

Letter from the Editor

BY ALBERT J. MILLS

Hello everyone. Welcome to the new look Workplace Review. Over the next year the journal will be going through several substantial changes – in terms of look, content and personnel. In the first case we are trying to combine a cost-saving exercise with a new look and direction. Beginning with this issue the Workplace Review will look more like a traditional journal than the previous magazine format. In the second case the journal will aim to reflect the best of research from across the Atlantic region's universities. The core of the articles will be drawn from the annual conference of the Atlantic Schools of Business (ASB). Articles will be selected for their local appeal, practical application, and their ability to speak to a broad audience. Finally, I am pleased to say that Chris Hartt has joined us as the new managing editor. Tony Yue, the outgoing managing editor has taken a full time faculty position at Mount Saint Vincent University but remains a central member of our staff. At this time I would like to thank Tony for all many contributions to the Workplace Review in the past. We will shortly be developing a new editorial board in line with the new direction of the journal. Above all else we remain committed to make the Workplace Review dedicated to better workplace practices, devoted to discussing issues of practical concern to businesses throughout Atlantic Canada.

In this, and the next issue (due June 1, 2011), we draw on research papers from the 40<sup>th</sup> Annual meeting of the Atlantic Schools of Business – a conference involving business educators from across the Atlantic region. We are exceptionally pleased to open the new issue with the conference keynote speech – “New Realities of Being in Business” by James Spurr, General Counsel and Vice President, Government Relations, Emera Inc. In the first of the following articles Mark Mullally and Cathy Driscoll examine the issues raised by stakeholder conflict and what can be learned from this. In the third article Randy Delorey explores the vexing question of how to train the new generation of “Millennial” employees. The fourth article -- by Balsor and Weatherbee – takes us to the realm of the email and asks how can this can

be incorporated into performance feedback. Our final paper is by Tom Cooper, Alex Faseruk, and Patrick Philips and explores the regulatory and legislative barriers to First Nation businesses.

Our summer issue will include articles on board governance, and assessment of local use of the Balanced Scorecard, and meaning at work. Comments on the new look of the Workplace Review are most welcomed, particularly suggestions for change and improvements.

Remarks Delivered by James Spurr, Emera Inc.  
To The 40<sup>th</sup> Annual Atlantic Schools of Business Conference  
Saint Mary's University, Halifax, Nova Scotia  
Saturday, October 2, 2010

**“NEW REALITIES OF BEING IN BUSINESS”**

Good afternoon ladies and gentlemen and thank you for inviting me to speak to you today.

Today I'm going to share with you some of my views on the business environment in which we find ourselves and the events that have changed the ways we do business in 2010. I have been doing what I do as a corporate commercial lawyer for 30 years, in both the public and private sectors. I don't promise to have all the answers but I can promise one thing.....being in business means adapting to constant change and the more we know about what got us here, the better prepared we can be for the future.

When you educate us as students and you graduate us into the business world it is probably trite to say that you send us out there with a set of tools. But you do. How we use those tools is up to us and may define the measure of our success. Although you do equip us with the fundamentals to be in business some of the adventure comes from dealing with the unknowns and the unforeseen that confront us from time to time.

This year's conference theme, "Being in Business", is certainly timely in that regard given the financial crisis and recession we have experienced, going back to 2007. Climbing out of that recession and dealing with some of the legal and regulatory responses to the financial crisis has certainly made being in business a new adventure. I will deal with some of those issues a little later in my remarks.

There are any number of definitions of business but I will describe it as an organized effort to provide goods or services, or both, to consumers, other businesses and governments. Businesses, as we know them, have as one of their main objectives the generation of a financial return on investment in exchange for work and the acceptance of risk.

There are a number of ways to engage in business. It is usually conducted as either a sole proprietorship, a partnership, a cooperative or a corporation. Most jurisdictions specify through legislation, such as a Companies Act, the forms of ownership that business can take. One might say that this is the original act of government regulation of business in a supposedly free enterprise system.

I will confine my remarks to being in business through a corporation, that separate legal person with perpetual succession which is generally unaffected by the death or insolvency of its individual owner or owners.

Most of us would like to think that we are in business to freely follow our dreams and define our own success. In fact, we are highly regulated, both internally and by outside forces. As I said a few moments ago, even the choice of how we engage in business is chosen from a menu set by governments.

Like many things in life, the circumstances in which we engage in business continually evolve. Maybe once upon a time there was a truly free enterprise business environment. And to be fair to governments and regulators, how we arrived at today's highly regulated business environment is largely of our own making, or at least those among us who, throughout history, have chosen to test the limits of propriety in the conduct of business.

Let me deal first with the forces outside the business that become, from time to time, the new realities of being in business.

A few examples:

Let's begin with the crash of the stock market in 1929. The economy had been growing robustly through the Roaring Twenties. It was a technological golden age of innovation for radio, automobiles, aviation and the power grid. Companies like RCA and General Motors saw their stocks soar. Even financial corporations did well. Mutual funds became popular and investors were infatuated with the returns they could make in the stock market, especially with the use of leverage through margin debt. That bubble burst on so-called black Tuesday when the prolonged period of rising stock prices began to reverse,

over-extended investors were forced to liquidate because of margin calls, and the system basically crashed under the burden of so many sell orders with the Dow Jones falling an average of 23% over 2 days.

And what was the new reality resulting from this turmoil? Two things among many for our purposes today.

First, the Securities Act of 1933. It requires that any offer or sale of securities be registered under the Act. The Act has two basic objectives:

1. to require that investors receive significant material information concerning securities being offered for public sale; and
2. to prohibit deceit, misrepresentations and other fraud in the sale of securities to the public.

Second, the Securities Exchange Act of 1934. It is a sweeping piece of legislation and forms the basis for the regulation of financial markets in the United States.

Fast forward to October 19, 1987. Black Monday. The crash of 1987. Again, coming out of a period of strong economic optimism with a run up in the Dow Jones Industrial Average, price/earnings ratios were well above their post war averages. This crash was a world wide phenomenon and despite fears of a repeat of the 1930's Depression, the

market rallied the very next day posting a record one day gain, although it took two years for the Dow to recover completely.

And what was the new reality resulting from these events?

One of the primary consequences of the '87 crash was the introduction of the circuit breaker or trading curb on stock exchanges. Based on the idea that a cooling off period would help dissipate investor panic, these mandatory market shutdowns are triggered whenever a large pre-defined market decline occurs during a trading day.

And of course, in 1987 Hollywood got into the act with the Oliver Stone movie "Wall Street", introducing us to the fictional character Gordon Gekko, the ruthless corporate raider whose motto is "greed is good". Among other things, the movie attempts to depict the ruthlessness and excesses that can lead to the types of turmoil and disaster I have been speaking about. Perhaps motivated by the recent global economic meltdown, Oliver Stone has brought Gordon Gekko back to a theatre near you in the 2010 movie "Wall Street: Money Never Sleeps".

You can see by now that legislated and regulatory responses to the creativity and excesses of the Gordon Gekkos of the real world is an ongoing process. Which brings me to the financial crisis of 2007-2010. So what is it this time?

Essentially, it began in the United States with the failure of large financial institutions due primarily to exposure of securities in the form of packaged subprime loans and credit default swaps issued to insure those loans and their issuers. That rapidly devolved into a global crisis resulting in a number of bank failures in Europe and major reductions in the value of equities and commodities worldwide. In 2008 about 15 banks failed in the United States. Who among us would have thought that venerable names like Merrill Lynch and Lehman Brothers would be casualties of a financial crisis?

On October 11, 2008 the head of the International Monetary Fund warned that the world financial system was on the “brink of systemic meltdown”. The economic crisis caused many countries to temporarily close their markets and by March 2009 the DOW had dropped 52% before beginning to recover.

So, what’s the new reality this time?

This time it’s called the Dodd-Frank Wall Street Reform and Consumer Protection Act. It was signed into law by President Obama on July 21, 2010. Its stated aim is to promote financial stability in the United States by improving accountability and transparency in the financial system, to protect the American taxpayer by ending bailouts and to protect consumers from abusive financial services. Based on my research and sources, it requires that regulators create 243 rules, 67 studies and 22 periodic reports.



The Act is categorized in 16 titles dealing with some of the following:

1. financial stability
2. regulation of advisors to hedge funds
3. improvements to the regulatory regime
4. wall street accountability and transparency
5. investor protections and improvements to the regulation of securities
6. a bureau of consumer financial protection
7. improving access to mainstream financial institutions
8. mortgage reform and anti-predatory lending

Once again we are seeing legislation and regulation in response to crisis that represents a paradigm shift in the American financial regulatory environment and it is the most sweeping change in financial regulation in the United States since the Great Depression. At least until the next time.

So far I have dealt with compliance with the changing realities of the regulatory environment influencing our conduct of business from the outside. Let me spend a few minutes on the changing landscape of internal corporate governance.

Shareholders of companies generally oversee management's operation of the business with a Board of Directors, a series of Committees of the Board, Articles of Association and a set of by laws.

In that context let me tell about a company founded in Omaha, Nebraska in 1985 by a man named Kenneth Lay. By now you know I am talking about Enron. Enron was the product of the merger of two natural gas pipeline companies. Essentially it was an energy trading company that took advantage of the de-regulation by the U.S. Congress of the natural gas markets. By 1992 Enron was the largest merchant of natural gas in North America. By the end of 2000 Enron's stock was over \$83 and its market capitalization exceeded \$60 billion. In addition, it was rated by Fortune's Most Admired Companies survey as the most innovative large company in America.

So, how did the wheels come off? Essentially, the Chief Financial Officer and other Enron executives were able to mislead their Board of Directors and Audit Committee about high risk accounting issues as well as pressure the company's auditors to ignore such issues as poor financial reporting and special purpose entities used to hide billions in debt from failed deals and projects.

By November 2001 Enron's stock was worth less than \$1.00, the U.S. Securities and Exchange Commission began an investigation and by the end of 2001 Enron had become the largest corporate bankruptcy in U.S. history until WorldCom went under in 2002. As you know, many Enron executives went to prison and its auditors, Arthur Andersen, went out of business.

One of the new realities that resulted from the Enron disaster was the enactment by the U.S. Congress of the Sarbanes-Oxley Act in 2002. The Act is a virtual image of Enron's perceived corporate governance failings, which are matched point for point in the main provisions of the Act.

The main provisions of Sarbanes-Oxley include the establishment of the Public Company Accounting Oversight Board to develop standards for the preparation of audit reports, the restriction on accounting firms from providing non-auditing services, provisions for the independence of audit committee members and executives being required to sign off on financial reports, with serious personal consequences for misstatements.

In addition to the legislation and due to corporate malfeasance and accounting violations, the Securities and Exchange Commission called for changes to stock exchange regulations. In 2002 the New York Stock Exchange put forward a new governance proposal which was approved by the SEC in 2003. The main features of the proposals are

1. all listed companies must have a majority of independent directors;
2. independent Directors must comply with an elaborate definition of the term "independent";
3. the compensation committee, nominating committee and audit committee must consist of independent Directors;
4. all audit committee members must be financially literate and at least one member should have accounting or related financial management expertise; and

5. in addition to its regular sessions, the Board should hold additional sessions without management.

As you will know, most of the Sarbanes-Oxley provisions and updated stock exchange rules have rippled outside the United States to other countries, including Canada, and we now live with them on a daily basis: just another one of the new realities of being in business today.

Timely disclosure obligations, shareholder activism, increasing Director's duties, CEO/CFO certificates forward looking statements, fiduciary duties, due diligence, insider reporting rules, black out periods, conflicts of interest, codes of conduct: this is a list of some of the terms and concepts that we deal with and live with daily as the managers of a company whose shares are publicly traded on a stock exchange.

A few examples will illustrate my point:

When we wish to make a public offering of securities we will prepare and issue a prospectus, in consultation with our legal and financial advisors. The prospectus becomes the actual offer. This is the beginning of a very tightly regulated process.

The prospectus will describe our business, the securities, how we intend to use the proceeds, risk factors, purchaser's statutory rights and a note about forward looking statements.

The prospectus must be read and signed of by our auditors and it must be certified by our President, our Chief Financial Officer, our Board of Directors and our underwriters and selling agents that it “constitutes full, true, and plain disclosure of all material facts relating the securities offered”.

In addition, the executive of the company is required to participate in a due diligence exercise with the underwriters and their legal counsel, consisting of almost 200 questions to confirm the company’s compliance with regulated disclosure requirements in the public offering of securities.

As a member of the executive team at Emera I am deemed to be an insider for the purpose of buying or selling Emera shares and, as an insider, I am subject to extensive blackout periods when I am prohibited from buying or selling. This is because I regularly have material information available to me through my position with the company that is not in the public domain and available to the general investing public. There are very narrow windows of opportunity for me to buy or sell the shares of my company. They usually occur at the end of a financial quarter when we publicly release our quarterly financials and issue a media release describing that quarter’s financial results. For a very short time the slate gets wiped clean, so to speak, and the information I have about the company is the same as that available to the public. In a matter of days though, I become

an insider again as I begin to have access once again to insider information not in the public domain.

I am also registered as a lobbyist with the Government of Canada and the Government of Nova Scotia under their respective lobbyist legislation. Let's be clear. I am a lawyer. I do not consider myself to be a lobbyist. However, from time to time I interact with government when, for example they are contemplating changing a regulation that directly affects our operations. If I wish to discuss that proposed regulation and want to offer suggestions on how it may accomplish the government's goals without being so difficult to comply with, I am deemed to be attempting to influence public policy and under lobbyist legislation I am required to be registered. If I meet with government officials on such matters they are required to log their meetings, including who was in attendance, all of which is a matter of public record. This is also known as full disclosure and transparency in government.

And, to make my points a bit more personal, as corporate counsel in this environment, we have to be increasingly mindful of our own personal legal obligations and our own potential exposure to civil and criminal liability.

The personal risks and exposure faced by corporate counsel have never been higher. Our role has evolved from a manager of the company's legal resources to a nexus of legal, business and ethical advice to the company in an environment of economic uncertainty and increasing regulation of corporate conduct.

We must never forget, I must never forget, that I owe my duty to the corporation and not to the President or the management team or the Board. That can be unpleasant at times.

Corporate counsel are subject to the regulatory jurisdiction of securities commissions in Canada. They have increasingly become the subject of regulatory investigations and enforcement actions.

A prime example is the case of Mark Kipnis, former chief legal counsel of Hollinger. He was convicted of fraud in 2007 for his role in implementing a number of non-competition payments to officers of Hollinger. The U.S. prosecutors in Chicago alleged that he should have informed Hollinger's independent audit committee that the non-competition fees had to be treated as executive compensation if they were to be allocated to senior executives. As one of the jury members put it after the verdict was rendered "a lot of us felt very bad for Kipnis.....but he was right in the middle of it."

All of these examples are not complaints. They are all consequences and requirements that generally arise out of the history I have cited to you today, and they are designed to protect all who participate in the business, including Directors, managers, underwriters, investment bankers, shareholders and, yes, even lawyers.

And so, what do we take away from all of this? Probably a number of things but I am reminded firstly of a quote from American business icon Henry Ford, who is quoted as saying “a business that makes nothing but money is a poor kind of business”

What strikes me as well in all of this is that the sins of a few will be paid for by many; for those of us among the many, we will always, whatever the circumstance, abide by the spirit as well as the letter of the law; because for us that is the reality, past, present and future of being in business.

Enjoy the rest of your conference and thank you for listening



## **Stop Signs On The Wireless Highway Or Rear-Ended By Rogers: What Can a Small Community Stakeholder Do?**

Mark Mullally

Cathy Driscoll

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This paper focuses on the company-stakeholder conflict between a large telecommunication company and a small community group over the placement of a cell phone tower in the community. The authors review the literature on stakeholder theory and the debate over who should count as a stakeholder. The findings of our case study illustrate how this company failed to live up to their espoused stakeholder practices and contribute to a better understanding of the contextual and dynamic aspects of company-community stakeholder conflict. Implications for future research are discussed.

“The world is a dangerous place, not because of those who do harm, but because of those who look on and do nothing.”

Albert Einstein

The concept of “stakeholder” has been used as a heuristic in the management literature for nearly three decades. The stakeholder framework has been forwarded to help managers to both define an organization's obligations and manage relationships with its respective stakeholders. Whereas functional stakeholder frameworks focus on managerial perceptions of power, resource dependence, and exchange-based relationships; normative approaches focus on stakeholder legitimacy, rights, and moral claims. Increasingly, academics and company communications report that firms are expected to take, and are taking, a multiple stakeholder approach.

The deregulation of the telecommunications industry in Canada has presented local governments with challenges and opportunities. In particular, the tremendous growth in wireless providers and corresponding infrastructure has brought technological and economic efficiencies as well as new concerns about public health and safety, property values, and aesthetic considerations. We consider the case of telecommunication company, Rogers Wireless, constructing a cell tower in a small Island community to illustrate company-community conflict and how a company can fail to live up to their espoused stakeholder practices.

