature of universities, were often complex and specialized? When would inclusion inhibit effectiveness and efficiency?

SURVEY QUESTIONS

In viewing what was happening in practice, a wide range of questions relevant to potential students (external level of the model) were considered:

1. What accreditations did the institution have?
2. Did the institution explain what these accreditations meant?
3. Was it clear for what the fees or grants paid?
4. Who were the faculty?
5. What authority, if any, did non-academics have in the curriculum?
6. What were the graduate employment statistics?
7. What was the curriculum?
8. What study choices had to be made and when?
9. What or who were the key investors in the institution who might affect academic direction?
10. What was the visibility of the answers to the above questions?

The intention was to determine whether clear governance was linked through the three levels of the model. Given that the financial basis of the student-university transaction was that students would purchase (with personal money+time or time) a qualification for a tradable benefit such that, if the model were applied, there would be transparency, equity, efficiency, and effectiveness in communicating to potential students in the external community internal issues, especially as they would relate to accreditation, commercial stakeholders and use of fees. There would also be some sign of a two-way dialogue (i.e. participation) and clear accountability for both parties. Simple comparison of the positives in 2002 and in 2007 would give some indication of the transparency levels such that attention to the remaining SOX principles could be inferred from where and how the information was found.

KEY FINDINGS

The table below summarises the findings, including the total number of institutions that provided information about each topic that was aimed at the potential student and the wider community. In all cases where an institution scored a “yes” in 2002, it also scored a “yes” in 2007.

TABLE 1. QUANTITATIVE RESULTS SUMMARY

Question	Yes 2002	Yes 2007
What accreditations does the institution have?	15	15
Is it explained what these accreditations mean?	0	9
Is it clear what fees (or grants) pay for?	1	12*
Who are the faculty?	5	10*
Who are the president, vice-chancellor, and chief?	11*	15
What say, if any, do non-academics have in the curriculum?	0	0
What are the graduate employment statistics?	3	7
What is the curriculum?	1*	2
What study choices have to be made when?	1	4
What or who are the key investors in the institution who might affect academic direction?	0	3

Note. * Further discussion follows.

The final question was qualitative: How visible were the answers to the above questions? In all cases the amount, accessibility, and quality of information available to prospective students had increased since 2002. The delivery mechanisms had also become more efficient (e.g., greater use of the Internet and fewer layers to reach answers) and participative (e.g., greater use of the Internet and “contact us” buttons). Equity of access to communication can reasonably be assumed to have increased as the costs and difficulties of traditional mail (e.g., postage and effects of asynchronicity) and of telephone (e.g., call fees, possibly language, and “hold” time) are reduced or negated by the use of the Internet that has itself become more widely accessible over the period in question.

COMMENTS ON RESULTS

Not surprisingly, all institutions listed their accreditations in their prospectuses in both 2002 and 2007, but only in the 2007 online material did nine of the institutions attempt to explain what each relevant accreditation meant for national or professional recognition. This shows a move toward more effective transparency in communication, for the prospective students were no longer held responsible for finding the information on their own and universities were clearly held accountable for their contextual accuracy.

Of the 15 universities surveyed, in 2002, 4 (all in the U.K.) did not name their “chief executive” in pre-enrolment literature, although the names were in graduation literature and were available through articles in the national press or, with persistence, online. By 2007, all institutions were, in common with the transparency required in standard business practice, prepared to own their leaders.

In 2002, only five of the institutions apparently listed their full faculty in promotional media. This could be attributed in part to the medium (i.e., print) mostly in use and the large number of faculty involved; however, where institutions issued partial faculty lists, these were of faculty in their administrative roles (e.g., head of school) rather than as subject experts (e.g., University of Delhi). By 2007, 10 of the survey group named their faculty, although accessing that information often required some Internet persistence and, when found, the significance was often unclear e.g., Edinburgh Business School (EBS); Excelsior College (Edinburgh Business School, 2008; Excelsior College, 2008). So, the transparency had increased, but efficiency and effectiveness values were judged not to be the same. It was possible to guess why faculty lists were not kept complete and up-to-date; it was also possible to guess why named faculty were so rarely presented in pre-enrolment communications as being responsible (from the student perspective) for specific aspects of the curriculum. Be that as it may, for basic application of SOX (2002) principles, a significant quantitative increase was apparent in material related to the question asked.

In 2002, none of this survey group, apart from the Open University (U.K.), made freely available public links to detailed course syllabi or programme outlines that were full enough for either the student or their advisor to decide whether or not the programme was appropriate. However, at that time and later in 2007, most universities (e.g., the Sorbonne) made clear to the students what the course headings and time allocations would be (Collège de Sorbonne, 2007). By 2007, EBS had all its course outlines online. Other solutions to this problem of making the product-offer transparent were demonstrated by asking prospective students (also in 2002) to contact the relevant faculty office (e.g., at Oxford, Cambridge, or Harvard) to ask it to put samples of the courseware on the Internet (cf. University of Delhi, 2008). All three of these solutions for making the product offer more transparent required the participation of both parties (i.e., the student and university), but the accountability was less explicit. It could be assumed from wider knowledge of the application process that prospective students who wished to attend Oxford or Cambridge would not be successful if they did not contact the relevant office for further programme information; however, the main Web site did not state this message. At EBS and the University of Delhi, checking the programme content was completely optional.

