

**RECONCEPTUALIZING STAKEHOLDER ENGAGEMENT IN THE DIGITAL ERA:
COMPLEXITIES, POTENTIALITIES AND IMPLICATIONS FOR SUSTAINABLE
CORPORATE GOVERNANCE**

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Abstract

The emergence of artificial intelligence and digital transformation is precipitating a seismic change in the purview of stakeholder engagement in corporate governance. As stakeholder's needs diversify, companies must by developing strategic stakeholder management frameworks that balance competing interest, ensure profitability, and foster sustainability. This article undertakes an examination of the current state of stakeholder engagement in corporate governance, with a specific focus on the challenges and opportunities presented by emerging technologies. Furthermore, it evaluates the efficacy of existing legal and regulatory frameworks stakeholder engagement and identifies areas for improvement. This will be achieved with doctrinal research, in comparative analysis with the United Kingdom (U.K) which is notable in implementing corporate governance standards globally. While Digital transformation has a significant effect on stakeholder engagement, ethical use of technology and corporate digital responsibility are critical issues for companies to consider in navigating this course.

Keywords: Corporate Governance, Stakeholder Engagement, Digital Transformation, Sustainable Development Goals, Nigeria

Introduction

Active stakeholder engagement is a crucial element in the effectiveness of corporate governance. While companies are tilting towards digital transformation and modern governance initiatives in the digital era, it has become important for corporate communications which is strategic in corporate governance to upgrade, and adopt electronic mode of communications and other technological innovations to advance the governance of companies. This article seeks to: assess the existing frameworks for stakeholder engagement in Nigeria; the legal and regulatory directions on virtual meetings and communications for corporate organisations in Nigeria and the repercussions for corporate governance.

The methodology adopted by this study is doctrinal approach. Doctrinal approach entails a comprehensive inspection of legal principles, ideas, and systems, as well as current legal materials such as legislation and case

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law². Primary and secondary data were relied on. The Primary sources of data are: the Companies and Allied Matters Act (CAMA) 2020, Nigerian Code of CG (NCCG) 2018, the United Kingdom Companies Act, 2006, United Kingdom Code of Corporate Governance (U.K.C.G.). The secondary data included textbooks, journal articles, newspapers and professional magazines and internet sources.

The stakeholder theory and sociological school theory of law are the theories used in this article. Stakeholder theory incorporates corporate accountability to a broad range of stakeholders. Every entity or person that has the potential to have an impact on or is impacted by the accomplishment of the company's goal is involved comprising suppliers, employees, business partners, government among others. Managers have a network of relationships to secure³, as the business of the company is to create wealth for the stakeholders⁴. By focusing on the many constituents- employees, banks, the government, and pertinent stakeholders. Stakeholder theory is aware that a company's action has an effect on the environment, necessitating the company's obligation to parties other than its shareholders⁵. Clients, media, employees, communities, suppliers/ distributors, shareholders, general public, business partners, coming and previous generations, academics, NGOs, trade unions, competitors, regulators, and government make up the primary groups of stakeholders⁶.

Sociological school theory says law and society are intertwined, according to the sociological school of jurisprudence, and the law has an impact on society as a whole. The law or the legal system will be affected by a change in society, either directly or indirectly. It aspires to maintain harmony by weighing the needs of the state and of each individual in society⁷.

This article will clarify the relevant concepts, discuss shareholder engagement, corporate engagement with other stakeholders and implications of digital era on stakeholder engagement in corporate governance.

Conceptual clarification

a. Corporate governance (CG):

This entails how each and every stakeholder works to ensure that managers as well as other stakeholders adopt measures that protect the stakeholders'

² A Kharel, 'Doctrinal Legal Research' (2018) February 26. Retrieved on Dec. 29th, 2021, from <https://cutt.ly/3885NcU>

³ R Freeman, 'Response: Divergent Stakeholder theory' *Academy of Management Review*. (1999) (24) (2) 233-236;

⁴ M Clarkson 'A Stakeholder Framework for analyzing and evaluating Corporate Social Performance' *Academy of Management Review* (1995) (20) (1) 92-117.

⁵ G Mbu-Ogar, S Effiong, J Abang 'Corporate Governance and Organizational Performance: Evidence from the Nigerian Manufacturing Industry' *Journal of Business and Management* (2017) (19) (8) 46-51.

⁶ A Freidman, and S Miles, *Stakeholders' theory and practice*. (Oxford University Press London 2006)

⁷ Sociological school of jurisprudence , <https://cutt.ly/h8HwrOu> as accessed on the 15th November, 2022

interests⁸. It comprises a set of guidelines that control the interaction between management, shareholders, but also stakeholders⁹. It is a mechanism that guarantees efficient balances and checks on the governance of companies so that investors, which finance the company, would receive a profit from their investments¹⁰.