Calls have been made for empirical study of how firms actually do stakeholder management (Jawahar & McLaughlin, 2001; Jones, Felps, & Bigley, 2007). Friedman and Miles (2006: 133) suggest that, in order to understand the nature and development of stakeholder relations, stakeholder interests, values, beliefs, and identities underlying their own decision-making, processes and outcomes need to be analyzed, not only by managers in focal organizations, but also by stakeholders, stakeholder group strategists, and academic analysts of the stakeholder concept.

It has also been suggested that there has been little stakeholder research that puts the focus on the stakeholder rather than the firm (Frooman, 1999). We adopt Donaldson & Preston's (1995) notion that normative stakeholder theory is the most significant development of stakeholder theory and thus adopt a normative approach to our study.

Our in-depth study of an on-going stakeholder conflict contributes to the development of stakeholder theory. We also feel that by focusing on some of the dynamic and complex contextual aspects of stakeholder management we contribute to stakeholder theory and practice. Friedman & Miles (2006) have suggested that there is limited stakeholder literature that addresses the dynamic aspects of stakeholder management.

In the next section, we briefly review the literature on stakeholder theory and the debate on who or what should count as a stakeholder, in particular focusing on the Mitchell, Agle, & Wood (1997) stakeholder framework. This framework is frequently cited in the management literature. The third section describes our research methods. We then apply the case of the Roger's cell tower in the community of Sherwood to consider how some companies fail in their stakeholder management practices and to critique some of the beliefs and assumptions underlying the stakeholder attributes of power, legitimacy, and urgency that are an integral part of the Mitchell et al. framework. Following this, we discuss some implications of this research.

### **The Stakeholder Concept**

Stakeholder theory concerns the nature of the relationships between organizations and their respective stakeholders and the processes and outcomes of these relationships for organizations and their stakeholders (Jones & Wicks, 1999). Definitions of stakeholder range from the broad and inclusive to the narrow and exclusive. Stakeholders have often been considered to include any groups or individuals who can significantly affect or be affected by an organization's activities (Evan & Freeman, 1988; Freeman, 1984; Donaldson & Preston, 1995; Greenley & Foxall, 1997). More narrow definitions include or exclude stakeholders based on managerial perceptions of stakeholder power, resource dependence, or risk (e.g., Clarkson, 1994; Greenley & Foxall, 1997; Harrison & St. John, 1996; Nasi, 1995).

Normative stakeholder theory focuses on the basis of stakeholder legitimacy, whether it is risk, property rights, or moral claims (Mitchell et al., 1997). According to Donaldson

and Preston (1995), a ‘social contract’ exists between business and society and “stakeholders are identified through the actual or potential harms and benefits that they experience or anticipate experiencing as a result of the firm’s actions or inactions” (p. 86). The firm-stakeholder relationship has been theorized to be relational rather than just transactional (Freeman & Liedtka, 1997). Managing stakeholder relationships through balancing stakeholder interests creates value and goodwill for the firm (e.g., Freeman, Harrison, & Wicks, 2007; Nasi, 1995). It has been suggested that stakeholders influence decision makers in companies, in particular through media and increasingly through internet, and that the firms who ignore these stakeholders face implementation delays, boycotts, and legal battles (Harrison & St. John, 1996; Freeman, Harrison, & Wicks, 2007; Carroll & Buchholtz, 2009). Stakeholder theory is seen as a way to understand how business is engaged in value creation for *all* stakeholders (Freeman, Harrison, & Wicks, 2007; Nasi, 1995).

The company-community stakeholder relationship is particularly relevant to our study. It has been suggested that companies often prioritize community interests in their stakeholder management (Bendheim, Waddock, & Graves, 1998). Others have similarly suggested that managers attribute high stakeholder salience to the local community (Altman, 1998; Burke, 1999). For example, Burke (1999) emphasized the strategic importance of considering community expectations and being seen as a “neighbor of choice”. However, others have found that companies often strategically choose who they want to be neighborly to (e.g., Driscoll and Crombie, 2001).

Mitchell et al. (1997) attempted to refine stakeholder theory by specifying theoretically “who or what really counts” as a stakeholder in management thinking. According to these authors, stakeholders have one or more of the following attributes: power to influence the firm; legitimacy of a relationship; and/or urgency of a claim. They predict “the salience of a particular stakeholder to the firm’s management is low if only one of these attributes is present, moderate if two attributes are present, and high if all three attributes are present” (879).

In stakeholder salience models, stakeholder attributes are identified and qualified by the perception of the managers concerned. Latent stakeholders are defined as those having low salience arising from only one attribute. These, in turn, can be categorized as dormant, discretionary, and demanding. Demanding stakeholders have neither power nor legitimacy but are salient solely based on the urgency of their claim. Expectant stakeholders are defined as those having moderate salience by way of two attributes. These include dominant, dangerous, and dependent. For example, the affected citizens, animals, and ecosystems of the Gulf of Mexico would be considered dependent stakeholders with regards to the BP oil spill. These expectant, dependent stakeholders have little power, as perceived by managers, but make urgent, legitimate claims and depend on other stakeholders with higher power to join forces with them in order to gain salience. In the following section, we consider the theories and assumptions which underlie the stakeholder attributes of power, legitimacy, and urgency, and discuss some limitations of this framework.

## **Power, Legitimacy, and Urgency**

### **Power**

Many conventional management theories emphasize the central role of power in decision-making, focusing on utilitarian resource-exchange and dependence-based relationships (e.g., Blau, 1964; Oliver, 1991; Pfeffer, 1992). Similarly, most stakeholder models have emphasized managerial perceptions of power in identifying and prioritizing stakeholders (Clarkson, 1995; Greenley & Foxall, 1997; Harrison & St. John, 1996; Mitchell et al., 1997). An instrumental stakeholder perspective defines stakeholders as those groups or individuals who are in a mutually dependent or exchange relationship with the firm (Freeman, 1984; Freeman & Evan, 1990; Hill & Jones, 1992; Nasi, 1995; among others).

Mitchell et al. (1997) applied Etzioni's (1964) organizational bases of power to their stakeholder attribute of power. Their application implies that a stakeholder has power to the extent that it can use coercive (force/threat), utilitarian (material/incentives), or normative (symbolic influence) power to "impose its will in the relationship" (865). However, conventional stakeholder theories have been criticized for overlooking asymmetrical relations of power and systemic inequalities (Banerjee, 2000), as our case study will reveal are present in the Rogers Wireless-community stakeholder relationship.

### **Legitimacy**

The management literature comprises both strategic and moral bases for legitimacy. In stakeholder theory, these include contractual relationships (e.g., legal, moral, or ownership rights) (cf. Evan & Freeman, 1988) or exchange-based relationships in which those who own the resources supply "critical resources" to the firm (Hill & Jones, 1992:133). According to Hybels (1995), however, resource flows provide the best evidence of organizational legitimacy; or as Mitchell and his colleagues suggest, "[l]egitimacy gains rights through power..." (1997:870). It has been suggested that legitimacy is defined by the values of those with social power (Stinchcombe, 1968). Most of the literature suggests that stakeholder legitimacy is grounded in pragmatic evaluations of stakeholder relationships rather than in normative assessments of moral propriety (cf. Aldrich & Fiol, 1994).

From a normative perspective, this approach has not gone without critique. For example, Banerjee (2000) suggested that managers are bounded by a legitimacy that has an economic basis and that does not genuinely address ecological and social justice concerns. Similarly, whereas risk has been described as a primary basis for stakeholder legitimacy (Clarkson, 1994), some scholars have suggested that conventional management studies focus on a narrow view of risk- one focused primarily on financial risk to the firm (e.g., Shrivastava, 1995a; see also Berman, Wicks, Kotha, & Jones, 1999). Moreover, public attention is often focused on high profile, large-scale crises, such as the BP oil spill and slowly unfolding stories that deal with scientific uncertainty (such as exposure to electromagnetic radiation) are not given as much attention (Allan, Adam, & Carter, 1999).

## **Urgency**

Mitchell et al. (1997) defined stakeholder urgency as the stakeholder's claim for immediate attention based on the ideas of time sensitivity and criticality. Like the other two attributes, most perceptions of urgency are biased towards economic short-termism, which is often precipitated by the use of cost-benefit analysis, rates of return, and changes in stock prices (Agle, Mitchell, & Sonnenfeld, 1999; Lavery, 1996). In this sense, urgency, like legitimacy, appears to gain rights through (economic-based) power.

## **Research Methods**

Our research focused on an in-depth case study of the company-stakeholder relationship between Rogers Wireless and a small Island community in Charlottetown, PEI. Case study allowed us to access the complexity of this particular case as well as an emerging societal problem (Yin, 2009). Case study has been used in previous stakeholder research (e.g., Beaulieu & Pasquero, 2002; Driscoll & Crombie, 2001; Friedman & Miles, 2002). Winn (2001: 158-159) suggested,

...[T]he context dependence and situation specificity of stakeholder research has not been studied very closely. Grounded and case-based studies especially have the power to highlight the role of history, country, and regional context, industry, and schools of management thought.

Data were collected over a period between May 2009 and August 2010. The focal methods for data collection were semi-structured and unstructured interviews with community members, participant observation, and collection of relevant documents, press releases, communiqués, archived records, company web pages, and media articles. Interviews were carried out with George MacDonald, former mayor of Charlottetown, Magda Havas, Associate Professor at the Centre for Health Studies at Trent University, and Philip and Catherine Mullally, the primary activists in the local community group. These interviews were not taped or transcribed, but rather primarily used for purposes of gaining access to deeper information, documents in the public domain, and personal correspondence between relevant stakeholders. Permission was granted in cases where quotes or sources are attributed to a particular individual.

We acknowledge upfront that the analysis is partially biased toward the perspective of the community, our focal stakeholder. However, we believe there are benefits of research that places the focus on the stakeholder rather than on the firm. Based on our research, the following case details emerged.

### **The Case of Rogers Wireless and the Community of Sherwood**

In October 2006, Rogers Wireless applied to the City of Charlottetown for a permit to

build a 47 meter cell phone tower on property immediately to the West of Mount Edward Road, Charlottetown (Application, City of Charlottetown Building Permit, Oct. 23, 2006). The land was owned by Eastlink, Canada's largest private cable company, which has increasingly moved into wireless technologies over the past decade. Following that application, there occurred a number of discussions and submissions from Rogers and from the citizens in the immediate Mount Edward Road neighborhood on the merits of the building permit application. Rogers claimed to have done door-to-door visits in the neighbourhood to share information and that these visits "were well received" (Rogers Summary Information Package, July 2009). Some members of the surrounding community challenged Rogers' permit to construct a tower so close to family dwellings, a university, an order of religious sisters, and children's schools and daycare centers. On March 12, 2007, at a regular meeting of City Council, it was decided to begin public consultation on an amendment to Section 28 of the Zoning and Development Bylaw that would enable Rogers' application to succeed (Council Minutes, p. 5).

### **Rogers Wireless**

Rogers Communication Inc. (RCI) was founded in 1925 by Edward Rogers, Sr. Edward Rogers, Jr. (Ted) Rogers grew the company since the 1960s up to the time of his death in 2008. In 1979, Rogers Cable became the largest Canadian public cable company. In 1985, Rogers entered the mobile phone market. RCI is a publicly traded company comprised of Rogers Wireless, Rogers Cable and Telecom, and Rogers Media. RCI is also the owner of the Toronto Skydome, renamed the Rogers Centre in 2005, and the Toronto Blue Jays. Since 2000, Rogers has acquired cable operations in various parts of Atlantic Canada and has formed a partnership with Eastlink Communications. For 2009, Rogers reported overall operating revenues rose 3% from 2008 to \$11.34 billion while operating profits rose 6% to \$4.01 billion. Rogers Wireless is currently Canada's largest wireless carrier with 8.5 million subscribers ([www.rogers.com](http://www.rogers.com), n.d.).

On its website, Rogers describes the various ways that the company "connects" with its communities. The community Support page states that, "the Rogers Group of Companies has demonstrated its continued commitment to earning the goodwill of the communities we serve" (Rogers – Community Support, n.d.). However, the emphasis is clearly on outreach and corporate contributions and not on openness and inclusion in planning processes. There is a special emphasis on work they do with youth and children (Rogers-Community Support, n.d.). On their corporate social responsibility page, the company claims to "demonstrate[e] environmental stewardship" and "support universal human rights" (Rogers – Corporate Social Responsibility, n.d.). The company also communicates how Rogers is listed on the Jantzi Social Index which includes 60 Canadian companies that meet a set of broad-based environmental, social, and governance criteria. Community groups are listed as a stakeholder on their website. Rogers communicates of their "open dialogue and two-way communication" and regular interaction with their stakeholders. They also list a variety of ways that they engage stakeholders in dialogue, including surveys, meetings, multilateral organization dialogue, and stakeholder panels, focus groups and research interviews (Rogers – Stakeholder

Engagement, n.d.).

### **The Community of Sherwood**

The focal community is Sherwood, a community in the northern section of the city of Charlottetown in central Queens County, Prince Edward Island (PEI). PEI is the smallest province in Canada and is known culturally for its holding onto tradition. Sherwood Station, as it was originally known, used to be a stop on the Prince Edward Island Railway. The area was incorporated as a village in 1960. The village of Sherwood was amalgamated into the city of Charlottetown in 1995. Sherwood was largely a farming district that has developed into a blend of residential, commercial and light industrial districts.

### **The Process to Date**

At a public meeting, held on April 17<sup>th</sup>, 2007 in the Georgian Room at the Charlottetown Hotel, Rogers' representatives and Industry Canada representatives were invited and attended along with several hundred concerned citizens. Dr. Magda Havas, an expert witness on the biological implications of electro-magnetic and radio frequency radiation from Trent University spoke. As the meeting concluded the overwhelming consensus was that the cell tower would not be permitted to be built. In May 2007, the City Council unanimously passed a resolution to reject a request that the Zoning and Development Bylaw be amended to permit construction of the cell tower (Council Resolution, May 14, 2007).

In early June, counsel for Rogers sent a letter to the City Council (Letter from Stewart McKelvey Stirling Scales (SMSS), June 4, 2007) requesting a reconsideration of the City's decision to turn down Rogers' application, essentially stating that the laws of Canada trump Municipal Law. The City Council (again unanimously) rejected Rogers' request for a reconsideration (Resolution, July 9, 2007). On July 10<sup>th</sup>, 2007, the City Planning Department wrote to counsel for Rogers and set out in detail, the City's reasons for rejecting Rogers' application for a building permit, including refusal to acknowledge Industry Canada's "exclusive jurisdiction" (Letter from Council to SMSS, p.1). In 2008, Industry Canada and Rogers tendered further correspondence to the City about reconsideration of its decision to reject Rogers' application for a building permit. This included detailed maps of wireless coverage and addressed the *necessity* of the Mount Edward Road location (E-mail correspondences from Industry Canada to City, January 18, 2008 and Rogers Communication, July 2008). By letter on November 25<sup>th</sup>, 2008, Donna Waddell, Director of Corporate Services for the City, told M. Plourde, of Rogers' Montreal Office, that she had reviewed the relevant material and that there were no circumstances that would cause the City to change its mind or the location of a tower in the Mount Edward Road area. Alternative sites were proposed (Letter from D. Waddell to Rogers, Nov. 25, 2008).

In February, 2009, Industry Canada, the federal body governing radio communications, sent a letter to the City of Charlottetown advising the City that it had approved the construction and had advised Rogers that it could proceed with constructing the tower

(Letter from Industry Canada to Council, Feb. 27, 2009). No public dialogue between Rogers, the Canadian government, Charlottetown's City Council or the community activist group took place between the time of the city's final ruling to deny Rogers' application to erect a tower and the letter from Industry Canada that approved construction. The public knows little of what went on between Rogers and Industry Canada. The only public information is the aforementioned letter in which Industry Canada stated that Rogers was in full compliance with Health Canada's Safety Code 6. The letter stated,

Industry Canada's challenge lies in balancing the *need* of introducing new and/or improved radio communication services while still giving *consideration* to any concerns that may be raised against such telecommunication infrastructure (p.3, authors' italics).

Mr. George MacDonald, retired Mayor of Charlottetown, could not recall a time since his service on council began in 1977 where the Federal Government overruled the city in such an underhanded way. Mr. MacDonald said that Charlottetown's Municipal Government has had a history of amicable dealings with its federal counterparts and usually agreements were made in open cooperation (Personal communication with George MacDonald, July 14, 2009).