Determining financial influences and accountabilities across the group in a like-for-like manner became impossible, for funding rules had changed in the United Kingdom (U.K.) and the need to distinguish between international and national students varied according to institution and country. The U.S. institutions consistently showed clear links to funding information and prices, whereas the Sorbonne provided clear links to social funding for national students, but enquiries had to be made about costs for international students.

COMPLICATIONS AND CAVEATS

A complicating factor in this study was the rise in the use of the Internet since SOX (2002) came into force; however, this could be considered neutralised or heavily tempered by universities adjusting to their target markets for delivery of information. Because all the universities surveyed were successfully attracting students at rates that had not caused alarm, a significant difference was likely not caused by the choice of information delivery medium. The researchers assumed that the universities provided the information that they believed their markets required, regardless of delivery medium, and assumed that universities were aware of their competitors' marketing efforts.

What was not certain was whether, in an internally co-ordinated manner, the universities actively chose to follow the SOX (2002) outlines in creating greater transparency about their qualification products. Nor is it proven in this study that the greater push to transparency was more effective through increasing retention rates.

A further complication was the role of accrediting authorities in driving or facilitating the changes in institutional communications with prospective students. Although the market-recognition of the qualification led to successful students gaining financial payback, that issue was largely ignored in this overview. The switch to learning outcomes that was largely driven by the accrediting bodies, combined with increasing membership of multiple accrediting bodies, caused several of the institutions to expend more time and energy in recording and externalising their academic requirements. Thus, it was easier for the institutions to later represent the information for marketing purposes. The effects of SOX (2002), might also be felt directly by the accrediting bodies, which would then affect what they would require of their member institutions.

This study concentrated on the first two communities (internal and external) of the three-community model, including the third, wider community by implication only. However, potential students do garner their information from newspapers and other public sites that are usually considered "wider community." Many well-publicised instances of the wider community affect the internal academic landscape; for example, George Washington University's has discussed which students can live in which residences and what the campus architecture should be (Trachtenberg, 2008), and Leeds University ran a public campaign in 2004-2005 to retain well-attended and socially-valued continuing education courses.

All aspects of the institutional and public education landscape were subject to a wide range of interrelated factors such that naming any one event or constituency as the definitive driver for a shift in behaviour was not possible. What could be shown was that a model appeared to have

some empirical validity; therefore, it might be of use in similar circumstances.

CONCLUSIONS

Although the transparency of marketing communication increased over the period 2002-2007 at the institutions in question and although this appears to have increased performance for all five of the other SOX (2002) principles, no proof existed that SOX principles were being applied systematically. If they had been applied systematically, a greater consistency between the levels of attempts at transparency and addressing the other principles would have been apparent. For example, complete equity between home and international students would have been apparent when assessing ease of finding information on what fees and grants covered (Collège de Sorbonne). Also, if institutions were to carry through on the SOX principles, they could increase their effectiveness and efficiency by clarifying the accountability for pre-enrolment understanding of the course outlines. If they were to publish the outlines online (as did EBS and the University of Delhi) and were they to make these an interactive element of the application process, the student could be made clearly accountable for understanding what the programme entailed while the institution would be held very clearly accountable for delivering a programme as “sold.”

Thus, one can infer that the Principles and Communities Model is a useful tool in analysing market communications to ensure that the various elements that constitute the realm of higher education work together for mutual gain. For example, if university admissions departments were to ask themselves, “Have we published a clear fees table?” use of the model might prompt the response, “Yes, but it does not cover all our markets.” The equity principle might then be addressed before students begin to complain. Similarly, if, as is increasingly likely in today’s economy- and government-driven wider community, potential students are employed and have family commitments, they could be added as a distinct stakeholder group within the model so their needs would be fed back through the participation line to the internal community such that effective communication for course scheduling would then be not only hours per term or per semester, but also show compulsory day and hour attendance blocks—whether for in-class or online courses. The remainder of the student’s commitments could then be scheduled to fit. The principle behind this plan accords with many situations and stakeholder groups. Rather than focusing on potential students, the plan could focus on the needs of the university library or of a particular external employer.

Further academic studies should apply the SOX (2002) principles in this model to different communities and they should preferably integrate a series of studies within a single institution, taking into account how the institution’s internal, financial reporting procedures and management structures align with the SOX guidelines.

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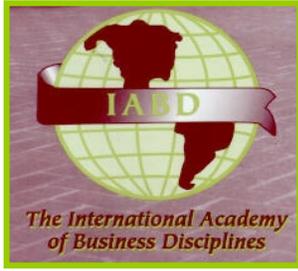
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