According to Asogwu; it creates a structure that is lawful for the companies to pursue its goals¹¹. The planning stages, internal control, performance assessment, and disclosure of corporate information are all included, in addition to the legal framework designed for the objectives¹². The primary goals are to ensure transparency, investors' protection, complete exposure of executives' acts and corporate actions to stakeholders, environmental impact analysis of corporate operations, assurance of performance linked to executives' remuneration, including complete transparency of executives' remuneration¹³. A company with a good corporate governance practice will attract investors and other stakeholders' confidence, which in turn can lead to profit maximization for the company. Sustainable corporate governance is concerned the management of companies in a way that ensures that the company continues in the long term without using the resources at its disposal in a such a way as to destroy the company and or generally making it impossible to continue the business¹⁴. This is in line with the sustainable development goals (SDGs)¹⁵. It is an exercise of social concern and responsibility by companies beyond merely managing the company strictly for profit maximization, gradually transforming the traditional "profit-driven companies" to stakeholder value-oriented entities¹⁶.

⁸K John, & L.W Senbet, 'Corporate governance and board effectiveness' *Journal of banking & Finance* (1998) (22)(4) 371-403.

⁹K.W Chin, & J.S Tan, *et al.*, *Corporate governance in East Asia. The Road ahead* (Prentice Hall Publication 2006).

¹⁰R Cobbaut. & J. Lenoble (Eds.) 'Corporate governance: an institutionalist approach' *Kluwer Law International BV* (2003) 141.

¹¹I. E Asogwu 'Corporate governance in Nigerian Banks; a theoretical Review' *International Journal of Management, Science and Business administration* (2016)(2)(7) 7-15.

¹²D. S Sayogo 'The determinants of Corporate governance Disclosure through the internet for Companies Listings in Jakarta Stock exchange' *Symposium Nasional Akuntansi* (2006) 9.

¹³B.E Osaze 'The Imperative of Corporate governance and Post Merger Acquisition/Consolidation for sustainable growth' *Journal of Finance and Banking*, (2007) (1)(1) 46-52.

¹⁴ A.A Aina, Companies also cry: Finance, Regulation and Sustainability of Companies. (An inaugural lecture delivered at the University of Ibadan, on Thursday 27th June, 2024)(Ibadan University Press) 45: Mcbarnet, D 'Corporate Social Responsibility beyond law, through law, for Law' *University of Edinburg School of Law working Paper* (2009) (3)18.

¹⁵United Nations Development Programme. Sustainable Goals as accessed on the 27th February, 2025, from www.undp.org.

¹⁶ A, Begum 'CSR, Reflecting Australian Legal Approaches to Human Rights' *Company Lawyer* (2015)(36)(9) 279-287; Aina, A.A.(n 13)

b. Stakeholder Engagement:

Stakeholder engagement (which means carrying stakeholders along with the activities of the company) is one of the many tasks that the board has to ensure in good corporate governance for short- and long-term survival. It is important for sustainable corporate governance¹⁷. Stakeholders for the purpose of this article will be classified into: Shareholders (Majority and Minority shareholders), Investors, employees, host communities, regulators and governmental agencies, creditors, competitors among others.

Principle 27 and 28 of the Nigerian code of corporate governance (NCCG), 2018 stipulates that companies must engage with stakeholders and make the relevant disclosures to enable the company make informed decisions. This engagement extends to shareholders. A shareholder according to the Black Law's Dictionary is one who possesses a share or shares in a company¹⁸. Shareholders may technically own the companies in which they invest, but their power over these companies is very limited¹⁹. Generally, shareholders are those who own shares in companies, and shareholding is synonymous with membership. It can be accomplished in four different ways: by subscribing to a business's memorandum and articles of association upon its creation; by purchasing shares directly from an issuing company; by purchasing and transferring shares from an existing shareholder; and by transmission of shares following the death or bankruptcy of a shareholder²⁰. It is crucial to acknowledge that the board of directors (the board) has a significant role of shareholders engagement.

2. Shareholders engagement

Shareholders engagement can be defined as effective, continuous dialogue, communications and dissemination of information by the company with its shareholders. Shareholders engagement is provided for in Principle 22 of the NCCG, 2018. Companies as well as their primary shareholders are instrumental in improving communications. Communication is an important medium of shareholders engagement. AGMs (Annual general meetings), ARs (Annual reports) and accounts are tools of corporate dialogue. Companies can use the accounts and ARs to notify shareholders concerning a number of issues as well as company's policy for dealing with them²¹. Shareholders engagement is not restricted to AGMs and ARs alone; the mode of communication with shareholders generally in Nigeria should be beyond the AGM or ARs. In most cases, (particularly the case with minority shareholders) many do not attend such meetings considering the cost of travel to the venue among other

¹⁷ Aina ,A.A (n 13)

¹⁸Per Daniel Kalio, J.C.A Agu v Duru & Ors (2017)LPELR-43184(CA) Pg. 21 para. D

¹⁹J F Beatty and S S Samuelson, *Introduction to Business Law 2nd Edition*. (Thomson West 2007)

²⁰J E O Abugu 'Primacy of shareholders' interests and the relevance of stakeholder economic theories' *Company Lawyer* (2013) (34)(7) 202-214.