The community, seemingly defeated, gathered itself to reassert its rights. Public protests were held, signatures were gathered on a petition, and letters were written. The activist group threatened a citywide boycott of Rogers' products and services. They questioned Industry Canada's lack of public consultation. The Green Party of Canada weighed in with its support for the activists and issued a statement that Health Canada's safety guidelines were inadequate. From February 27<sup>th</sup>, 2009, until May 11<sup>th</sup>, 2009, correspondence continued between the City and Rogers. It became evident that the tower would be built; all that remained was how it would be done. These communiqués continued until 4:30 p.m. on the afternoon of May 11<sup>th</sup>, 2009. At 6:45 a.m. earlier that day, neighbors to the cell tower site were awakened by the rumble of heavy equipment rolling down the lane to the proposed site of the tower. Construction had begun and without notice to the City. On May 12<sup>th</sup>, the City issued a "Stop Work Order" to Rogers and to two contractors engaged in the work (Stop Work Order, May 12, 2009). On that same day, 50 residents demonstrated near the entrance to the Eastlink property where Rogers had started work. The police attended, at the behest of Eastlink. Discussions between police and the demonstrators followed. No violence ensued and matters were resolved peacefully. Community demonstrators allowed construction to proceed; laborers and equipment passed freely onto the construction site.

Rogers' obtained a response from the PEI Supreme Court on May 14<sup>th</sup>, an *ex parte* application (that is, without notice to anyone else), an injunction to prevent "Persons Unknown" from interfering with access to the work site and to remain not less than 15 feet away from the entrance when access was required (PEI Supreme Court Order, May 14, 2009). On May 14<sup>th</sup>, the City rescinded its "Stop Work Order" and issued to Rogers



the building permit it had requested on October 23<sup>rd</sup>, 2006.

On June 3<sup>rd</sup>, an appeal was filed by a principal activist in the community group, whose property was adjacent to the tower, with the Island Regulatory and Appeals Commission pursuant to s. 28 of the Planning Act questioning the propriety of the City's issue of a building permit and requesting certain remedies if such were found to be appropriate (Notice of Appeal, June 3, 2009). Rogers Wireless, the City of Charlottetown and the activist community all filed briefs on the issue and offered rebuttals to the other parties' briefs. The appeal to IRAC was denied in the fall of 2009.

### **The Concerns of the Citizens**

Not until Industry Canada sided with Rogers Wireless was Charlottetown's activist community required to mobilize and respond to the corporate-government nexus. The concerns of the neighborhood citizens are related to personal health and safety, the legal rights of community citizens, financial risks to homeowners, and integrity of the natural environment. Most of these people have lived in the area for over thirty years. Some of these homes were granted to retired soldiers through the Director of the *Veterans Land Act*, in recognition of military service. These residents now consider that their land is being expropriated by the same government of Canada on behalf of a corporate enterprise (personal communication with Catherine Mullally, July 2009). These people are alarmed at a large corporation gaining support from the Canadian government to sweep aside a legal land-use decision made in good faith by a unanimous vote of the Mayor and Council of the City of Charlottetown. Industry Canada has erased the prerogative of the elected City administration and the concerned citizens (Letter of Shawn Murphy, M.P. to Minister of Industry, Tony Clement, March 18, 2009 and Letter of Senator Downe to Minister of Industry, June 23, 2009).

According to the activist group, the issue presents two problems for authorities to consider. Firstly, the residents whose homes lie within the dangerous range of the radiation perimeter have had their property expropriated by the federal government without compensation. Secondly, municipal governments have statutory obligations to fulfill, free from corporate-inspired bureaucratic interference (Personal Communication with Philip Mullally, July 2009). One conundrum the activist group is struggling with is that the more the issue is publicized the greater detriment to future assessment values. The public sentiment seems to be that encroachment of corporations into residential areas has been justified based on the elimination of "dropped calls" and greater competition leading to cheaper rates. The importance of abatement in the frame of environmental economics are soon forgotten or ignored. The public fails to realize that the convenience and economy gained comes at the expense of present and future costs with regards to physical and financial health of their fellow citizens living in the tower's harmful perimeter.

As in many slowly evolving environmental and health issues, scientific uncertainty is issued as a justification for the loosely regulated wireless industry in both Canada and the

United States. However, Europe and other parts of the world have significantly more stringent standards. The Bio-Initiative Report, tabled to and approved by 569 of 581 voting EU members, advises wide ranging restrictions on the advance of wireless technology ([www.ElectromagneticHealth.org](http://www.ElectromagneticHealth.org), accessed July 21, 2010). CBC's Wendy Mesley, on the current affairs television show, *Marketplace*, described the dangers of wireless technology for children and the passivity of society amid heavy manipulative marketing. Amid developing scientific evidence, an increasing number of studies suggest that low-frequency waves coming from cell towers have subtle biological effects and may reduce fertility, damage DNA, and cause cancer. Many countries including Germany, France, Russia, India, Belgium and Finland recommend limited cell phone access for children, but the United States and Canada do not ([www.ElectromagneticHealth.org](http://www.ElectromagneticHealth.org), accessed July 21, 2010). The National Academy of Science has called for more research on risks on long-term exposure to children and pregnant women ([www.nap.edu/catalog/12036.html](http://www.nap.edu/catalog/12036.html))(see also [www.wirelesswatchblog.com](http://www.wirelesswatchblog.com)). Despite the latest research, the Canadian government, as recently as September, 2010, has turned down the Ontario provincial government's request that Health Canada investigate specific risk to children when exposed to wireless radiation. (CBC's The National, September, 2010)

On June 30, 2009, The National Institute for Science, Law and Public Policy delivered a report on the health hazards of wireless technology to Governors, Congress, President Obama and his administration, as well as to thousands of health and environmental journalists. The report warns of the dangers of radiation exposure from cell phones, neighborhood antennas, and wireless networks. It reviews independent science on the health hazards of wireless radiation and offers recommendations for safer living in a wireless world. According to the report, public health officials and advocacy groups around the world are concerned about symptoms associated with rising levels of electromagnetic radiation or radio frequency (EMF), particularly in proximity to cell phone towers.

Health Canada's Safety Code 6 allows exposure to EMF that is 10,000 times stronger than governing bodies in Europe allow (Health Canada, n.d.). Health Canada established Safety Code 6 in 1999 but it has not been amended since that time. This code is based on preventing damage to human tissue due to the well-understood heating effects of radio frequency thermal effects, which are short-term thermal effects. Health Canada has not conducted research into the long-term effects of continued exposure to non-thermal rates of radiation, the type of radiation to be emitted by the Rogers tower. Canadian opponents to cell towers cannot legally plead their case because Health Canada regulations, specifically Safety Code 6, are not violated by what Rogers Wireless and other telecom companies continue to do.

Table 1 provides a timeline of the relevant context and events of the case.

**Table 1 Timeline of Events**

| Date          | Event  |
|---------------|--|
| 1925          | Founding of Rogers company by Edward Rogers, Sr  |
| 1979          | Under Edward (Ted) Rogers, Jr., Rogers Cable becomes the largest Canadian public cable company   |
| 1985          | Rogers enters the mobile phone market  |
| 2004          | EastLink and Rogers sign agreement to bring wireless services to EastLink bundle customers   |
| Oct. 2006     | Rogers Wireless applies to City of Charlottetown for permit to build cell tower on land purchased from Eastlink  |
| Mar. 2007     | City Council begins public consultation on issue   |
| Apr. 2007     | Rogers and Industry Canada and concerned citizens invited to session; expert witness on negative health impacts of EMR speak                             |
| May 2007      | City Council unanimously passes a resolution to reject request that the Zoning and Development Bylaw be amended to permit construction of the cell tower |
| June 2007     | Rogers' counsel requests reconsideration of decision   |
| July 2007     | City Council unanimously rejects Rogers' request   |
| Feb. 2009     | Industry Canada advises the City that it had approved the construction and had advised Rogers that it could proceed                                      |
| Feb -May 2009 | Correspondence continues between the City and Rogers   |
| May 2009      | Construction begins; City Council rescinds its "Stop Work Order" and issues the building permit under coercion from Industry Canada                      |
| June 2009     | Appeal filed by a principal activist in the community group with the Island Regulatory and Appeals Commission (IRAC)                                     |
| Sept. 2009    | Appeal to IRAC denied  |

### Analysis

It seemed that from the company's perspective, there was a narrow set of stakeholders; however for purposes of our analysis, we viewed the focal stakeholders as Rogers Wireless, the local community of Sherwood/the activist group, Industry Canada, Health Canada, and the Municipal Government. Secondary stakeholders include the provincial government, the Congregation of the Sisters of Saint Martha (who own 40 acres adjacent to the cell tower site) and the natural environment. The Provincial Government's response was limited. Any letters from the activist group calling for support were referred to the concerned department; subsequent statements indicated that the Province was not in a position to object as all applications from Rogers fell within Federal regulations. A former Provincial Minister of Health, Chester Gillan, who lives in the affected area, attended meetings and offered support. The current minister of Education, Doug Currie, also living in the area, was asked to attend a public demonstration but was unable to do

so due to personal reasons. Current and former provincial governments have avoided direct involvement as a separate stakeholder and have maintained alignment with Federal Government policy.

Our analysis begins by applying Mitchell et al.'s (1997) framework to assess the salience of the focal stakeholders in this case.

### **Power of Community of Sherwood**

The community had some power, but it was rather limited. In the tradition of Canadian democratic experience, local government has been seen to be more attuned to the immediate needs and concerns of its citizens. Hence, the power of community has historically been high in PEI. The community had little utilitarian power as their financial resources were miniscule compared to a giant telecommunications company. Their political power, although closely aligned with the Municipal Government, was no match for the power of Rogers once they gained the support of the Federal Government. Media related power was also limited as there was little coverage by the PEI newspaper, *The Guardian*. A June 2, 2009 article reported on the building of the tower and referred to "vigorous protest" from "*a group*" (theguardian.pe.ca, authors' italics). Once the decision was made to allow the tower to be built, the local community was excluded from the planning process. This further indicates the company discounted any power that the community held.

### **Legitimacy of Community of Sherwood**

The expected societal costs of the cell tower include the negative impacts of EMR on human health and wellbeing and the market value of homes in the community. The activists mobilized experts to speak on these negative consequences. The growing scientific evidence of negative health impacts of EMR, especially in Europe's scientific community, provides additional sources of legitimacy for the community. In the tradition of Canadian democratic experience, local government has been seen to be more attuned to the immediate needs and concerns of its citizens. The community believes the Federal Government has overstepped the authority of the local government and questions its authority in doing so. When asked in the House of Commons about his decision, Industry Minister, Tony Clement, stated that the concerns of the community "were not valid." In the end, the activist community became "a demanding stakeholder" with no legitimate claim.

### **Power and Legitimacy of Rogers Wireless**

As mentioned above, Rogers Wireless is a division of a giant telecommunications company with huge financial resources. The Rogers brand is well recognized in Canada. Rogers gained considerable power once they formed a coalition with Industry Canada. The literature and media, including Rogers' corporate communications, are full of examples of the benefits of modern telecommunication infrastructure initiatives. Expected societal benefits include more and better wireless access, economic spin-offs, e-commerce, telemedicine and improved security. From the industry's perspective, cell phones and cell towers are necessary and considered safe and benevolent technology.

Growth is simply a response to customer demand. In this case, legitimacy was further exhibited through the unified front between the federal level of government and the company. Although Canadian guidelines are outdated and do not consider the dangers of non-thermal radiation effects, the company is able to claim that they are compliant with relevant health and safety law and practice.

### **Urgency of Local Community**

The community and in particular the activist group and the Mount Edward Road community exhibited extreme urgency when faced with the impending health and financial impacts on their community from the cell tower.

### **Salience of Industry Canada**

The Federal Government (Industry Canada) de facto exhibited all attributes of a salient stakeholder. It exhibited power, as Industry Canada ultimately decided that the tower would go ahead. Industry Canada sided with Rogers Wireless despite reasoning from scientific experts and legal tradition. It exhibited urgency in the way that the building of the tower was expedited and bypassed.

**Table 2**  
**Application of Mitchell, Agle, and Wood's (1997) Stakeholder Framework**

| Stakeholder                            | Power         | Legitimacy    | Urgency       |
|--|---------------|---------------|---------------|
| Municipal government                   | From H to L   | From H to M   | From H to L   |
| Industry Canada                        | From n/a to H | From n/a to H | From n/a to H |
| Local community                        | L (M)         | M (H)         | H (H)         |
| Provincial Government                  | MIA           | MIA           | MIA           |
| Local community & Municipal Government | From H to L   | From H to M   | From H to M   |
| Rogers Wireless & Industry Canada      | From L to H   | From M to H   | H (H)         |

H = "high", L = "low", M = "moderate", MIA = "missing in action"

In parentheses: theorized attributes based on interpretations of the authors

Changes in attributes represent from early stage (fall 2006 to winter 2009) to later stage (winter 2009 to present day)

The citizens group is therefore categorized as either a latent-demanding stakeholder or an expectant-dependent stakeholder. The company is considered to be a latent demanding stakeholder. There was no consultation process on the part of Rogers Wireless once the decision to allow the tower was made. Their insistence in constructing the tower consisted of few attempts to inform and little communication of their intents once their

initial application was turned down. The sole stakeholder they contacted once their application was denied at the municipal level was Industry Canada.

The opponents to the Rogers cell tower did not form an alliance with any other powerful stakeholders. The provincial government, the University of Prince Edward Island and other silent citizens could have weighed in with their support. Their silence became a vote of tacit support for Rogers Wireless.

### **Discussion and Implications**

Normative stakeholder theory has evolved to a point whereby corporations are expected to consider, if not meet, the demands of multiple stakeholders. However, our analysis leads us to conclude that the company conducted instrumental stakeholder management in this case. The conflict between the community and Rogers Wireless became what Berry (2003) describes as a “dyadic perpetrator-victim scenario”, one with winners and losers. Moreover, Burke’s (1999) assumption that the uncaring or disrespectful corporation will be disciplined through government intervention and other social or regulatory constraints does not apply in this case. The Federal Government chose to allow increased wireless coverage over the concerns for personal health and property of local citizens. To date, the course of events has demonstrated that the interests of competitive advantage for Rogers Wireless, its customers, and shareholders trump the medical, legal, financial and personal interests of the community stakeholders opposed to the cell tower. Rogers’ economic imperative, facilitated by the federal government, has overwhelmed any credence the health of local citizens and the natural environment. The salient stakeholder, Rogers, has been reinforced because managers have been trained and encouraged to prioritize economic indicators and shareholder issues. In this case, economic and technological imperatives override community health and property interests.

Vogel (2010) has argued that voluntary business regulation in many industries is overly limited and that there is a need for both national and international levels of regulation to address corporate conduct. Health Canada has regulations that all Canadian communities are to follow but, their “current information” does not apply to current technologies and their potential radiation impacts (ie., thermal vs. non-thermal impacts) nor is their position aligned with the understanding of many scientists around the world. This leads one to the question: how is this any different from a non-regulated industry?

The involvement of at least two levels of government complicates this story. We can only speculate on the political dynamics between the three levels of government. The Provincial Government was essentially missing in action. In the end, the Canadian Federal Government asserted veto power. Because this is a single case-based analysis, we cannot necessarily generalize our findings. At the time of publication, similar conflicts exist between New Denver, B.C., Aylmer, P.Q., Simcoe, Ont. and wireless corporations. Our analysis and discussion is based on a particular firm, a particular industry, and a

particular local context. A different province or a different community may have faced different kinds of institutional and political challenges. Future research is needed to compare and contrast results across different firms, industries, and geographical, cultural, and institutional contexts. New case studies must examine the growing number of Canadian communities held powerless by Industry Canada as the greedy wireless corporations run amok.

Other scholars have advanced stakeholder theory by recognizing the multilateral and dynamic nature of stakeholder-firm relations and by describing the socially constructed nature of stakeholder attributes (e.g., Driscoll & Crombie, 2001; Frooman, 1999; Mitchell et al., 1997; Rowley, 1997). The case provides some evidence of stakeholder dynamism in that there were changes in the preferences, attitudes, and salience of some of the stakeholders at various points in time. In particular, it was evident that the local community and the Municipal Government lost salience over time.

The case also illustrates the importance of context in company-stakeholder relationships. Local governments have typically been responsible for zoning and land use decisions in PEI and most parts of Canada. Industry Canada overstepping the local government was precedent-setting in this sense. As Senator Percy Downe stated (Letter to Industry Minister, June 23, 2009), “This is more than a local issue; it has serious ramifications for communities across Canada.” Pettigrew (1992) suggested that history shapes stakeholder relationships. Perhaps in the past this community had no need to form allegiances with other more powerful stakeholders because the local government maintained autonomy over its territory and was not encroached upon by federal prerogative.

### **Revisiting Power, Legitimacy, and Urgency**

Stakeholder literature (e.g., Frooman, 1999; Randel, Jaussi, & Standifird, 2009) continues to emphasize power, legitimacy, and urgency as the primary determinants of stakeholder influence. Others have criticized Mitchell et al.’s salience model for failing to acknowledge the role of dependent stakeholders (Calton & Payne, 2003; Driscoll & Crombie, 2001). Moreover, definitions associated with these three constructs and their corresponding bases are inadequate for incorporating the near and the far, the short- and the long-term, and the actual and the potential. Driscoll & Starik (2004) suggest proximity as an additional attribute that theoretically could influence stakeholder salience. The proximity of organizations to various stakeholders establishes a stakeholder connection between the two since these entities continually affect one another in the physical world. For example, Rogers Wireless has become painfully proximate to the Community of Sherwood.