²¹B, Coyle, *Corporate Governance 2nd ed*. (ICSA Publishing London 2012) 23.

inconveniences. Even at such AGMs, many shareholders want to express their feelings within a limited time making shareholders to be unnecessarily aggressive. Hence, there is a necessity to explore technological platforms for effective communication, and other physical meetings with principal members of the board and management of the company beyond the AGMs²². Shareholders engagement extends to the use of creative platforms for effective communication. Platforms where shareholders can express their grievances and learn more about the company, they have invested in. Companies should have a strategy for communications with their shareholders. This will aid the board to know what directions to go, and feel the pulse of the shareholders.

Coyle²³ gives an in depth expose on the relations between the company and shareholders, under the U.K corporate governance codes, that when genuine communication and dialogue are lacking, the relationship between these parties may suffer. These dialogues are improved through electronic communications, and create a better chance for shareholders to receive messages from the company promptly and act on them accordingly. The U.K code promotes healthy communication between companies and its shareholders. Ojeka, Fakile, et.al²⁴ proffer private negotiations (invaluable activism) as a more effective mode of shareholders engagement and active and genuine participation in corporate governance activities.

Shareholders engagement" is termed as the impact exerted by investors in a company's choices on issues of ESG (Environmental, social and governance) whether via interaction with executives, their presentation of queries with recommendations for intervention during shareholder gatherings, and the eventual method by which they decide²⁵. Engagement is a deliberate conversation with businesses on these topics as well as those that are currently up for voting at general meetings²⁶. Corporate governance reporting is an effective way to engage relevant stakeholders on the strategy, risk and overall performance, thus it is good practice to have a holistic document that clearly communicates the financial ESG (Environment, social and governance) position of an organization in the short to long term²⁷. An emerging trend in shareholder engagement, however, is for shareholders to want direct communication with directors rather than only the investment engagement officer or the executive group. On the contrary, boards that have given shareholder engagement

²²J, Randle 'Shareholders: From Antagonist to Advocate' *Governance + Compliance. Governance Institute* Nov ed. (2017) 36.

²³B, Coyle, *Corporate Governance 2nd ed.* (ICSA Publishing London 2012) 187-208

²⁴S, Ojeka, A Fakile, et al 'Institutional Shareholder Engagement, Corporate Governance and Firms' Financial Performance in Nigeria: Does any relationship exist?' (2016) <<https://cutt.ly/N8PjwBA>> accessed 18th Dec, 2021

²⁵University of Cambridge 'What is Responsible Investment?' *Cambridge institute for Sustainability leadership* <<https://cutt.ly/28Hjosz>> accessed on Feb. 11, 2021

²⁶Financial Reporting Council 2012. UK Stewardship Code

²⁷Society for corporate governance in Nigeria, *Corporate governance and sustainability reporting in Nigeria*, (CLDS publishing Ltd. 2020) 2.

extensive consideration find out that it presents a viable channel for direct shareholder communication²⁸.

Shareholders have a right to be informed how the firm is run and can ask for clarification on any matters that are unclear to them. The information disclosed in the company's accounts and annual reports is used by shareholders and investors to assess the directors' financial management and make investment decisions. A firm's annual report (AR), which is produced and delivered to shareholders each year, contains financial data (such as an auditor's report, stock market prices, and yearly profit), as well as statements from the management of the company²⁹. The primary means of information for the investment decisions of outside investors are the ARs, which also give shareholders the ability to monitor management. A "going concern statement" that implies the business will continue to operate for a minimum of the following 12 months must also be included in the ARs. The ARs and accounts are crucial documents in corporate governance since they serve as the directors' means of accountability to the shareholders. It functions like a conduit for communication from executives to shareholders. However, questions have been raised as to reliability (can it be a trusted document which has not been window dressed by the directors to mislead the readers) and ambiguity of ARs (is it easy to understand considering the length of the reports, which sometimes makes it difficult to determine the useful information)³⁰.

The board is required under the U.K Company Act of 2006 and the U.K. corporate governance Code to provide a fair and clear evaluation of the company's condition or expectations in its report and accounts, as well as in its intermediate reports and other public announcements. This entails narrative reporting. The reported information must also include the basis on which the company generates revenue and makes profit from its operations and its overall financial strategy. Under the U.K law, the directors have the legal duties and responsibilities for financial reporting.

In the U.K., the directors are in charge of ensuring the accuracy of the data presented in the accounts and ARs and are accountable for spotting and fixing any errors or misstatements in the financial statements. Any inaccuracies or false information will be the responsibility of such a negligent director. This role was distinct from that of the exterior auditors, who have the duty to ensure, in the course of official duties to the stockholders, whether the financial statements are clear of serious misstatement or error. Directors should not rely on the auditor's opinion to reach their own view³¹. CAMA 2020 provides that the Chief Executive Officer (CEO) and Chief Financial Officer of the company

²⁸Deloitte, 'Shareholder Engagement: A New Era in Corporate governance' *The Wall Street Journal- Risk and Compliance Journal* (2013) <<https://cutt.ly/E4cPKkT>> accessed on Feb 11, 2021

²⁹Merriam-webster Legal Dictionary,<<https://cutt.ly/o4cAzow>> accessed on Feb 12, 2021

³⁰ B. Coyle (n 22) 155-160.

³¹ B. Coyle (n 22) 155-160.

have the responsibility to make attestations on financial statements, and held responsible if the assertions prove to be wrong³².

It is noteworthy that the ARs and accounts of the company is the core documents in which the company and its management inform the stakeholders particularly investors and regulatory Investors whether existing or prospective are highly dependent on this reported document, which forms their basis of monitoring and decisions. The company and its management has a burden to guarantee that the ARs and accounts consists of reliable information about the state of the company and its affairs. Regulators must heavily penalize any company's management that provides misleading information in its reports.

a. Modes of Shareholders Engagement

Principle 22 of the NCCG 2018 provides for the principle on shareholders engagement. According to it, a system of ongoing communication with shareholders should be established in order to balance their demands, interests, and expectations with those of the business. Additionally, it outlines suggested methods, such as the board creating a rule that assures proper shareholder engagement. The firm website should host the policy. To aid in the development of a fair knowledge of shareholders' issues and to make sure that their opinions are conveyed to the board, the Chairman of the board or other designated individuals as indicated in the policy may contact with shareholders.

The Annual general meeting (AGM) is the foundational platform in which the board communicates with the shareholders. According to Principle 23 of the NCCG 2018, the board must make sure that all shareholders are given consideration fairly and equally and that shareholders at AGMs retain their actual authority to select and dismiss company directors. No shareholder should receive preferential treatment or better accessibility to information or other materials, regardless of how many shares they own or whether they are institutional or otherwise. Pursuant to the U.K. code of corporate governance, the board can use the AGM to interact with investors and promote engagement. They are to encourage attendance of shareholders at the AGM, give the shareholders the opportunity at asks questions, and be allowed to use their voting powers and uphold transparent voting procedures. They should also be allowed to vote by proxy.

The board has to be sensitive and cautious in handling hostile shareholders during AGMs. The response of the company is not reactive rather; it should pay attention to the concerns of such shareholders. The concerns of such shareholders must not be trivialised, the company has to sort such negative sentiments and convert to brand advocacy. Strategies such as organizing meetings with such class of shareholders prior to the AGM is highly effective. A forum where such concerns can be aired, an inclusive forum where the company's representatives are patient enough to listen to and answer genuine

³² Society for Corporate Governance Nigeria, *Corporate Governance and Regulatory Compliance: The Regulator, The Regulations and The Regulated*, (CDLDS Publishing Ltd, Lagos, 2020) 25

questions raised. Use of question registration management system could be devised for advance registration of questions, so that company can have prior notice of impending questions. Another strategy may be to invite the most vocal of the shareholders to a meeting with the chairman (in form of pre-AGM meetings), this will enable relationships to be built. On site visits by shareholders and other shareholders engagement driven events are key to promoting inclusive engagements. This will also make shareholders feel valued³³.

Shareholders engagement should be made easy and accessible for shareholders through the use of electronic communications and electronic voting. The use of technologically driven communications platform is highly recommended, and should be encouraged. Certain jurisdictions such as the U.K have laws and guidelines on electronic voting .The position in the Netherlands by virtue of their legislative proposal on electronic communications dated January 1, 2007, shareholders can partake in the general meeting via the internet. The articles of association can then determine that shareholders are authorised to participate, speak and exercise voting rights in a general shareholders' meeting either in person, through a written proxy or through an electronic means of communication. In addition, the articles of association or rules of procedure can attach further conditions to the usage of an electronic means of communication³⁴. The effect of electronic communication in shareholders engagement is that it is a cheaper option to produce documents; its faster, reliable, shareholders who cannot participate physically have the opportunity to do so electronically, irrespective of what part of the world they are in. The CAMA 2020 in Section 240(2) allows for private companies to hold virtual meetings so long as it is conducted in accordance with the article of association of the company. For listed companies, the Nigerian stock exchange set guidelines in 2020 (due to the Covid-19 pandemic ³⁵ restrictions) on how listed companies can electronically conduct their virtual meetings. Also, the CAC released guidelines on AGMs via proxy in 2020. It is noteworthy that prior to the Covid-19 pandemic in Nigeria, the Nigerian law was silent on virtual meetings unlike their counterparts in other jurisdictions that had guidelines on such.

Deloitte³⁶ highlights the merits of shareholders engagement which are: establishing a respectful relationship, increasing transparency and developing a rapport. What is most important is for companies to be proactive and intentional about planning organized shareholders communications and meetings, tailored to fit the peculiarity of each company. The key insights of shareholders engagement majors on³⁷:Engagement topics, Engagement policies,

³³J , Randle , 'Annual general meetings: Turning antagonist into advocates' *Governance and Compliance ICSA Institute* (2017) *Nov edition* 36-37.