The influence of electromagnetic radiation from cell phones and cell towers, especially the subtle influence over time, would be overlooked in most conceptualizations of stakeholder power and urgency. Although human risks associated with critical and chronic long-term environmental problems are becoming increasingly tangible, salience is still lacking regarding “slowly evolving issues,” where the impact on humans is not as obvious and scientific certainty is lacking. As scientific evidence increases and fills more of these

gaps in our knowledge, ignorance and scientific uncertainty can no longer be used as excuses for denial or inaction.

We suggest that the limited conceptions of power that continue to dominate stakeholder thought and practice are a powerful blinder to recognizing the importance of many legitimate stakeholders. Mitchell et al. (1997:879) suggest that stakeholders can increase their salience if they are clever at "coalition building, political action, or social construction of reality." The case of Rogers Wireless and the Community of Sherwood provides further evidence of how legitimacy and urgency are often coupled with power. In an alternate paradigm, power can be "gained through the emergence of collaborative assemblies, interdependent domains, and cooperative networks" (Purser, Park, & Montuori, 1995: 1080). For example, under an eco-sustainability paradigm (e.g., Shrivastava, 1995), the focus is on both current and future generations and both the short- and the long-term impact of managerial decisions.

Stakeholder salience models are not currently sufficient for understanding stakeholder relationships in different types of contexts. As mentioned earlier, the firm-stakeholder relationship has been theorized to be relational rather than just transactional or exchange-based (Freeman & Liedtka, 1997); however in this case there almost seemed to be no relationship at all between the company and the community. There was no acknowledgment by the company that the community as a stakeholder had taken on substantial risk. In other words, there was no "deep stakeholder engagement" (Crane & Livesay, 2003). Even if risks are potential, perceived, or unproven, the health and wellbeing of citizens related to anxiety and/or frustration with the planning process should be considered in all company-community relationships.

### **The Activist Community and Environmental Justice**

Although the activist community is identified as a stakeholder, its power was too low to give it salience with regards to Rogers or Industry Canada. An active community group can only make significant claims when it forms allegiances or, as Zietsma & Winn (2008) report, creates influences chains with likeminded stakeholders. It is ultimately required that stakeholders "find a way to work with their opponents, whom they neither understand nor trust" (p. 74). So while alliances with other secondary stakeholders must be made, the goals of the activist community are seldom achieved without a consolidated effort of different kinds of stakeholders.

Environmental justice is an underlying reason that the activist community organized. The environmental justice literature has shown how particular communities suffer more harm as risks related to environmental factors are externalized to them (e.g., Agyeman, 2005). Current gaps in knowledge and limits to understanding risks related to EMR have led our counterparts in Europe to adopt a more precautionary approach whereby regulatory bodies apply much lower standards of proof. Environmental justice requires that power be divested from corporations and governments when the health of citizens is at risk. Unfortunately, it has taken health and environmental catastrophes brought on by big oil,



big tobacco and other industries to demonstrate that human, animal and plant existence deserve fair consideration when balanced against corporate interests. As Berry (2003:10) asserts, paradigms must be shifted to restructure power, decrease government and corporate control and allow a sustainable growth process.

### Conclusions

This case has highlighted the conflicting legitimacies of a small community and a large company, of technological-economic priorities and health-wellbeing priorities. It raises the question: who should ultimately have responsibility for balancing community and industry priorities and concerns? Scholars and practitioners need to acknowledge the limitations to current managerial conceptualizations of power, legitimacy, and urgency as the primary attributes used to determine stakeholder salience. Normative stakeholder theory should emphasize the question of who 'should' have power and legitimacy. As small communities and other dependent and demanding stakeholders continue to be reared by corporations, organizational scholars have a role to play in changing the rules of the road or at least in helping to build some better bumpers. The way that organizational researchers frame issues, such as stakeholders and stakeholder attributes, will guide stakeholder management, management education and training, and future research on the topic.

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## EVIDENCE BASED MILLENNIALS

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The workforce is changing, as Boomers are retiring and being replaced by Millennials. This paper explores how organizations can best prepare to train Millennials in new, or existing, initiatives, in an effort to increase successful adoption, by the younger workforce.

### Introduction

Temporarily eclipsed by the financial crises of 2008, and subsequent recession, is the pending shortage of skilled employees that is expected to take place as the Baby Boom generation exits the workforce. While the recession has degraded many retirement plans, potentially resulting in some Boomers extending their time in the workforce, the truth is they cannot delay the inevitable indefinitely. How will the workforce cope with the exodus of Boomers, when the time comes? The replacement for the Boomers will come from the millennial generation; the transition has already begun with early Boomers leaving the workforce and early Millennials entering it.

In parallel with the introduction of the new workforce, of Millennials, is a growing interest in a new way of management – evidence-based management. The focus of this paper is to consider the implications the learning styles of the new workforce, consisting of the millennial generation, and their likely response to the adoption of evidence-based management practices by organizations. Attention is drawn to the learning styles and characteristics of Millennials, which may conflict with the objectives of evidence-based management, and opportunities to address the challenges posed by conflicts are proposed through implementation techniques that compliment the learning preferences of the millennial generation.

### The New Workforce Workforce Generations Defined

Generational boundaries define a period of time when a cohort of people share common life experiences, which serve to define the cohort. While people from across generations experience the same events, the experience and influence of these events uniquely affect each generational cohort (Howe & Strauss, 2000; Johnson & Romanello, 2005; Mangold, 2007). It is important to note that there are no specific scientific criteria for defining generational cohorts, and as a result the specific dates used as generational boundaries tend to vary by a few years from researcher to researcher. The significant generational cohorts currently in the workforce include the Baby Boomers, Generation X, and the Millennials, and as noted by Paula Allen (2004) managing these distinct groups will be “*the primary challenge for businesses*” (p. 51).

Baby Boomers, or Boomers, are generally classified as those people born between

approximately 1945 and 1965, the children of the post world war era (Howe & Strauss, 2000; Johnson & Romanello, 2005; Jonas-Dwyer & Pospisil, 2004; Mangold, 2007; Manuel, 2002; Foot & Stoffman, 1996; Bennis & Thomas, 2002; Alsop, 2008). Significant life events that bond this cohort include the Vietnam War, assassinations of historical figures JFK and Martin Luther King, man walked on the moon, the Civil Rights Movement, and Watergate (Alsop, 2008). Another significant event, perhaps the most defining of this cohort, is the sheer size of the population belonging to it, thus the number of people born during this period is itself a significant event shared by the members of the Baby Boomer cohort (Bennis & Thomas, 2002). These shared experiences resulted in a generation characterized by common traits such as being competitive, committed and loyal to employer, their sense of identity and self-worth is linked to their jobs, and they are materialistic with a tendency to buy on credit (Alsop, 2008; Mangold, 2007; Johnson & Romanello, 2005). In the workforce, Boomers generally hold positions of seniority and often positions of power, which have generally been achieved through their hard work and commitment to the organization. This is also the group of individuals on the cusp of retirement, which is expected to have a significant impact on the labor force -the departure of the majority of the experienced senior workers from organizations.

Generation X, or Gen X, are classified as those people born approximately between 1965 and 1980, the children of early boomers and late Silent generation parents (Alsop, 2008; Foot & Stoffman, 1996; Howe & Strauss, 2000; Jonas-Dwyer & Pospisil, 2004; Smola & C. D. Sutton, 2002). Significant life events that bonds this cohort include the beginning of the AIDs epidemic, Tiananmen Square killings, the fall of the Berlin wall and an end to the cold war, Chernobyl nuclear accident and the explosion of the Challenger space shuttle (Alsop, 2008; Oblinger, 2003; Johnson & Romanello, 2005). These events have played a part in the development of GenXers leading to a generation characterized by self-reliance, resourcefulness, adaptability, cynicism, with a distrust of authority and desire to define themselves as contrary to their parents (Alsop, 2008; Johnson & Romanello, 2005). Generation X could be considered a middle child, sandwiched between the much larger generational cohorts of older Boomers and younger Millennials. Generation X has had to work for their positions and to define their position and relevance in the workforce and economy.

Millennials, also referred to as Generation Y, Gen Y, Generation Next, the Net Generation, Nexters, Echo Boomers, and the Nintendo Generation, (Gardner & Eng, 2005; Howe & Strauss, 2000; Mangold, 2007; Partridge & Hallam, 2006) are generally classified as the cohort born between approximately 1980 and 2000 (Alsop, 2008; Howe & Strauss, 2000; Partridge & Hallam, 2006; Smola & C. D. Sutton, 2002; Spiro, 2006; Jonas-Dwyer & Pospisil, 2004). Significant life events that bonds the Millennial generation include the shootings at Columbine High School, Princess Diana's death, O.J. Simpson trial, Rodney King riots, the Lewinsky scandal, September 11, major corporate scandals including Enron and WorldCom, Hurricane Katrina, and the war against terrorism (Alsop, 2008; Howe & Strauss, 2000; Johnson & Romanello, 2005; Mangold, 2007). These shared events contributed to the development of a generation characterized by their helicopter parents, feelings of entitlement, optimism, civic minded, team oriented, structured, technologically savvy, multi-taskers, and impatience (Alsop, 2008; Johnson & Romanello, 2005; Jonas-Dwyer & Pospisil, 2004; Partridge & Hallam, 2006; Spiro, 2006).

It is worth noting that the characteristics commonly cited as defining the millennial generation do not appear to be supported in the literature by direct empirical evidence. In the absence of such detailed empirical analysis the general consensus remains that these characteristics generally reflect the millennial cohort's attitudes and beliefs.

The concept of the New Workforce then is representative of the changing of the guard, with the departure of the older Boomers and introduction of the younger millennial

generation. The significance of the New Workforce lies not only in the variation in the attitudes and beliefs that the generational cohorts are defined by, but rather these characteristics have implications due to the size of the transition between the oldest and youngest cohorts in the workforce. The implication of Generation X's entry to the workforce was not as significant as the expected transformational nature of the millennial generation's entry. This is likely due to the relatively small size of Generation X, in comparison to the larger Boomer and Millennial generations.

With the rise of this new workforce, the significance of the attitudes the millennial cohort will bring to the workplace cannot be understated. A key focus of this paper is on the millennial generation's attitudes and preferences towards learning, because as the Millennials enter the workforce they will be learning, formally and informally, how the organization operates and organizations with a desire to influence their new workforce, should understand the techniques which are most likely to have a positive impact on the learning experience of the employee.

### **Millennial Learning**

If the learning styles and preferences of new employees impact how they respond to learning in an organizational context, such as orientation programs or new corporate initiatives to change how work is performed, then it is important for employers to attempt to accommodate those learning styles to maximize the effectiveness of these programs and initiatives. Millennials will represent the largest segment of the population entering the workforce for the next decade, and over that time will grow to represent the majority of employees within organizations, as Boomers are expected to retire from the workforce. It is thus likely that the majority of learning within organizations will take place among the millennial generation, so organizations should familiarize themselves with the learning styles and preferences of Millennials to ensure a fit between how organizational information is disseminated and training programs are implemented for employees.

To examine the learning styles and preferences of the New Workforce, a review of studies conducted, on millennial student learning styles and preferences in undergraduate university settings will be helpful. In many respects the most effective teaching techniques are applicable across generations. Active learning is identified as one of the *Seven Principles for Good Practice in Undergraduate Education* (Chickering & Gamson, 1987). These seven principles were established on the basis of research on teaching practices spanning five decades, which means each principle is equally applicable across generations, from the Boomers to Millennials.

Although active learning has long been associated with good teaching practices, it has been during the school years of the millennial generation that it has begun to be incorporated into the education system. Thus it is understandable that while a Boomer may theoretically learn better when engaged with active learning techniques, it is more likely that they have adopted a preference for the traditional lecture teaching style that was characteristic of their formal education. It is also likely that Boomer and GenX managers are apt to transfer knowledge to others in accordance to their personal learning preference; a preference which may not be in line with the recipient's preferred learning style. Johnson and Romanello (2005) categorized the generational learning styles and activities by generation:

The learning styles and preferences identified by Johnson and Romanello (2005) are echoed by other researchers (Jonas-Dwyer & Pospisil, 2004; Partridge & Hallam, 2006).

Jonas-Dwyer and Pospisil (2004) derived five learning preferences (Technology, Entertainment and Excitement, Teamwork, Structure, and Experiential Activities) of the millennial generation, based upon the defining messages, events, and resulting

generational characteristics, of the cohort. Kate Manuel (2002) provides additional analysis on the millennial learning styles, noting that in addition to desiring collaborative learning Millennials prefer to learn from peers, consider “peers more credible than teachers” (p. 208) and resist “memorization and busywork” (p. 206).

Millennials do not just have different learning styles and preferences than earlier generations; Kara Mangold (2007) notes that they also place more value on the knowledge of how to acquire information than the source knowledge itself. So in the New Workforce it will be more important to educate employees on how to find information within the organization, than it is to bring the source information directly to employees.



| Generation                                  | Learning Style / Preferences / Characteristics   | Examples of Generation-appropriate Learning Activities |
|---|--|--|
| Baby Boomers Generation X Millennials [sic] | <ul style="list-style-type: none"> <li>• Contact with faculty</li> <li>• Lecture</li> <li>• Learn best when their wealth of personal experience can be tied to the subject matter</li> <li>• Want to learn in a caring environment</li> <li>• Enjoy positive reinforcement for their efforts</li> <li>• Lecture</li> <li>• Detailed handouts</li> <li>• Note-taking</li> <li>• Write a personal story related to content</li> <li>• Learn quickly and efficiently</li> <li>• Only want to learn what will benefit them directly</li> <li>• Do better when they learn on their terms</li> <li>• Enjoy flexible learning times</li> <li>• See class assignments as something necessary to obtain their degree but it is different from work that is necessary to get the job the desire</li> <li>• Distance learning courses</li> <li>• Programmed instruction done independently, at their own pace, on their own time</li> <li>• Detailed study guides and test reviews that focus on what they will be tested.</li> <li>• Enjoy working in groups: teamwork</li> <li>• Use technology whenever possible</li> <li>• Experiential activities</li> <li>• There is zero tolerance for delays</li> <li>• Strengths are multitasking, goal orientation, positive attitudes, collaborative style</li> <li>• Learn immediately from their mistakes (as they did when playing a Nintendo game)</li> <li>• Simulations with immediate effect on how the student did</li> <li>• Group activities; solving a problem or answering questions to a case study in a small group</li> <li>• Creative, innovative interactive exercises</li> <li>• A Jeopardy-style game, played with teams for a test review</li> </ul> |  |

**Table 1 Generational Learning Styles and Activities**

(Johnson & Romanello, 2005, p. 215)

The Millennials' "zero tolerance for delays", was first identified by Jason Frand (2000) and later echoed by Diana Oblinger (2003), Johnson and Romanello (2005), and Mangold (2007). In Frand's (2000) assessment the Millennials' intolerance for delays goes beyond the basic human desire for instant gratification due to the 24x7 digital environment of the information-age, in which the millennial was born. Most Millennials would not remember a time when they could not obtain cash from a bank machine or pay bills online 24x7; is it any wonder they expect to receive what they want, when they want it? The implication of this trait, with respect to learning in an organizational context, is that employees will begin demanding access to the information they need when they want to access it. In other words it can be expected that new employees entering an organization will expect their immediate supervisor, peers, or HR manager to provide answers to their inquiries, as they familiarize themselves with the environment. Failure to have the answers, or required information, readily available and accessible to these employees could impact their early impressions of the organization and the competence of the individual who was unable to fulfill the request.

Frand (2000) raises concern over the blurring of the consumer/creator role, because "*there is no distinction between the owner, the creator, and the user of information*" (p. 22). While this may seem to be a concern more aptly reflected in a paper about the evolution of copyright legislation, it is related to the millennial attitude towards learning, because failure to recognize the importance of the various roles in the production of information and knowledge, as part of the learning process, could lead to a devaluation on the importance placed on the credibility of the creating source of that information.

As noted earlier, some researchers have also classified Millennials as the Nintendo Generation, in reference to the growth of video game play, which has matured with this cohort. The Nintendo reference is aptly placed, when one considers the influence video games has had on the learning preferences of Millennials. Mangold (2007) notes that Millennials "*have learned through trial and error (i.e., video games), where persistence pays off and reading the manual is not very helpful*" (p. 22). The trial and error

persistence required in video game play can thus be associated with their learning preferences to use technology and learn immediately from their mistakes (Johnson & Romanello, 2005). While there is value in employees learning from their mistakes and chalking it up to experience, the cost of doing so when the information and knowledge necessary to avoid those mistakes is readily available may be costly to organizations.