³⁴P.H Matthieu and V.S Truiden, 'Netherlands: 'Companies - Shareholders' rights' *International Company and Commercial Law Review* (2007)(18)(4) 23-24.

³⁵Covid-19 pandemic globally necessitated social distancing among other restrictions.

³⁶Deloitte (n 27) 2013

³⁷M Tonello, 'Board-Shareholder Engagement Practices' *Harvard Law School Forum on Corporate governance* (2019)<<https://cutt.ly/58HzkVr> > accessed on Feb. 20, 2021

frequency of engagement, recent change in frequency, duration of engagement, engaged shareholders, communication methods, leadership of engagement process, engagement outcome, engagement disclosure, impediments to engagement. Also Institutional shareholders should encourage collaborative engagement with other shareholders where necessary. They should have a policy on collaborative engagement and disclose such policy to stakeholders³⁸.

b. Meetings of the Company³⁹

The law regulating shareholders' meetings is an important aspect of corporate governance. The CAMA provides extensively on the procedure for corporate meetings. Shareholders meeting has two primary functions. First, it offers a channel for interaction across the members, top management and the board Members can voice their grievances to the board and management during meetings. Second, members can utilize their voting rights during shareholders meetings⁴⁰. The meeting of a company's members which serves as its main organ, is typically where decisions are made. However, even without a formal meeting, a decision could be made if all the participants concur⁴¹.

Section 235 of the CAMA, 2020 provides that each public entity is required to hold a general meeting of its members, or statutory meeting, within six months after the date of establishment. The way a company meeting is conducted depends on the kind of meeting that is being held. A class of shareholders may be represented or it could constitute a gathering of all shareholders. Some meetings are required, while others are up to the company's discretion and may be governed by the Act, the articles, or both. Voting during meetings is by show-of-hands. All personnel of the business are entitled to attend meetings. Shareholders have the authority to designate proxies to act on their behalf. The term "proxy" relates to the agent and official paperwork designating the representative that a member selected to cast his or her vote. If a shareholder who has executed a proxy attends the meeting in person, the proxy's authority is instantly withdrawn⁴². The types of corporate meetings under Nigerian law are: Statutory Meeting, AGM, and Extraordinary general meeting.

Under Nigerian law, general meetings are normally convened by the board. The meeting's location and time are decided by the directors. When calling a meeting, the directors must also do so in good faith⁴³. It is notable that the Covid 19 pandemic has stimulated virtual meetings, but the company must make sure that these meetings adhere to legal requirements.

³⁸Principle 5 of the UK Stewardship Code 2010, < <https://cutt.ly/68Paa3v>> accessed on Feb. 20, 2021

³⁹Section 235-268 of CAMA 2020.

⁴⁰M. Salim, and O. Shyun, 'The law on shareholders' meetings in Malaysia' *International Company and Commercial Law Review* (2009) (20)(12) 436-447.

⁴¹*Parker and Cooper Ltd v Reading* 1926 CH 975.

⁴²O.I, Aderibigbe, 'The Mechanisms of Corporate Meetings under the CAMA 1990' *International Journal of Advanced Legal Studies and governance* (2011)(2)(1) 163-187.

⁴³*Cannon v Trask* (1875) 20 Eq.669.

The meetings of classes of shareholders are regulated by the Act⁴⁴. It has been established that if one person owns all the shares in a class of shares, he has the authority to take any action that a meeting of that class could take in accordance with the articles⁴⁵. The Supreme court held in *Okeowo & ors v Migliore & ors*⁴⁶, that a meeting convened as a meeting of the company is valid as a meeting of the directors, if each and every member of the company being also a directors of the company is present. A decision taken at such a meeting on matter intra vires the company must be valid as a decision of the board on the subjects. On notice of meetings, unless the articles provide otherwise, members must receive proper notice of every general meeting⁴⁷. This notification must be properly served, contain the necessary information, and provide for adequate time. The court decided in *Longe v FBN Plc*⁴⁸, that a director of a company will not be privileged to notification of board meeting in circumstances where the director was under suspension. He cannot claim the benefit of receiving notice as he is not within the class of directors entitled to receive such notice under the CAMA. The court ruled in the matter of *In Re: GlaxoSmithKline Consumer Nig. Plc*⁴⁹ that the requisite of personal delivery of notice of meeting on the other party cannot be replaced nor substituted by the publication of notice of AGM in a newspaper.

c. The Role of the Chairman in Meetings

The Chairman directs the meeting as it decides the agenda and other specifics of how it will be conducted⁵⁰. The company is presided over by the chairman⁵¹. In a general meeting, the chairman's duties include maintaining order, ensuring that business is performed properly, and ensuring that the purpose of the gathering is understood. Decisions that the meeting itself is capable of making cannot be made by the individual in question⁵².