## **Evidence Based Management**

### **Introduction**

It is important for organizations to understand how employees learn, especially in a knowledge-based economy. It is also important for organizations to understand how the organization, as an entity, learns and makes decisions. As Jeffrey Pfeffer and Robert Sutton (2006) note “*practitioners sometimes neglect to seek out new evidence because they trust their own clinical experience more than they trust research*” (p. 2). It is due to the failure of managers to trust the empirical results of research that organizations have begun to pursue decisions through a process known as evidence-based management.

Evidence-based management is one of many evidence-based practices evolving from the medical industry’s successful evidence-based medicine practice. Other forms of evidence-based practices include evidence-based librarianship or evidence-based information practices (Partridge & Hallam, 2006), and evidence-based education (Rousseau & McCarthy, 2007). Evidence-based practice “*is the process of using formal research skills and methods to assist in decision-making and establishing best practice*” (Partridge & Hallam, 2006, p. 400). Evidence-based management is applying an evidence-based practice to the field of management, using the results of research to inform decision-making and the establishment of organizational best practices.

### **Issues**

If businesses desire to pursue organizational best practices, than adoption of evidence-based management seems obvious, yet many proponents of evidence-based management highlight that this is not the case. Denise Rousseau (2006) outlines the value of evidence-based management, while at the same time highlighting the failure of organizations to implement what they know will work. Specifically Rousseau (2006) concludes that there is no such thing as evidence-based management, because of the “*research-practice gap*” (p. 258). This gap is also reported by others including Edward Lawler III (2007) who note the gap between research and practice, Rousseau and McCarthy (2007) who comment that “*the gap between behavioral science evidence and what even professionally trained managers do is enormous*” (p.85), and Pfeffer and Sutton (2006) who highlight that although managers may believe organizations will perform better, when making decisions based on research, that it “*is another thing to put that belief into practice.*” (p. 7).

In addition to noting the research-practice gap, researchers have also identified a number of reasons for the gap. Gary Latham (2007) explains the gap based on the difference between academia and practice. Latham justified his position by referencing Hulin’s (2001) position that good research does not have to be read or applied by practitioners. That train of thought leads to researchers that do not engage practitioners to establish research projects that may be immediately applicable in practice, which in turn diminishes the likelihood that practitioners will search out the results of researchers. Lawler III (2007) also acknowledges that practitioners, more concerned with current issues and trends, have little interest in reading current research, because the research is generally not focused on the same issues and trends.

In addition to the problems connecting researchers and practitioners, evidence-based management has also been found to conflict with the traditional management education,

which tends to take a generalist approach in theory coverage (Rousseau & McCarthy, 2007; Lawler, 2007), often educating students about specific tools to apply to current business issues, rather than explaining the underlying theory that led to the development of the tools (Rousseau, 2006).

Pfeffer and Sutton (2006) summarize evidence-based management as “*a way of seeing the world and thinking about the craft of management...using better, deeper logic and employing facts...to do their jobs more effectively*” (p. 11). Seeing the world differently suggests the need for a change in the way managers think, as organizations pursue an evidence-based management practice. It is understandable that evidence-based management is described as a new way of thinking; given the assessment that many business school graduates have not been educated to think scientifically, or to critically evaluate evidence. Changing the way managers and employees think requires managers and employees learn about new ways of thinking, so the learning preferences of employees will be an important aspect of any organizational initiative to implement evidence-based management.

### Evidence Based Millennials

The new workforce of Millennials is set to replace the aging Baby Boom generation, so organizations and managers need to consider changing the way they implement policies, procedures, and training within the organization. With a new workforce comes a new set of attitudes and expectations, and a new way of learning and working. Evidence-based management is established on the premise of making decisions based on the best available research, so it is based on generational research that managers need to consider the implications of implementing evidence-based management practices in organizations, as the workforce transitions from an older boomer to a younger millennial generation of employees.

Evidence-based management has been defined as a seemingly linear process; collect and review evidence, make decision, and implement. This linear approach fits well with a generation that lived most of their lives in an linear analog world, but managers must also consider how Millennials will respond to such a structured approach to working, when they come from a digital world built upon a nonlinear path of least resistance (Bennis & Thomas, 2002).

Frand (2000) notes that Millennials “*feel compelled to answer questions and provide information, often without taking adequate time to think through the consequences*” (p. 22). This need for speed may conflict with the methodical approach put forward by proponents of evidence-based management. The problems with Millennials’ compulsion for forward progress down the digital path of least resistance may be compounded by the notion that Millennials consider peers more credible than teachers, thus conceivably they consider peers more credible than managers or industry experts (Manuel, 2002). If Millennials are more accepting of information (evidence) by virtue of proximity to the source, then there are risks that they will not evaluate evidence as required for successful evidence-based management.

It seems, based on the information presented thus far, that there is a significant disconnect between the skills and actions necessary to be successful in adopting evidence-based management and the natural tendencies of the millennial generation. This would suggest that, in light of the demographic shift in the workforce, perhaps evidence-based management has missed its opportunity to become established as a business best practice. Fortunately all is not lost as there may be opportunity to leverage Millennial characteristics that complement the adoption of evidence-based management

practices.

Pfeffer and Sutton (2006) allow for the use of evidence collected as part of a prototyping process, in evidence-based practice. Johnson & Romanello (2005) identified the process of trial-and-error learning as a key-learning characteristic demonstrated by the Millennial Generation. Thus, organizations wishing to leverage evidence-based management practices in the New Workforce may choose to develop a culture, which “*treat[s] the organization as an unfinished prototype*” (Pfeffer & R. I. Sutton, 2006, p. 9). This would complement the Millennials’ trial-and-error learning style and may be well received by employees of this generational cohort. Much like the scenario painted by Mangold (2007) where video games are played and from each failure the player considers information collected from the failed attempt and adjusts their strategy for the next attempt, with each round of prototyping that takes place in the organization data (evidence) is collected to help inform the next course of action, as per the evidence-based management process highlighted by Pfeffer and Sutton (2006).

Potential for successful evidence-based management implementation, within the New Workforce, also exists in the recognition that Millennial employees find peers more credible than teachers (Manuel, 2002). When an organization attempts to implement evidence-based management in the organization there is an opportunity to educate key peers on the merits of the practice, in advance of a company wide rollout. If influential peers are informed and accepting of the value of the practice then the remainder of the millennial employees may be more apt to accept and adopt the practice.

To further improve the possibility of successful implementation of evidence-based management practices organizations should consider the implementation of active learning techniques as part of the training process. Active learning techniques were identified as one of the key learning styles of the millennial generation. To maximize the effectiveness of the training of employees in evidence-based practices alterations to traditional business training programs may be required to ensure they also adopt active-learning techniques, which will improve the success of the evidence-based management-training program with employees of the millennial generation.

### **Conclusion**

Evidence-based management represents an important shift in how effective decisions are made in organizations, yet like any new initiative it will only be as successful as it is properly implemented and accepted by employees. A major challenge facing the global workforce over the next decade is the exodus of knowledge and experience, as Baby Boomers retire. This challenge also represents an opportunity for firms wishing to implement evidence-based management practices, because training can be incorporated into the orientation programs necessary to bring the New Workforce, of Millennials, up to speed on the practices within the organization.

For organizations wishing to implement evidence-based management practices, with the growing employee base of Millennials, it may be useful to recognize how the Millennial preferences and learning styles may enhance or limit the successful implementation and acceptance of this practice, by the millennial cohort. While many characteristics of evidence-based management conflict with accepted characteristics of the millennial generation (preference and privilege afforded to peers as source of knowledge and lack of significance placed on the creator/source of information) their trial-and-error iterative learning style, developed from video game play, can be incorporated into some forms of evidence-based management. To make evidence-based management most appealing to Millennials organizations should adopt a prototyping methodology of collecting evidence from within the organization. Prototyping supports evidence-based management’s need to collect current and relevant data while conforming to the Millennials’ natural tendency

to approach learning through a video game mentality of trial-and-error.

Thus, while the exodus of knowledge and experience represents a significant challenge to the global workforce over the next decade, the New Workforce and evidence-based management represent opportunities for the global workforce to become more efficient and effective at decision-making.

In drawing these conclusions it is worth noting that the study has not relied on primary empirical sources of data, and much of the limited empirical data on the millennial generation is collected in academic settings. It is thus noted that future studies may consider collecting empirical data from the early millennial cohort, which has already started to enter the workforce, to determine if these characteristics are still representative of Millennials who are active in the workforce. Such studies could also investigate Millennials' attitudes towards evidence-based practices to verify the relationships proposed in this paper.

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**EMAIL AND PERFORMANCE FEEDBACK:  
AN EXPLORATORY STUDY OF E-FEEDBACK**

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This study explores the use of email for job or performance feedback in organizational work settings. The domains of performance feedback and organizational communications are reviewed, gaps identified, and then the results of an exploratory set of interviews are used to develop a general model, inclusive of both formal and informal feedback given and received in email.

### **Introduction**

While job feedback has been found to be an effective tool for enhancing employee performance in the workplace (DeShon, Kozlowski, Schmidt, Milner, & Wiechmann, 2004), the majority of this research has taken place within a pre-21<sup>st</sup> century paradigm; one grounded almost exclusively in face-to-face interactions. The use of Internet and Intranet technologies for organizational communication are transforming many of the processes found in the modern workplace; while these technologies enhance many processes and permit efficiencies throughout an organization, they also hold the potential to reduce face-to-face interactions (Spence, 2002; Sproull & Kiesler, 1986; Walther, 1995) and to introduce new confounds into organizational communications (Weatherbee, 2007) including feedback processes. Interpersonal interactions in email can easily become problematic due to the lack of non-verbal and verbal cues used to ground communications and which produce a common understanding (Blanchette & Richards, 2003; Byron, 2008). The nature in which email affects communications has implications for our understanding of task and job performance feedback in modern organizational settings as the use of these technologies increases.

Although there is a wealth of past research on both informal and formal communications in organizations; which indicate that performance feedback is a critical

work factor for both supervisors and subordinates, research has rarely been focused on the effects of the communication medium that is used for the provision of feedback. Moreover, although the use of email, as a communication medium, has been attracting recent attention from researchers as to its influence on interpersonal communication in organizations, there has been limited, if any, research focused on the effects email may have on communication processes within performance feedback models. Therefore, there is potentially a significant gap between our understanding of task and job performance feedback using these new modalities, and the potential effects they may have on performance feedback processes. Given this gap, a framework is needed within which to investigate feedback processes within the context of email used as the communication medium. In order to guide future research, a common coherent framework which builds upon 20<sup>th</sup> century research may serve as an effective basis for both research and practical workplace implementation and application.

### **Objectives of this Research**

The aim of this research was to explore and identify if feedback, by way of email, is (a) becoming more popular in organizations, (b) what general effects, if any, email as a communication medium has upon performance feedback processes, and (c) what benefit or detriment, if any, it is generating? This study examines the relationships between feedback, both formal and informal, and the process of giving and seeking feedback through email. This study also explores how email is used in an informal and formal context for feedback purposes and what impact this had on the feedback and the self-reported performance of persons receiving feedback.

### **Conceptualizing Performance Feedback and Communication Domains**

The review which follows serves to frame the study context and to synthesize the major factors concerning both feedback and organizational communications. The discussion first examines performance feedback and then feedback processes with the major factors of communication theory and email as an organizational communication medium.

### **Feedback and Work Performance**

Before Maier's 1958 study, performance feedback was a tool that was not well understood (as cited in Van Fleet, Peterson, & Van Fleet, 2005). Since then, feedback as the subject of study has dominated many of the organizational and psychological journals as researchers invested significant effort into understanding and developing performance management processes and tools. Feedback is described by Steelman, Levy, & Snell as "a subset of the available information in the work environment that indicates how well an individual is meeting his or her goals. It conveys which behaviors are desired by the organization and includes an evaluation of the quality of relevant work behaviors" (as cited in Rosen, Levy, & Hall, 2006, p. 211). Another definition states: "any information that people receive or organizations receive about their behaviour or performance, its effect on others, or comparison to a standard or expectation" (Sniderman, Bulmash,



Nelson, & Quick, 2007, p. 579). Despite the different definitions of feedback, work or task feedback has been found to be an effective method for increasing individual, group and organizational performance when properly utilized (DeShon et al., 2004).

Performance feedback may be sub-divided by distinguishing between informal and formal feedback processes. Formal feedback, commonly given during a performance appraisal, is normatively required as part of the organizational performance review of employees. These normally consist of scheduled meetings where critical assessments of job and task performance, often in relation to goals and expectations set in advance, occur. Performance feedback in these settings is normally fully documented (Ashford & Cummings, 1983). Informal feedback, however, may be quick positive or negative expressions of progress, or lack thereof, or for other suggestions for improvement. Informal feedback is normally given verbally. This method is not likely to occur in a meeting at a scheduled time and is not usually limited to once or twice a year (Jones, George, Rock, 2007). Informal feedback is considered to be outside of formal mechanisms and procedures for the delivery (London & Smither, 2002) and so is not normally documented.

Informal performance feedback given to subordinates was found by Larson, Jr. and Skolnik to improve the quality of succeeding formal appraisals; due to the frequent receipt of feedback which serves as a guide for both subordinates and superiors in between formal performance evaluations (1985). It was noted by Bernardin & Beatty that receivers of feedback are not usually content with only an annual performance appraisal (as cited in Evans & McShane, 1988); thereby highlighting the importance of informal feedback-giving throughout the time interval between formal appraisals. Steelman et al. argued for the value of frequent, unofficial feedback in the context of efficient workplace performance (as cited in Rosen et al., 2006). This has implications for email use as a communication medium for feedback.

### **Communication Theory: Understanding the Fundamentals**

Communication is a key factor in workplace relationships and organizational communication is a significant dimension of organizational success. Communication, as defined by Edstrom & Galbraith, is the behavioural process through which information is exchanged (as cited in Penley, 1982). With a focus on the workplace, organizational communication is a dynamic process, requiring continuous evaluation in order to sustain shared meaning across organizational members (Gilsdorf, 1998). Carter declares that organizational communication is not a natural process; but rather, an *artificial procedure* that has been designed to bridge gaps in the system needed for coordination of organizational effort (as cited in Grunig, 1975).

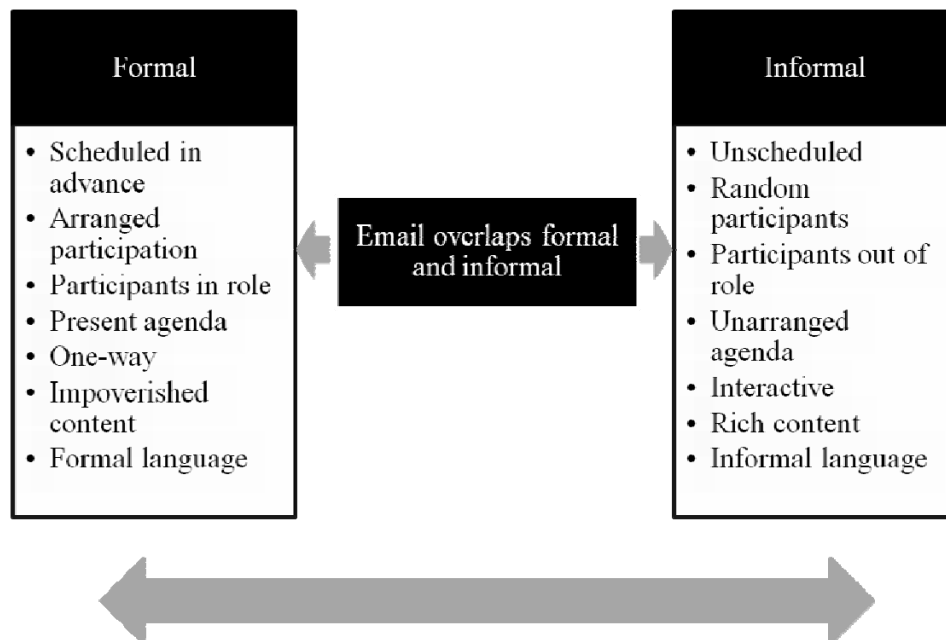
Communication theory broadly classifies communication as formal or informal. While there are inconsistent descriptions, there are distinctions made throughout the literature between formal and informal communications. Paralleling Daft and Lengel, a detailed distinction is given by Kraut, Fish, Root, and Chalfonte (2002) in Figure 1. This illustration has been modified for visual clarity and to assist in the explanation of

formality dimensions. Email has been added and it is proposed that email overlaps both formal and informal communication. Although some research argues that it is informal and some that it is formal, email, as a communication medium, has characteristics of both formal and informal and is perceived differently by many users. The different perceptions are what make the email phenomenon of interest to communications researchers and this will be examined in greater depth in the next section.