Every general meeting of the company should be presided over by the chairman of the board, if it has one. Where there is no chairman, or if he arrives more than 30 minutes late or declines to act, the present directors will elect one of their members to serve in that capacity⁵³. It is noteworthy that the chairman of a company is also the chairman of the board unless otherwise provided⁵⁴. The chairman's obligations and authority include upholding order, ensuring that proceedings are handled as scheduled, ensuring that the actual purposes of the meeting are carried out in addressing any problem that comes before it, and acting honestly in the company's best interests. He has the authority to take

⁴⁴ Section 243 of the CAMA

⁴⁵ *East v Bennet Bros Ltd* 22 Misc.2d 833 (1960)

⁴⁶ Per Irikefe, J.S.C. (1979) LPELR-2441 (SC) 31-33, Paras B-D.

⁴⁷ *Young v Ladies Imperial Club* 1920 2 KB 523; *Smith v Darley* (1849) 2 HLC 789

⁴⁸ Per Ogunbiyi J.S.C (2006) LPELR- 7682 (CA)

⁴⁹ (2019) LPELR-47498 (CA)

⁵⁰ *Carruth v ICI Ltd.* (1937) AC 707

⁵¹ *Ozoniyi & Ors v Oguama* (2017) LPELR- 43775 (CA) 27, Paras F-B.

⁵² L Sealy and S Worthington, *Sealy and Worthington's Cases and Materials in Company Law*. 10th eds. (Oxford 2013) 197; *National Dwelling Society v Sykes* (1894) 3 CH 159.

⁵³ Sec. 240(1) of CAMA, 2020

⁵⁴ *Chander v Thardani* (1980) FHC 168

whatever actions that are arguably required for carrying out his obligations. He has the opportunity to vote. He has the authority to take whatever actions that are arguably required for carrying out his obligations. He has the opportunity to vote⁵⁵. He may suspend the meeting with their approval or at their request⁵⁶. The chairman's job is extremely significant and calls for discretion, assertiveness, and a reasonable perception of assessment.

Resolutions are decisions taken by a company at its meeting. The CAMA recognizes two types: Ordinary and special resolutions. A simple majority vote of the member voting at the meeting is required to pass an ordinary resolution⁵⁷. In *Re Duomatic Ltd.*⁵⁸, in addition to the fact that members make decisions formally, by written resolutions for private company or by voting in general meeting. The court ruled that a company is bound in an intra-corporate matter by the informal, unanimity-based decision of its voting members. An informal, unanimous agreement amongst members may function as an extraordinary or special resolution, it was further held in the *Cane v Jones* case⁵⁹. Unless the contrary can be demonstrated, a resolution of a meeting filed with the CAC provides proof of decisions made during meetings of the company⁶⁰.

d. Importance of Corporate Meetings

Company meetings are authentic tools of participatory governance in a company towards corporate success, and are most viable means of improving the management of a company⁶¹. Participation of shareholders through well-structured meetings allows effective controls and investors' protection, also checks managerial excesses and connected economic losses. The use of artificial intelligence and technology can aid the company in its performance and communication processes; however, technology cannot replace human participation and decisions. It can only complement⁶². Corporate meetings are essential in corporate governance, particularly the AGM. The AGM is an important part of the dialogue between a company and its shareholders, regardless of size, as well as being the occasion at which it is held, the board is held accountable for its actions during the preceding year. Shareholders should therefore make every effort to register their votes after careful consideration of the resolutions on the agenda. Attendance and speaking at the AGM can also be an effective way of expressing views about the company, not least when concerted attempts at engagement have failed. Companies should publish the results of the general meeting as soon as practicable after the meeting and should include in this disclosure a record of votes withheld. Where a significant

⁵⁵ Sec. 240(3) and (4) of CAMA, 2004

⁵⁶ Sec. 239(1) of CAMA, 2004.

⁵⁷ Sec 233 of the CAMA, 2004

⁵⁸ (1969) 2 Ch 365 (Chancery Division)

⁵⁹ (1980) 1 WLR 1451 (Chancery Division)

⁶⁰ Per. Adefope-okogie, J.C.A, *Wariboko v Imago group of co. Ent.Nig. Ltd &ors-* (2014) LPELR-24628 (CA) 17, Paras D-B.

⁶¹ Aderibigbe (n 42) 184

⁶² K Okafor, 'The power of meetings in Corporate governance' *International journal of current research* (2019)(11)(02)1198- 1206.

number of votes on a particular resolution based upon the judgment of the board and in the context of the type of resolution, have not been registered in support of management (meaning both votes against and active abstentions), the board should seek to understand the reasons for dissent, address them as appropriate and disclose what actions have been taken in their next report and accounts⁶³

Periodic and consistent dialogue breeds positive impact. It allows shareholders generally, the audience with companies to know the latter's needs, interests, expectations of shareholders, in alignment with the company's overall objective⁶⁴.