Formal communications have conventionally been associated with hierarchical relationships such as found between a subordinate and supervisor (Johnson, Donohue, Atkin, & Johnson, 1994), while informal communication is usually found amongst peers. There are also potentially informal communication engagements between supervisors and subordinates but whether communication is perceived to be formal or informal is influenced by various factors such as the relationship between communicants, the nature of the setting, the communication medium used, and the frequency of communication itself (Kraut et al., 2002). However, informal communication seems to be the dominant form of interpersonal communication at work; ‘filling in the gaps’ between formal communications and essential to effective relationships at work needed for organizational functioning.

**Figure 1:**

**Adapted: The Formality Dimension of Communication (Kraut et al., 2002)**



Perception is a key factor in communication as it is the origin for how meaning is interpreted by the sender and will be interpreted by the receiver as communication “... is inherently subjective and influenced by people’s personalities, values, attitudes, and

moods, as well as by their experience and knowledge” (Jones et al., 2007, p. 340). This innate nature can contribute to effective communication when accurate or can affect communication in ways that create misunderstandings when interpreting messages. It is acknowledged in communication research that subordinates differ in their capability of understanding a message when presented with a mixture of verbal and non-verbal expressions. This results in the same message being received differently by different subordinates; depending on the amount of importance placed on elements such as non-verbal cues and verbal presentation (King & Young, 2002). This barrier is partly caused by the individualized formation of meanings; Blagdon and Spataro (1973) describe meanings as created in the minds of individuals and which therefore reflect the clarity of one’s communication process.

There is also dimensionality to both formal and informal communications. Verbal communication describes the actual words in the spoken (telephone, face-to-face, etc.) or written message (letter, email, etc.); while nonverbal communication describes such elements as facial expressions and body language (Jones et al., 2007). Some researchers define communication style as “the characteristic way a person sends verbal, paraverbal, and nonverbal signals in social interactions denoting (a) who he or she is or wants to (appear to) be, (b) how he or she tends to relate to people with whom he or she interacts, and (c) in what way his or her messages should usually be interpreted” (de Vries, Bakker-Pieper, Siberg, van Gameraen, & Vlug, 2009, p. 179). This describes interpersonal communications and the impact perception has on interpretation; it is also the product of cognitive processes of both the sender and receiver.

Inquiries into the challenges associated with choosing a specific workplace communication medium have enhanced our comprehension of how to effectively send a message that can be more accurately interpreted and understood by the receiver. Straus and McGrath, among others, provide the notion that different mediums are appropriate for different messages and circumstances (as cited in Byron & Baldrige, 2005). Valacich, Mennecke, Wachter, and Wheeler found that individuals vary in sensitivity regarding the medium depending on the task or objective of the communication (as cited in Barry & Fulmer, 2004), such as performance feedback or information delivered to all organizational members. Perception plays a role in the preference and opinion of media characteristics; past experiences, as well as one’s skills, will influence future use and preference of communication mediums (Carlson & Zmud, 1999; Westmyer, DiCioccio, & Rubin, 1998). For example, a subordinate whom is not comfortable with using email other than to send documents, due to negative experiences or lack of training in using the technology, may prefer telephone or face-to-face communication. A supervisor sending messages to a subordinate is taking the chance that misinterpretation could occur due to the negative perception of email held by the subordinate.

In determining the appropriate communication medium for the message, the following three characteristics are important to consider: information richness (the amount of information the medium can transfer), time needed for communication, and the need for documentation (Jones et al., 2007). Media richness theory states that computer-mediated communication, email, for the purpose of this study, is lower in information richness than face-to-face communication (Daft & Lengel, 1984). Daft and Lengel go on

to list communication mediums from greatest richness to lowest richness: face-to-face, telephone, personal documents, impersonal documents, and numeric documents (1986). For example, if the message is not urgent but is personal, it may be more effective to have a face-to-face conversation than to send an email. On the other hand, if the message is urgent and requires documentation, it would be appropriate to send via email as long as it is not subject to misinterpretation. It is clear that there is not an ideal communication medium, as it is subject to the decision making of the sender; however, a good communicator will consider the implications of each communication medium before sending a message.

Research on email, as a communication medium, has not been conducted in as much depth as other communication media. Yet, when considering the importance of nonverbal cues on perception and the lack of those cues when using email for communication, it is likely that a message containing feedback will be perceived differently than intended when sent via email. This suggests that a significant degree of ambiguity may be present in email communications containing performance feedback.

### **Email as a Communication Medium**

Email is thriving as a computer-mediated communication technology (Dimmick, Kline, & Stafford, 2000); and, although some studies show positive aspects and usage of email including availability, enhanced communication, and time efficiency (Spence, 2002; Sproull & Kiesler, 1986; Walther, 1995), others demonstrate significant problems associated with phenomena such as aggression, sarcasm, insults, intimidation, and misleading cues (Friedman & Currall, 2003; Landry, 2000; Markus, 1994; Moore, Kurtzberg, Thompson, & Morris, 1999), resulting in differentiated views as to its organizational effectiveness.

Marwick states that email can establish a continuous connection with supervisors or subordinates when in different locations and not able to meet face-to-face (2001). It is less formal and allows a person to communicate information that they may otherwise not be able to due to location barriers or lack of time (Sproull & Kiesler, 1986). Email, as a communication medium, may appear to one subordinate to have more characteristics of informal communication than formal, in accordance with Figure 1. Another subordinate may consider the message received to be more formal in nature. Further, researchers have found electronic communication to be subject to lower costs and more efficient than face-to-face communication (Clemons, Reddi, & Row, 1993; Young, 1995). Finally, one of the major areas of controversies is whether emotion can be expressed through email due to the lack of nonverbal cues. Some researchers have stated that emotion can be observed through computer-mediated communication (McCormick & McCormick, 1992; Rice & Love, 1987). Although not as prevalent as in face-to-face interactions, emotion can be expressed through email using descriptive words or emoticons.

A comprehensive study conducted by Kruger, Epley, Parker, and Ng found that participants overrate their ability and the ability of others to effectively communicate through email (2005). Consequently, there is a potential problem with interpreting

emotion through an email due to the lack of paraverbal and nonverbal cues, such as pitch and gestures (Blanchette & Richards, 2003; Byron, 2008). In addition, emotion is perceived by the receiver even if not intended by the sender (Byron & Baldrige, 2005). The use of capital letters and excessive occurrences of exclamation marks are examples of misinterpretation possibilities (Turnage, 2008). Daft and Lengel examined the missing opportunity for immediate feedback when communication occurs through the use of email and find that subordinates often become distressed when not given the chance to seek clarification that would otherwise be present when speaking face-to-face. Consequently, this leads to lengthy periods of time devoted to confusion and discomfort over what is often a misunderstanding. The study suggests that email be used for “very simple or unequivocal” messages that do not involve evaluations or critically important details (as cited in Byron, 2008, p. 312). It is clear that email is a prominent tool and is becoming progressively more important within organizations for communications of all types. Although these recent findings are critical to our understanding of the phenomenon, the features of email alone do not accurately depict their effects on feedback, via email, or on a recipient’s interpretation and behavioural response. There is a gap in our understanding as to the impact email usage has on feedback processes and subsequently the individuals affected by it. Due to the ambiguity in email and different perceptions of feedback-giving and feedback-receiving, this may create the possibility for ambiguity in feedback via email. It is important to recognize and understand if email is being used for feedback delivery and if it is an appropriate medium for the delivery.

## **Method**

Locke states that organizational research often employs a grounded theory approach for its ability to “capture complexity and facilitate theoretical work in substantive areas that have not been well researched by others” (as cited in Bryman & Bell, 2007, p. 592). Because this study is examining an understudied area, it is appropriate to employ a grounded theory approach. This research seeks to understand the phenomenon by using the underlying principles of grounded theory, such as utilizing data gathered from semi-structured interviews, to determine whether or not our understanding of the feedback process will be modified with the introduction of email as the communication medium. Using grounded theory, as outlined by Glaser & Strauss 1967 and Strauss & Corbin 1990;1998, (as cited in Bryman & Bell, 2007), to identify patterns of meaning and interpretation independent of what past research declares regarding feedback and email as two separate domains, this study synthesizes the current literature and evaluating potential linkages through a comprehensive analysis of the domains.

## **Participant Selection**

Due to the nature of this investigation, the most fundamental criteria for site selection were (a) the presence of feedback processes in the workplace, and (b) that employees must use organizational email for work communications. Initially participants

were selected from a pool of individuals known to the researcher, and subsequently participants were asked for referrals using a snowball methodology to increase the participant pool. The selection process attempted to include a variety of demographics, organizations, and job positions in order to gather preliminary information from a wide range of circumstances. Selecting participants of different genders, ages (over the age of majority), and seniority allowed for a broad sample needed to provide information useful for gaining insight into the organizational environment and feedback in email. A total of seven participants were selected, four females and three males ranging in years-employed with their current organization from less than one to 33 years. These individuals represented occupations from educational institutions, manufacturing plants, health care establishments, non-profit organizations, and the telecommunications industry.

### **Data Collection and Analysis**

Semi-structured interviews were conducted with seven employees of various organizations and interviews were tape-recorded for accurate transcriptions. As comprehensive understanding of the phenomenon can best be achieved by focusing on the meaning each participant holds in relation to the construct of performance feedback and email technology, broad, open-ended, questions were employed and data was collected in the setting where the participant worked. Interviews were conducted at the participant's place of employment in person wherever possible, but occurred via telephone if arrangements could not otherwise be made.

To analyze the data, the main features of a grounded theory approach were utilized to determine relationships and to "form a theoretical framework that explains some relevant phenomenon" (Bryman & Bell, 2007, p. 587). While there are many procedures within the grounded theory approach that produce findings for the researcher, "Coding is one of the most central processes in grounded theory. It entails reviewing transcripts and giving labels to component parts that seem to be of potential theoretical significance..." (2007, p. 586). Open coding, axial coding, and selective coding procedures proposed by Strauss and Corbin allowed for the appropriate focus during different phases of analysis (as cited in Bryman & Bell, 2007). As analysis proceeded, the data that emerged from the research was compared with previous data and utilized to guide subsequent data gathering. Codes were generated, reviewed, and tailored by utilizing the constant comparative method described by Glaser & Strauss for comparing different concepts of the phenomena (as cited in Bryman & Bell, 2007).

The first procedure for analyzing the data recorded in the transcripts was open coding. During open coding, data was closely examined and compared for similarities and differences. The aim of open coding is to discover, name, and categorize phenomena into meaningful descriptions. Open coding lead to axial coding, which is the process of reassembling data that is broken down into concepts and categories during open coding and making connections between the concepts and context of the transcripts (Bryman & Bell, 2007). The last procedure used was selective coding, which is the process of integrating and refining categories (Bryman & Bell, 2007). To integrate the coding process techniques such as relating the participant's accounts to central components of the

current literature by using diagrams and reviewing transcript notes. The refinement of the analysis included filling in poorly developed categories and integrating and combining categories to extend the conceptual framework. Within this procedure the areas needing further development were uncovered and the necessary research needed to expand the knowledge was noted.

Unlike quantitative research where validity is measured by the significance of the numbers presented during analysis, this qualitative study focused on conveying information and patterns deemed important through the thoroughness of the chosen methodology. To insure credibility of the findings, engagement with interview participants was continued to the point of theoretical saturation, careful recording of transcripts occurred, and procedures outlined in the grounded theory approach were maintained. Upon the seventh interview a point was reached where no new information was being gathered and consistent explanations and occurrences across participant experiences were found.

## **Results and Discussion**

### **Email Use**

Organizational email policies at respondent sites vary from simple informal guidelines and suggestions to formalized control through documents, strict policy, and employee training sessions. Despite the variation in organizational email use, all participants acknowledged their sensitivity to media use when attempting to understand content and also when sending an email. Sensitivity concerning email reflects Daft and Lengel's suggestion that email be used for "very simple or unequivocal" messages that do not involve evaluations or critically important details (as cited in Byron, 2008, p. 312). However, while participants understood the notion that email, as a communication medium, may contain a significant degree of ambiguity, there were fewer acknowledgements that they understand how misunderstanding could arise. Aside from informational debriefs and attachments, most messages sent through email are relatively short and perceived to be simplistic. Although all participants find reading and understanding email messages relatively easy, all have encountered incidents where further communications to clarify ambiguity or misunderstanding were needed.

Email use for organizational purposes was encouraged in all cases examined. However, across the various organizations, email was found to be used for both formal and informal purposes. Email communication was used most often in time-sensitive cases or when availability and conflicting schedules prevented face-to-face interaction. Email was used to send informal greetings, notes, formal instructions, documents and for both informal and formal feedback. These results are consistent with the findings of Spence (2002); Sproull & Kiesler (1986); & Walther (1995).

### **Email Ambiguity**

Misunderstandings can occur without originally being detected or resolved due to the perceived notion of one's ability to comprehend a message. These results reinforce the findings of a comprehensive study which found that participants overrate their ability and the ability of others to effectively communicate through email (Kruger et al., 2005). Another study found that simplified written responses are usually not interpreted in parallel to the intended message (Stull, 1978) resulting in miscommunication and the message being received differently by subordinates depending on the amount of importance placed on things such as non-verbal cues and verbal presentation (Blanchette & Richards, 2003; Byron, 2008; King & Young, 2002). These events most often resulted in face-to-face communication to resolve the issue.

### **Email Feedback**

E-feedback was used by Tuzi to describe "...feedback in digital, written form and transmitted via the web..." (2004, p. 217). His work focused on the use of electronic feedback in an academic setting, specifically providing electronic feedback to second-language writers. This study, however, focuses on feedback processes in the workplace and involves the relationship between supervisors and employees. For the purposes of this research, e-feedback represents e-mail feedback which is a sub domain of electronic feedback; e-feedback is job/task performance feedback in digital, written form and transmitted via e-mail.

All participants, except one, preferred receiving feedback in face-to-face exchanges. This finding parallels that of the findings of Cummings, Butler, and Kraut who show that email proved to be a less effective communication medium than other modalities in building and sustaining social relationships at work (2002). Evaluators tend to provide a higher quality of feedback when face-to-face resulting in the receiver displaying stronger feelings of understanding (Herbert & Vorauer, 2003). This illustrates that although face-to-face is preferred, the use of email appears in many circumstances to override these desires as depicted in Figure 2. This presents practical reasons for concern in regards to the employment of frequent email use as a replacement for traditional face-to-face communication. As described by Gladwell, with email becoming more popular for workplace communication, communicative anticipation is decreased which leads to shorter responses to each of the many emails received (2002). Thus, this potentially overused medium may further contribute to uncertainty of interpretation.

Feedback was found in all cases to be considered important and was, as a result, desired by all participants. All participants received feedback through email and perceived it to be useful. All participants observed that feedback-seeking and feedback-giving behaviours in email had increased over time. They believed this was due to email's convenience and its capability for timely delivery. Due to the uncertainty associated with email technology, feedback-seeking is therefore found to increase. Although participants did not always perceive themselves to be seeking feedback through email, all participants sought performance and/or progress-related feedback. This finding is supported by Ilgen and Moore (1987) who found subordinates would actively seek feedback when information was needed or when perceived to be of use in increasing



performance. For this study, task or progress feedback seeking and giving was more prominent. As illustrated in Figure 2, without a formal performance appraisal, some subordinates were found to place more emphasis on the informal performance and progress feedback in email with these informal feedback emails acting as substitutes for formal systems. Subordinates appeared to need performance (big picture) feedback and when they did not would attempt to fill the gap by seeking task-related feedback (Herbert & Vorauer, 2003). This stresses the importance subordinates place on feedback as a measure of work performance. Whether performance or progress, face-to-face or email, subordinates need feedback as an encouragement and improvement mechanism. Giving informal performance feedback to subordinates was found to improve the quality of succeeding formal appraisals (Larson, Jr. & Skolnik, 1985). This is also found to be an accurate statement within the framework of email as a communication medium. Whether through giving or seeking, supervisors and subordinates, respectively, had a greater appreciation and understanding of formal performance appraisals.

Most participants perceive feedback given through email to be more informal and when delivered face-to-face to be more formal. Conversely, all but one participant saved and/or printed the 'informal' feedback sent via email, as shown in Figure 2. This was especially true when there was a lack of feedback outside of that being delivered using email. Although formal communication is found to be less reliable than informal (Harcourt, Richerson, & Wattier, 1991), participants seem to place more importance on formal feedback systems. This demonstrates the need for formal performance appraisals to reflect the various informal feedback evaluations given between formal appraisals. It was observed that positive feedback received via email was the target for formalizing by printing. Negative feedback was not treated similarly. As past research demonstrates, subordinates are more likely to place a greater importance on positive feedback and often avoid negative feedback (Moss & Sanchez, 2004; Moss, Valenzi, Taggart, 2003).

Accounts from participants described open communication with their superiors that allowed for input and discussion regarding their performance feedback, either face-to-face or in email. This parallels research by DeGregorio and Fisher, and agrees with the basic premise that interactive models involving subordinate participation and open dialogue tend to produce more effective outcomes (1988). This applies just as much to email communication as it does face-to-face modalities. Greller states that without the ability or opportunity to contribute to the discussion or ask questions, it was found that employees often feel *uninformed* and confused (1980).

The findings suggest that email feedback (e-feedback), with informal task and progress feedback dominating, is increasing in organizational workplaces. With this increased usage, formal performance appraisals may no longer be the main source of useful feedback for respondents. Email technology has been altering the way in which subordinates communicate with their superiors on a daily basis with regard to feedback. One outcome of this study indicates the importance of how a message is written and transmitted. Although the quantity of feedback is important (Ilgen, Fisher, & Taylor, 1979), so too is the quality (O'Reilly & Anderson, 1980). These findings indicate that while email does allow for an increase in the quantity of feedback communication

between a subordinate and superior; in many ways email appears to lack the quality of feedback that would otherwise be achieved through face-to-face interaction.

### **Limitations of this Study**

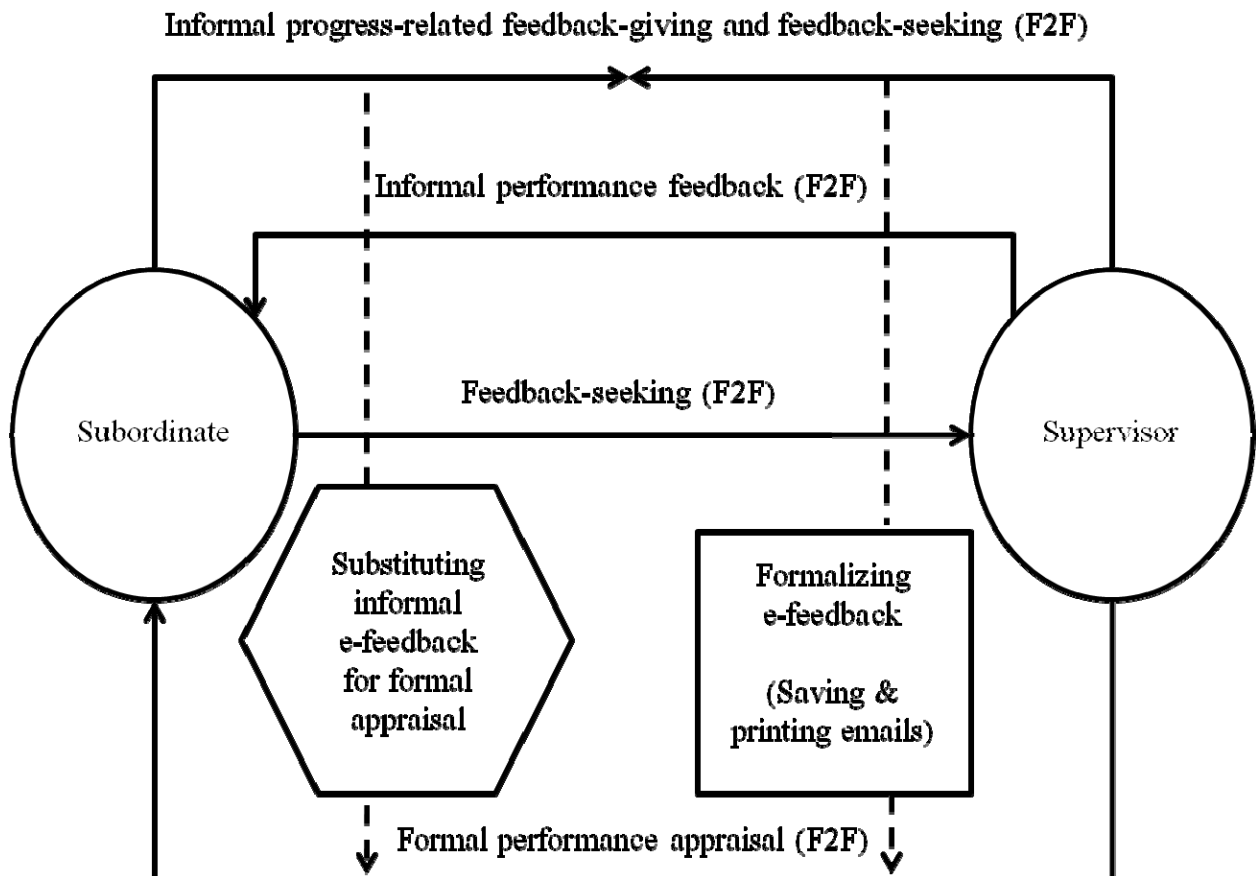
While using semi-structured interviews promotes deep, detailed descriptions from the participants viewpoint it is important to note the limitations associated with this study. The information captured during the interviews is based on the memory of personal experiences and perceptions of subordinates and is therefore subject to distorted memory and bias. While the theoretical framework developed here is based upon the analysis of behavioural patterns and perceptions of respondents it is based upon a limited data set. However, to investigate a relatively new area of study such as this, it is first necessary to view each organization and participant as its own distinct and complex entity. For that reason, it is difficult to generalize the results across all organizations. It is also acknowledged that further qualitative research followed by quantitative analysis should be conducted next.

### **Conclusion, Implications, and Suggestions for Future Research**

Although the use of email has been attracting some recent attention from researchers as to email's influence on interpersonal relations in organizations, there are still large gaps in our understanding concerning the relationship between the use of organizational email, the giving or seeking of performance feedback, and the perceptions of feedback either given or sought in this medium. The findings of this research have emphasized the importance of feedback-seeking and feedback-giving at work, as well as how email technology is contributing to these activities. It has been demonstrated that both performance (job) and progress (task) feedback are occurring through email and are influenced by the perception of the feedback giver as well as the receiver. It also shows that subordinates may change their perception of formal and informal feedback to better suit their perceived needs. Overall, the proposed model and research findings present a framework that may be useful to understanding the importance of this increasing phenomenon.

Figure 2:

**Model of Formal & Informal Feedback-seeking & Feedback-giving Implications for Email at Work**



This research has various implications for knowledge workers interested in organizational development and communication media as well as those responsible for employee evaluation and feedback delivery. With email containing a respectable degree of ambiguity and still being researched as to the effects it has on social and work environments, the academic implications support the need for further investigation into the gaps currently separating our understanding. On a practical note, feedback may be being communicated through email at work without a sufficient amount of research conducted on the domain. E-feedback, its degree of formality and frequency, is creating a more complex context than previous to email. This has the potential to create fragmented information sets concerning job/task performance which could result in unwanted or undesirable behavioural outcomes.

Due to the several ways a receiver can perceive a message; this research proposes that, with added ambiguity, feedback sent through email increases the likelihood of misinterpretation and, consequently, corresponding responses. Although the results of this study show an understanding and sensitivity to media use and email challenges, it is

still important to further investigate the perception held by subordinates regarding feedback being delivered via email. Significant research is still needed on the impact feedback via email has on psychological processes of subordinates and workplace performance.

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## **ABORIGINAL FINANCE AND REGULATION – WHAT ARE THE REGULATORY IMPEDIMENTS TO ESTABLISHING AN ATLANTIC CANADIAN ABORIGINAL FINANCIAL INSTITUTION?**

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We explore the regulatory and legislative barriers to address accessibility of capital for First Nations businesses and communities in Atlantic Canada. Specifically, we examine the legal and regulatory impediments that may have a bearing on the ability of Atlantic First Nations to establish an Aboriginal-owned financial institution.

### **Introduction**

Financing is a necessary component to most businesses regardless of size. In theory and practice, it is uncommon for a business to have sufficient capital to satisfy all needs that arise from asset ownership. Capital can be used for a wide variety of activities during the start-up phase of a company, including equipment and inventory purchases, as well as general marketing purposes. A properly financed business, in many instances, becomes more profitable than the business trying to operate without an adequate capital base.

In the First Nations business community, the need for financing and the accessibility of capital has been recognized. This issue was publicly debated during 2007 proceedings of the Standing Senate Committee on Aboriginals People (Standing Senate Committee on Aboriginals People, 2007). Collateral and capital, as Chiste (1996) outlines, continue to be the components that negatively impact the gap between access to capital and the need for financing (Chiste, 1996 p. 122). There also exist additional factors which led to this gap such as corporate experience and the education of entrepreneurs (Anderson et al., 1995).

In this paper, we examine access to capital for Aboriginal peoples as well as the means to address financing through establishing an Aboriginal-owned and operated financial institution. We explore the specific legislative and regulatory impediments that limit access to capital for First Nations communities and businesses. Specifically, we examine the legal or regulatory impediments that may have a bearing on the



ability of the Atlantic First Nations to establish an Aboriginal-owned financial institution within Atlantic Canada.

### **Background**

Regardless of the evolution of a company, capital is required to maintain its operations. Funds may be required at the start-up phase for purchases of equipment and inventory, product development, as well as staffing costs. Capital will also be required for leasehold improvements and the funding of inventory and accounts receivable as the business grows. Capital is accessed through two sources: debt financing or equity financing.

Debt financing is required for two purposes: financing of short term (current) assets and the financing of long term (fixed/capital) assets. Financing short- and long-term assets becomes difficult for Aboriginal peoples to obtain owing to the issue of financial institutions securing on-reserve assets (Government of Canada, 2009). This impacts the growth of First Nation businesses and communities which are unable to finance their operations through internally generated cash flow.

A 2004 study by Statistics Canada found that 80% of Aboriginal business owners indicated that they need less than \$50,000 to start their businesses. The study also found that this proportion increases to 90% for technical and professional companies (Statistics Canada, 2004). Debt and equity financing needs are similar for both Aboriginals and other Canadian businesses. Statistics Canada reported 89% of Aboriginal businesses use debt financing (90% for Canadians) and 77% use equity financing (74% for Canadians) (Statistics Canada, 2004). Heidrick and Nicol (2002) found that Aboriginal entrepreneurs used the following debt sources:

- 48% Personal loans from family and friends (interest bearing loans)
- 30% Supplier credit
- 22% Loans from Aboriginal lending institutions
- 20% Commercial bank loans (non-guaranteed)
- 15% Government guaranteed bank loans
- 11% Conditional sales contracts.

In the same study, equity was accessed through:

- 88% Personal investment
- 31% Retained earnings
- 21% Family and friends
- 7% Community investment funds

- 5% Venture capital.

Caldwell and Hunt (2002) showed that 56% of Aboriginal entrepreneurs studied had inadequate access to debt for the following reasons: lack of collateral (40%); inability to use on reserve assets as collateral (30%); no local financial institutions (27%); and lack of profitability (22%). Reasons for inadequate access to equity included: lack of personal resources (58%); unavailability of venture capital (36%); inadequate retained earnings (32%); absence of community investment funds (31%); and inability of family/friends to invest (16%) (Caldwell and Hunt, 2002 p.17).

The context of the equity capital sources available, as outlined by Heidrick and Nicol's (2002) study is worthy of further comparisons. Anderson et al. (2005) contend that Aboriginal people want to do business on "their own terms;" hence, the 5% rate from venture capitalists is not surprising. Typically, venture capitalists control about one-third of the seats on a start-up's board of directors and often represent the single largest voting block on the board (Berk et al., 2010). The need for ownership by Aboriginals and the subsequent emerging conflict with venture capitalists' need for control presents challenges.

The motivation for establishing a business is also a determinant for the amount of capital required. When deciding to venture into a new business, many motives exist for the owner whether it is internally, i.e. personal drive or externally focused, i.e. profit driven, (Jaffe et al., 2005). Aboriginal business people are no different in their motivations, but the belief is that their fundamental motive is to satisfy the socio-economics of their communities. Anderson et al. (2005) state that economic development is seen as part of the larger agenda of rebuilding indigenous peoples' communities and nations and reasserting indigenous control over their traditional territories. Anderson (1999, p. 14) further suggests that Aboriginals are creating businesses to compete in the global economy for wealth generation which in turn would help support self-government and socio-economic conditions.

Aboriginals also bring a community-oriented view to economic development. They see the economy and social life as being intricately tied together (Standing Senate Committee on Aboriginal People, 2007, p. 4). The community view is reiterated by Aboriginal owners surveyed in the 1996 Aboriginal Business Survey. Over 50% stated that service to the community was the primary goal (Statistics Canada, 1999, p. 3). Culture is also seen as a vital component to their development. Moreover, Aboriginals are not willing to compromise their identity for economic success. The Dogrib Treaty 11 Council told the Standing Senate Committee on Aboriginal Peoples, that they are not prepared "to give up who we are in order to gain from economic development." They added that "we do not want to lose our traditions, culture,

language or religion” (Standing Senate Committee on Aboriginals People, 2007, p. 5).

Ownership of financial institution to assist in economic development is a key point for Aboriginal peoples. During the Standing Senate Committee on Aboriginals People proceedings, Allan Luby established the importance of culture as a part of ownership. He stated:

Over this last 20 years, I have watched our youth take over the majority of our people. When I look into the eyes of our young people nowadays, I see a passion. They want to move ahead, but they are also becoming very impatient with things. They want to see these social and economic drivers there for the communities, to raise the level of the communities to that of the rest of Canada. (Standing Senate Committee on Aboriginals People 2007, p. 6)

While ownership is a key element, the structure of an Aboriginal financial institution to achieve social and economic development is also critical. In Canada, federally regulated financial institutions include banks, trust and loan companies, insurance companies and brokerages. Structure is usually dictated by adherence to enabling legislation, i.e., The Bank Act; The Trust and Loan Companies Act; The Insurance Act; and The Brokerages Act. The legislation creates different financial services structures. Financial services institutions are also responsible to adhere to the requirements of several other pieces of legislation and regulations. This requires regulatory compliance where failure to do so would impede the institutions’ ability to operate effectively and negatively affect its reputation.

Ultimately the question of whether an Aboriginal-owned financial institution is achievable rests on whether it is regulatory or legislatively possible.

In order to address this question, a participatory research project, consistent with Reason and Rowan (1981) and Reason and Bradbury (2001), was conducted with an Aboriginal group in Atlantic Canada. The research question was to determine whether an Aboriginal-owned financial institution could be established and what form it would take.

### **Methodology**

The United Nations Economic and Social Council (2010) states that defending the research practices and outcomes of Indigenous peoples is a highly contested area in academia, where Indigenous peoples struggle to have their traditional knowledge and

world views recognized.<sup>1</sup> Complications emerge when researching Indigenous people, because it is a question of viewing Indigenous rights and business from a detached, analytical (some would say Western) framework while simultaneously incorporating the participative element into any research undertaken with Indigenous people.

There is little debate that Indigenous groups do indeed face systematic challenges in terms of addressing poverty, overcoming economic developmental challenges, and increasing the standard of living within Aboriginal communities. As described by the Secretariat of the Permanent Forum on Indigenous Issues in a 2004 workshop on data collection and disaggregation for Indigenous peoples by the United Nations, considerable thinking and debate have been devoted to the question of defining 'Indigenous peoples,' but no such definition has ever been adopted by any United Nations system body.<sup>2</sup>

One of the most cited descriptions of the concept of the Indigenous was given by Jose R. Martinez Cobo, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his Study on the Problem of Discrimination against Indigenous Populations<sup>3</sup>. In this study, he offered a working definition which stated:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.<sup>4</sup>

It is important to contrast 'Indigenous peoples' with 'Aboriginal peoples'. 'Aboriginal Peoples' is a collective name for the original peoples of North America and their descendants. For the purposes of this paper, we will use the title interchangeably although the data presented in the participatory research study primarily refers to Aboriginal groups in Canada.

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<sup>1</sup> Indigenous Peoples: Development with Culture and Identity: Articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples. Report on the international expert group meeting. United Nations Economic and Social Council 2010 E/C.19/2010/1. P.6

<sup>2</sup> <http://whc.unesco.org/uploads/activities/documents/activity-496-6.pdf>

<sup>3</sup> UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4.

<sup>4</sup> UN Doc. E/CN.4/Sub.2/1986/7 paragraphs 379-382.

Indigenous peoples are also interesting (and difficult to study) from an academic perspective, because they are not a homogenous group. For example, the Canadian constitution recognizes three groups of Aboriginal people: Indians (commonly referred to as First Nations), Métis and Inuit. These are three distinct peoples with unique histories, languages, cultural practices and spiritual beliefs. More than one million people in Canada identify themselves as an Aboriginal person, according to the 2006 Census.<sup>5</sup>

In Canada and elsewhere, Aboriginal communities are located in urban, rural and remote locations. In Canada they include:

- First Nations or Indian Bands, generally located on lands called reserves;
- Inuit communities located in Nunavut, NWT, Northern Quebec (Nunavik) and Labrador;
- Métis communities; and
- Communities of Aboriginal people (including Métis, Non-Status Indians, Inuit and First Nation individuals) in cities or towns which are not part of reserves or traditional territories.

While the focus of this paper was on the regulatory structural requirements in establishing an Aboriginal-owned financial institution, the data came from a much wider survey that was conducted as a piece of participatory research during 2007-2010 with Unlooweg Development Group, an Aboriginal-owned financial institution where the focus of the participatory research was on the First Nations within Atlantic Canada.