e. The Future of Corporate meetings

The Covid-19 pandemic has brought to reality the benefits of technology in business and corporate practices. In Nigeria, the CAMA 2020 brought technological developments for ease of doing business in corporate practice. Some instances are: introduction of electronic signature⁶⁵, electronic transfer of shares as an instrument of transfer of shares⁶⁶ and virtual meetings. Virtual meetings are essential in a digital transformed corporate setting. The repealed CAMA 1990 was criticized for not encouraging technologically-driven meetings and that Institutional shareholders rarely attend meetings⁶⁷. Section 240(2) of the CAMA 2020 allows virtual meetings for private companies, while Section 12 of the Business Facilitation (Miscellaneous Provision) Act allows public companies to have virtual meetings⁶⁸. Regulators such as the Corporate affairs commission and the Nigerian stock exchange provided practice directions⁶⁹ for technologically driven corporate meetings held during the Covid-19 pandemic. Technologically driven/ virtual meetings allow for flexibility. They come with their own shortcomings in Nigeria, which will include interconnectivity issues, high cost of data and setting up costs, screen fatigue. Physical meetings (also referred to as in person meetings) on the other hand has its shortcomings which includes cost of moving to the venue, transportation costs among others. However, physical or in person meetings cannot be totally ruled out. It is significant to state the emergence of hybrid meetings. Hybrid meetings are meetings that are held both in person and virtually. A blend of physical and virtual meetings, not all corporate issues can be discussed virtually especially those requiring onsite inspections or visits. Hybrid meetings are best for effectiveness and efficiency of meetings and time bound meetings. In

⁶³National Association of Pension Funds Corporate Governance Policy & Voting Guidelines .2014/15. 13.<<https://cutt.ly/s4cPn1y>> accessed on February 10, 2021,

⁶⁴Principle 22 of the NCCG Code 2018;

⁶⁵ Section 101 of CAMA 2020; See also Section 258 of the Evidence (Amendment) Act, 2023

⁶⁶ Section 175 of CAMA 2020

⁶⁷Aderibigbe (n 42) 174 – 185.

⁶⁸ F.Z, Ogunlade, 'Promoting Sound Corporate Governance Via Notable Innovations in the CAMA, 2020 for Ease of Business in Nigeria' *The Nigerian Law Journal*, (2024)(25)(1)167-191 @179

⁶⁹ Nigerian Stock Exchange on Companies Virtual Meetings <<https://cutt.ly/i8HfFac>> accessed on Jan 4th, 2022

developing a balanced strategy for incorporating technology into corporate meetings, hybrid meetings can be an excellent choice.

3. Corporate Engagement with other Stakeholders

It is important underlining that strong governance protects all stakeholders' interests, including employees, host communities, government, creditors, and suppliers. Corporate governance should be more of stakeholder-centric rather than shareholder-centric, there has to be a balance of interests of all the stakeholders including shareholders, not shareholder primacy only. Shareholder primacy prioritizes the rights of all shareholders above the other stakeholders inclusive of employees, pensioners, corporate debt-holders, suppliers, which cannot be fair and just⁷⁰. It has been argued that the environment should also be regarded as a stakeholder and the directors must have regard for the environment as a stakeholder as well as other stakeholders that may be affected by the actions of the company⁷¹. A company's purpose should reflect that it accepts the responsibility to protect the planet and its people in line with the sustainable development goals (SDGs), focusing on active long-term sustainable effectiveness rather than short term financial outcomes and building belief across all stakeholders⁷²

Section 305(3) of CAMA 2020 provides for directors to act in the best interests of the company according to the purpose for which it was created, and in doing so shall have regard to the impact of the company's operations on the environment in the community where it carries on business operations. This section captures the host community as a stakeholder in corporate governance. The host community accommodating the business of the company must not be left dilapidated. This is one of the reasons why corporate entities initiate corporate social responsibility (CSR) programmes to give back to the society hosting them. Where the operations of the company damage the environment or expose the community to risk, it has to take responsibility. An example is the negative impact (environmental damage, loss of livelihood, health problems) of Shell Company's business operation on the Niger Delta in Nigeria⁷³. With the access of social media and technology; displeased community members can publish derogatory posts on social media platforms against a company which can have harmful reputational effect and more on the company.

Likewise in Section 305(4) of CAMA 2020, the directors of the company are to consider the interests of their employees and the members of the company in the governance of the company. For employees, globally the bar has been raised as to the skills for the future of work, namely: analytical thinking and innovation, active learning and strategies, Technology use, monitoring and

⁷⁰ G, Stopp, 'Stakeholders: End the Tug of War' *ICSA Governance and Compliance, April Edition* (2018) 25-27 @ 27

⁷¹ Aina (n 13) 49

⁷² P, Lezama, and B, Simnett, 'Purpose- Corporate True North' *ICSA Governance and Compliance, March Edition* (2018) 41-43 @43

⁷³ I, Kaledzi, 'Nigerian Communities take Shell to Court over Oil Spills' (2025), <www.amp.dw.com>, accessed on 27th February, 2025.