There are 33 First Nation communities in Atlantic Canada distributed throughout four provinces. Each First Nation is autonomous and governed by an elected Chief and Council. The elected Chiefs and Band Councils of individual First Nation Bands are the basis of the political structure in Atlantic Canada.

All the First Nation communities in Atlantic Canada belong to the Atlantic Policy Congress of First Nations Chiefs (APC). The APC Secretariat is a Policy Research and Advocacy Secretariat for 33 Mi'kmaq and Maliseet and Passamaquoddy Chiefs, Nations, and Communities in Eastern Canada.

The First Nations in Atlantic Canada are an interesting group to study, because their structure and peoples are indicative of the wider Aboriginal community in Canada. In Atlantic Canada, there are communities which have self-government agreements,

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<sup>5</sup> <http://www.ainc-inac.gc.ca/ap/index-eng.asp>

land claim settlements, tribal councils, landless bands etc. Business enterprises range from those owned by governments with millions of dollars in assets to small entrepreneur operations with one employee. Communities exist within urban boundaries, in proximity to large urban centers and in remote coastal and inland communities. Consumers belong to many different Aboriginal groups and have widely varying forms of employment, education and housing.

The wider participatory research project germinated from an idea in 2004 of establishing an Aboriginal Financial Services Holding Company. The idea was originated by the partner in the participatory research, Ulnooweg Development Group (UDG), as a means to explore potential Aboriginal involvement in the financial services sector. Ulnooweg has been providing loans and business services to Aboriginal entrepreneurs in Atlantic Canada since 1986. With representatives in New Brunswick, Newfoundland & Labrador and Nova Scotia, its stated mission is to offer convenient, personalized service to its clients to help them succeed. Ulnooweg's lending services bring financial support for First Nations businesses which may not be eligible for loans through other lending institutions. It aims to fill the needs that Aboriginal business owners have in accessing business loans and services in Atlantic Canada (Ulnooweg, 2008).

In 2006, a Market Demand Study (MDS) proposal to study the feasibility of an Aboriginal financial services institution in Atlantic Canada was prepared by UDG. In December 2006, the Minister of Indian and Northern Affairs Canada announced funding for the study. As outlined in the MDS document, the study's objectives were:

- Conduct an assessment of the financial services needs of the Aboriginal community in Atlantic Canada;
- Examine the experience of other Aboriginal groups and institutions who have been involved in similar undertakings;
- Analyze the requirements of capital markets and regulatory institutions; and
- Conduct an assessment of potential ownership and operational models of various financial institutions including legislative and operational requirements.

One of the authors of this study then became involved as researcher in the project working with Ulnooweg to ensure that conclusions on the demand for financial services were appropriate. Moreover, this author (researcher) took a participatory research approach (cf. Reason and Rowan, 1981; Reason and Bradbury, 2001) where the focus was to understand the context that Aboriginal communities and businesses are facing in respect to economic and business development.

There was also a legislative and regulatory review which forms the critical elements that need to be considered in the development and structure of any Aboriginal financial institution.

### **Discussion and Findings**

The first legislative issue to address in obtaining capital and establishing a financial institution for Aboriginal people is the Indian Act.

#### **The Indian Act**

First enacted in 1876, the Indian Act is a federal statute that regulates Aboriginal people, their lands and their economy in Canada (The Native Investment and Trade Association, 1996, p. 23). Unfortunately, the law that was meant to protect First Nations people has resulted in an obstacle to economic development. A large part of the Indian Act's purpose is to protect reserve lands. Section 29 states "Reserve lands are not subject to seizure under legal process." (Government of Canada, 2009, p. 20). Section 37 states:

- (1) Lands in a reserve shall not be sold nor title to them conveyed until they have been absolutely surrendered to Her Majesty pursuant to subsection 38(1) by the band for whose use and benefit in common the reserve was set apart.
- (2) Except where this Act otherwise provides, lands in a reserve shall not be leased nor an interest in them granted until they have been surrendered to Her Majesty pursuant to subsection 38(2) by the band for whose use and benefit in common the reserve was set apart. (Government of Canada, 2009, p. 23)

Section 89 has been deemed as the part of the Indian Act that has limited First Nations to borrow and financial institutions to lend. It states:

- (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favor or at the instance of any person other than an Indian or a band. (Government of Canada, 2009, p. 54)

Suppliers of goods, services and capital are hesitant to provide consumer credit and credit for developments on reserve, strictly because of the restrictions found in the Indian Act (The Native Investment and Trade Association, 1996, p. 23).

Amendments have been made to section 89 that have eased restrictions on seizure of assets:

- (1.1) Notwithstanding subsection (1), a leasehold-interest in designated lands is subject to charge, pledge, mortgage, attachment, levy, seizure, distress and

execution. (2) A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve. (Government of Canada, 2009, p. 54)

As Chief Palmantier of Lake Babine First Nation said “People cannot access capital locked in their homes to help finance their businesses” (Standing Senate Committee on Aboriginals People, 2007, p. 32). This directly relates to the continued restrictions that the Indian Act imposes on the First Nations people and its presence as a factor to developing an Aboriginal owned and controlled financial institution across Atlantic Canada.

Other impediments also exist owing to the Indian Act. A prime example is taxation. For non-Aboriginal businesses in Canada, there is great benefit to becoming incorporated mainly due to lower taxation. For First Nation businesses, it is often more beneficial to be unincorporated, since individuals on reserve are exempt from income taxes under section 87 of the Indian Act. Corporations are not considered to be Indians, despite the fact that the shares are owned by on-reserve Aboriginal people and are therefore subject to tax. It is also important to note that businesses located off-reserve, whether they are sole proprietorships or non-band owned incorporated companies, are subject to income taxes (Chiste, 1996).

### **Legislation for Financial Institutions in Canada**

There are also several pieces of legislation that are specific to the financial services industry that have to be considered in developing the structure of an Aboriginal financial services institution. The primary federally regulated financial institutions commonly used by Aboriginal groups are banks and trust companies. Banks are federally incorporated under The Bank Act and must adhere to all the legislative requirements of that Act and the regulations passed pursuant to that Act. Similarly, trust companies that operate extra provincially are incorporated under the Trust and Loan Companies Act, as well as the regulations passed pursuant to that Act.

Other legislation that impact on both of these institutions includes:

- (a) Personal Information Protection and Electronic Documents Act;
- (b) Financial Consumer Agency of Canada Act;
- (c)
  1. Proceeds of Crime (money laundering) and Terrorist Financing Act and Regulations;
  2. Suspicious Transactions Regulations under this Act;
  3. United Nations Suppression of Terrorism Regulations;
  4. Criminal Code of Canada s.83.08 to 85.11



#### 5. OSFI Guideline B8: Deterring and Detecting Money Laundering;

- (d) The Competition Act;
- (e) The Pension Benefits Standards Act;
- (f) The Income Tax Act – RRSP;
- (g) The Trustee’s Act of Various Jurisdictions in the case of Trust Companies; and
- (h) Provincial Regulations and Licensing Bodies / Employment Standards.

Regulatory compliance is also a key issue. Compliance regulations that have to be addressed by banks and trust companies include:

- (a) Both institutions must adhere to the Bylaws of the Canada Deposit Insurance Corporation;
- (b) CICA Handbook:
  - 3025 impaired loans
  - 3860 financial instruments
  - well being reporting requirement
- (c) Statistics Canada;
- (d) Canadian Payments Association; and
- (e) Interac Security Compliance.

All these various requirements of the legislation and contractual compliance are enforced through the Office of the Superintendent of Financial Institutions (OSFI). Institutions are required to file compliance reports on each of these areas on an ongoing and regular basis. In addition to its regulatory role, OSFI must approve the initial business plan of the institution including its lending policies. These are monitored on an ongoing basis and OSFI has the power to alter the capital reserve requirements and liquidity levels, if they are not satisfied with any aspect of the performance of the institution.

Generally, there are no set minimum capital requirements for banks or trust companies in the Acts. But, they are required to maintain adequate capital and appropriate forms of liquidity. Guidelines set by OSFI for capital adequacy are taken from the BASEL II Framework for Regulatory Capital, which is an internationally agreed upon standard for regulatory capital and risk management. Minimums are set to protect creditors, depositors and stakeholders in case of liquidation.

Federally regulated financial institutions are very complex, may be costly to start up and maintain, as well require highly technically skilled individuals to manage. From our review, it is clear that there are no legislative impediments that would prevent the Atlantic First Nations from starting a bank or a trust company. The question would be the operational risk elements that would have to be addressed, as well as where to access the necessary funding to meet the capitalization requirements under the Banking Act. While the specific types of operational risk are outside the scope of this

paper, other organizational forms may pose less risk and be more conducive to establishing an Aboriginal-owned and controlled financial institution, as well as meeting capital requirements.

### **Credit Unions**

In our review of Aboriginal banking institutions, it was quite apparent that the normal form of the Aboriginal financial institution was a credit union (cf. UDG 2008). However, as credit unions are provincially regulated, questions emerged as to whether it could be done on a cross-provincial basis, which would be consistent with the demographics of Aboriginal peoples. A review of the legislation that govern credit unions in each of the four Atlantic Provinces was completed in an effort to determine whether a single credit union incorporated in any one of the four provinces could provide services to bands that reside outside the province of incorporation.

The primary purpose of a Credit Union is mutual self help, although in reality their activities are to provide banking services. The philosophy of mutual self help is consistent with the objectives of Aboriginal peoples. The dominant legislation in each province that enables and governs the operation of Credit Unions are their respective Credit Union Acts:

- a) Nova Scotia – The Credit Union Act 1994, C.4
- b) New Brunswick – The Credit Union Act Chapter C-32.2
- c) Prince Edward Island – The Credit Union Act Chapter C-29.1
- d) Newfoundland – The Credit Union Act Chapter C-37.1

Other Legislation that impacts on the operation of Credit Unions include:

- a) Provincial Municipal tax legislation;
- b) Workers Compensation;
- c) Evidence Act in case of civil litigation;
- d) Federal Income Tax Legislation;
- e) Federal Anti-Money Laundering Legislation;
- f) Criminal Code of Canada.

It is important to note that the main difference between banks and credit unions is that banks are federally regulated and credit unions are provincially regulated. There are provisions within the legislation governing each of the four Credit Unions Acts that make provisions for banking operations that are regulated federally.

In each Act, there are rules governing liquidity, capital maintenance, and asset and risk management. There are also Credit Union Deposit Insurance Corporations set up

in each jurisdiction to protect depositors and, in most respects, these mirror the protections offered to depositors in banks by the Canada Deposit Insurance Corporation. The legislation is designed to provide a secure environment to conduct financial transactions in a highly provincially regulated environment with a view towards protecting the depositors. The fact that a credit union may be Aboriginal-owned is unlikely to change any of these requirements.

Issues of geography and provincial boundaries complicate the development of an Atlantic credit union for Aboriginal peoples. Each piece of legislation is different but has similar elements. For example, a credit union operating legally within Nova Scotia must incorporate under the Credit Union Act of Nova Scotia. The requirements of the application for incorporation are enumerated on Part III of the Act, under Section 5. This section specifies that there must be 10 or more individuals named in the application; approved bylaws; and a business plan that meets with the approval of Superintendent. At the same time, similar requirements for incorporation can be found in the legislation of each of the other provinces with slight variations, such as, the numbers required in the initial application. In New Brunswick under Section 6, 10 or more individuals are required to be named in the application for incorporation. In Newfoundland, Section 6(1) specifies that 20 or more persons are required and, in Prince Edward Island, under Section 4(1) 50 or more individuals are required.

The main issue surrounding setting up a single credit union to serve all Bands in the Atlantic Provinces is the regulatory requirement of having to incorporate under each provincial Act. In addition, in our review, there is a restrictive tenor of the legislation requiring incorporation and limiting the capacity of the credit union to act only within the incorporating jurisdiction's territory. Each Act generally maintains that only credit unions that incorporate under the Act (each province) can operate as credit unions within a province. For example, in New Brunswick, the legislation states in Section 5:

No person not incorporated or continued as a credit union under this Act shall carry on the business of a credit union in New Brunswick.

The same holds true for Newfoundland s.5 as well as PEI s.2. Nevertheless, the following wording can be found in each of the Provincial Credit Union Acts with minor variations.

#### Nova Scotia s.15

Subject to this Act, a credit union may, with the approval of the Superintendent carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside the province to the extent that the laws of that jurisdiction permit.

Similar or identical wording is found in New Brunswick's Act in s.17; in Newfoundland's Act s.17; and, in PEI's Act in s 11(2).

The Nova Scotia legislation allows credit unions incorporated under other jurisdictions to operate within Nova Scotia for limited purposes.

s.140 A credit union incorporated under the laws of a jurisdiction other than Nova Scotia may, if so authorized by the laws of that jurisdiction and upon filing with the Superintendent such documents and other materials as the Superintendent may require, become registered in that province for certain limited purposes approved by the Superintendent, but in no case shall the credit union be permitted to carry on in the province the ordinary business of deposits and loans.

Similarly in Prince Edward Island, the legislation reads:

s.159

(1) Subject to subsection (2), no extra-provincial credit union shall carry on business in Prince Edward Island except to

- (a) register pursuant to applicable legislation of Prince Edward Island a security that was lawfully taken by it as part of a transaction conducted in and under the laws of another jurisdiction;
- (b) realize such security, take title to and possession of the property secured, register and hold title pending the disposal of the property and dispose of the property in accordance with the law of Prince Edward Island; and
- (c) transact business that is incidental to any business referred to in clause (a) or (b).

(2) An extra-provincial credit union may enter into an agreement, directly or indirectly, with a Prince Edward Island credit union for the purposes of permitting its members to transact business with it by means of automated teller equipment or other electronic facilities located in Prince Edward Island. 1992, c.14, s.159.

If a Nova Scotia credit union wants to do business outside Nova Scotia, it requires approval from the Superintendent notwithstanding s.15.

s.141 With the approval of the Superintendent, a credit union may carry on business under the laws of a jurisdiction other than Nova Scotia.

Also under the Nova Scotia Act s 56(4) states:

A credit union may not be a member of another credit union.

Similar clauses are found in the New Brunswick Act in s 60(4) and in the Newfoundland Act s 59(5).

These provisions would preclude a New Brunswick incorporated credit union joining a Nova Scotia incorporated credit union to become a single entity. Ultimately, these provincial jurisdictions may be a hindrance to developing an Aboriginal-owned financial institution across Atlantic Canada.

### **Conclusion**

Banking which occurs inter-provincially is federally regulated and that which occurs only within a province is regulated by that province. The scheme of provincial legislation discourages provincially regulated financial institutions, such as credit unions, from operating extra-provincially. Under the existing legislative regime, it would not be possible to incorporate in one province, be regulated under that Act and carry on business in the same capacity in the other Atlantic Provinces.

Can a creative solution be found for Aboriginal peoples? It cannot be done under the current legislative and regulatory regime but some form of political compromise might be negotiated through bodies, such as the Council of Maritime Premiers. It may be possible to exempt an Aboriginal Credit Union, with unique membership characteristics, i.e. Bands, from the restrictive provisions of the various Acts and to allow proportionality with respect to the protection of deposited funds.

Apart from dealing with organizational form, the Canadian government and the Aboriginal population must discuss whether the intended purpose of the Indian Act is in fact a benefit to the First Nations people of today. The Indian Act may have provided great benefit to the people it was intended for, but it now has greater impact on economic development. Without the required flexibility, the social causes around access to capital that have plagued the First Nations for years could continue.

There also needs to be a reassessment of business risk as it pertains to Aboriginal access to capital from within financial institutions. It would be expected of institutions to reassess the risk if there were changes to the Indian Act. However, it would be unlikely for lenders to change their policies and their assessment of risk without amendments to the Act. On the other hand, if desirable changes are made, then institutions will be forced to reconsider its current assessment of business risk for Aboriginals.

Implementing these recommendations will involve dedication from the many stakeholders including the various levels of government, financial institutions and most importantly the First Nations people. Changes are being made. Recently, First

Nation businesses in other parts of Canada received news as to narrowing the financing gap. On July 20, 2009, the Government of Canada announced a new funding arrangement with Quebec-based Desjardins Group to provide increased business financing options for the First Nations people of Quebec. Three million dollars will be provided through the Loan Loss Reserve Initiative which works by offsetting a portion of the lenders risk to First Nation businesses. This will reduce the financial risk of lending to on-reserve First Nation businesses (Indian and Northern Affairs, 2009).

The form of a financial institution is just one challenge to Aboriginal peoples and their access to capital. Throughout this paper, many issues became evident as to the reasons for the difficulty in obtaining capital for Aboriginal entrepreneurs and communities. Due to the magnitude of this issue and the volume of people impacted, one simple solution is likely non-existent. Despite this statement, legislative and regulatory review as a first step would result in the First Nations people having greater access to capital and increased prosperity through economic development.

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