control, Resilience, creativity, complex problem solving among others⁷⁴. The board should pursue and give precedence to: the development of staff and capacity building; inclusive and diverse workplace; building soft skills (like emotional intelligence, empathy to set the tone of the board to its employees), safety at the workplace and conducive work environment , sustainable structures and policies, establish whistleblowing policy with adequate protection for employees (establish reporting culture to encourage employees to speak up when they see wrong doing)⁷⁵ to enable talent retention and satisfaction. In a digitalized business terrain, staff training and expertise is key in managing technological structures of the company. It is pertinent to increase the digital competencies of employees⁷⁶. Corporate governance needs labour as much as they need capital and skilled, competent, fairly paid managers⁷⁷

Additionally, Minority shareholders are another group of stakeholders who may be concerned that their interests will be overlooked because they are not always aligned with those of the majority shareholders. For minority shareholders as stakeholders, there may be the fear that interest of minority shareholders will be ignored since their interests may not always be coherent with that of the majority shareholders. This will be largely determined by the country's legal framework for minority protection⁷⁸. Principle 22 of the NCCG 2018 guarantees all shareholders are treated equitably and advance minority owners. Although the court decision in *Foss v Harbottle*⁷⁹ states that will of the majority is the will of the company where there is a disagreement, the court is unwilling to interfere with internal decision –making process of the company. It has be argued that the guiding principle should be democratic corporate governance, the practice of which recognizes the imperative of treating the voice of the majority as the voice of the company, while simultaneously acknowledging and addressing the fears and concerns of minority shareholders, following the rule of law whenever frictions arise between minority and the majority in the company⁸⁰. The rights of minority should not be disregarded as investors are interested in a corporate system that protects both majority and minority interests in the company⁸¹. Chapter 13 of CAMA 2020 gives extensive requirements on the protection of minority shareholders against illegal and oppressive conduct or actions by or against the company.

⁷⁴ World Economic Forum, 'Top Skills of 2025' (2025) <www.weforum.org> accessed on 17th February ,2025

⁷⁵ A, Kosai , 'Speaking Up- Addressing the Elephant' *ICSA Governance and Compliance March Edition* (2018) 38-40 @40

⁷⁶M, Suchacka , 'Corporate Digital Responsibility- A New Dimension of the Human – Technology Relations' .*System Safety Human- Technical Facility- Environment* (2020)(2)(1)1-8 @7

⁷⁷ Stopp, G, ['Stakeholders: End the Tug of War' *ICSA Governance and Compliance, April Edition* (2018) 25-27 @ 27

⁷⁸J.D, Nielsen, 'The Role of Institutional Investors in Corporate Governance' (2000) 1-52 @ 23 <https://cutt.ly/98He8fM>. accessed on October 13th, 2021

⁷⁹ (1843) 2 Hare 461

⁸⁰ N. E, Ojukwu-Ogba and P.C, Osode, 'Democratic Corporate Governance and the Rights of Minority Shareholders: Perspectives from Nigeria and South Africa' *University of Ibadan Law Journal* (2012)(11)1-25 @ 4,25

⁸¹ N.N Ojukwu and P C Osode (n 80)

For Regulators, transparency, reliability, proactivity rather than reactive approach by companies, accountability, timely compliance and communications⁸² are some requirements to foster good relations between companies and regulators. Technological solutions to ease regulatory compliance such as REGTECH solutions and softwares have been created, and are been used by companies particularly in the financial services industry. Regulators and companies can collaborate in the use of these technologies for effective service delivery by both parties⁸³.

In dealing with other stakeholder such as: customers, competitors, companies must be aware of competition laws, consumer protection laws and rights, data privacy and protection laws, and comply with these laws, to nurture healthy engagements and to prevent issues that can cause the company risk and frictions with these stakeholders. Also, investors are attracted to companies with good corporate governance practices, ESG systems and excellent stakeholder engagement and relations. In all, good and sustainable corporate governance advocates for the balance of interests and protection of all stakeholders.

4. Conclusion

Digital transformation has implications on stakeholder engagement in corporate governance in terms of aiding in strategy planning, navigating complex business environments, building cordial relationships and healthy corporate ecosystem and more. Principle 1.1 of the NCCG, 2018 requires that the board establish an information technology governance framework for their companies. It can be implied from the law that board of directors must create governance structures for digital transformation in their companies, which must be structured to meet the interests of the company, its stakeholders and build sustainable relationships in the company. Moreover, with the rise of the use of artificial intelligence and other technologies like blockchain and others by companies, the board must emphasize the ethical use⁸⁴ of these technologies to protect the interests of its stakeholder, and most importantly uphold corporate digital responsibility in its dealings and continuous trainings of the "people" of the company (the board inclusive). Besides, disclosure, transparency, responsibility, effective risk management and accountability cannot be overstated in sustainable corporate governance.

⁸² Society for Corporate Governance (n 32) 44-47

⁸³ Society for Corporate Governance (n 32) 25-29

⁸⁴ I, Imhanze and A, Abor, "The Equilibrium between Profitability and Purpose in Stakeholder-Centric Governance Approach: Current Governance Issues, Trends and Future Outlook" *Journal of Corporate Governance* (2024)(17)(2) 3171-3190 @3183-3186