Lessons from the Social Impact Investment Taskforce
Mission Alignment Working Group
Profit-with-Purpose Businesses

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Introduction to the Working Group

Remit

For the field (of social impact investment) to develop, investors need confidence that the profit-with-purpose companies they finance...will continue to achieve social objectives even beyond change of ownership. The [Mission Alignment Working Group] will examine ways of achieving this through corporate form, governance, and legal protection and make recommendations.

Membership included investors, intermediaries, lawyers and entrepreneurs from France, Germany, Japan, UK, USA, Belgium.

The most relevant Taskforce recommendations

7. Give profit-with-purpose businesses the ability to lock-in mission:
governments to provide appropriate legal forms or provisions for entrepreneurs & investors who wish to secure social mission into future.

Taskforce recommendations as Market Steward:
Create legal forms or regulations that protect the social mission of impact-driven organisations
Relax regulations that prevent social sector organisations from generating revenues.
What’s the problem we are trying to solve? The opportunity to tap?

The Problem

• Many social start ups, but so few achieve scale
• Critical bottlenecks at the early stage and for transformative growth
• These are risky stages: equity investment is often the most relevant
• Asset/profit locked social ventures eg non-profits and social enterprises cannot easily take equity investment
• Many countries see social and profit as incompatible: mission drift and abuse of privilege are major concerns
• So can we devise a model for social ventures which distribute profit but lock in their social mission in other ways?
• And can we get this accepted and developed in each country?

The Opportunity

• There is a wave of entrepreneurs who want to go social: 1 in 5 of all startups in UK
• Many want to use company limited by share model: familiar, investible, controllable
• Early stage “angel” investors are prepared to invest in social ventures if they can see a realistic return
• So can we devise a model for social ventures which can attract equity investment but hold to social mission, giving confidence to all stakeholders?
The spectrum

Investing sustainably

Impact Investment

Philanthropy

Investors

Investees

SUSTAINABLE BUSINESSES (CSR, ESG, SRI)

IMPACT-DRIVEN ORGANISATIONS
• Set outcomes objectives
• Measure their achievement
• Maintain them in the long-term

Impact-driven businesses
Organisations with no kind of asset lock

Businesses-seeking-impact that set and maintain social outcome objectives for a significant part of their activities, without locking in their mission

Profit-with-purpose businesses that lock-in social mission through their governance and/or embed it in their business model

Social sector organisations
Asset-locked organisations

Social and solidarity enterprises and other profit-constrained organisations

Charities and membership groups that trade but do not distribute profits

Charities that do not engage in trading

This is the new model
The spectrum: our focus
Combining social impact & profitable business

Commitment to impact and profit distribution are different dimensions, not in opposition

<table>
<thead>
<tr>
<th>Primary commitment to impact</th>
<th>Charities that do not engage in trade</th>
<th>Charities that trade but do not distribute profits</th>
<th>Social and solidarity enterprises</th>
<th>Profit with purpose business</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intent to create impact</td>
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<td>Legal minimum on creating impact</td>
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<td>Businesses-seeking-impact</td>
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<td>Sustainable businesses</td>
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<tr>
<td>Level of commitment to impact</td>
<td>no distributions</td>
<td>internal distributions only</td>
<td>partially limited distributions</td>
<td>unlimited distributions</td>
</tr>
<tr>
<td>Profit and asset distributions</td>
<td></td>
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</tbody>
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Framing the work

- **Identifying the scope**: permission to blend social purpose and profit distribution
- **Balancing act**: encouraging social entrepreneurs in, locking social mission in – balancing the risks of mission drift if the formula is too weak, and of stifling growth if it is too tough
- **Placing the focus**: profit-with-purpose business as the new model and core focus; considering social/solidarity enterprise and businesses seeking impact on either side
- **Characteristics**: define the characteristics of a profit-with-purpose business as well as social/solidarity enterprise
- **Legal**: describe an adequate legal basis that allows for businesses with these characteristics, understanding the current impediments; list additional options for legislators; analyse the current legal position for each country and identify a key next step
- **Policy and market**: identify supportive policy and market measures that could be applied across countries to boost awareness and take up
- **Stimulate implementation**: identify the best starting points and showcase examples
The characteristics that define a profit-with-purpose business

**Intent**: including social objectives in the articles of the companies. Some countries allow this now, some need legislative changes. The US Benefit Corporation approach is a valuable starting point.

**Duties**: on the directors to strive for the social mission as well as financial return. Few if any countries explicitly allow for this, some need changes. But it may not be a material concern in reality.

**Reporting**: direct reporting on the chosen mission to an accredited standard; broader transparency on environmental, social and governance issues. The US B Lab system is a valuable starting point. In the EU look at the GECES report. Investor-led accreditation is a possible alternative, eg Finansol in France.
The Challenges and Solutions

- **Cultural challenges**: “profit and purpose don’t mix”
- **Vested interest challenges**: “we don’t need this”
- **Sceptical challenges**: “it won’t work” “there will be mission drift” “it just slows down the entrepreneurs”
- **Awareness challenges**: it has taken decades for social enterprise to be recognised even in pioneer countries

- **Connect to population level interest**: start from where the entrepreneurs and investors are, engage those already doing it, build a movement
- **Demonstrate the reality**: focus on real enterprises, real impact, showcase their work, don’t focus on the plumbing
- **Tone**: this is an experiment, we will test it, and research it

- **Provide clear, easy to use legal backing**: a draft piece of legislation for countries to pick up and adapt: the “Clark Bill”. Covers both social enterprise/entreprise solidaire and profit-with-purpose business. Options to fit different country positions and norms.
- **Starting points and next steps**: Orrick Report analysing legal position in 8 countries
- **Reporting**: using the B Lab system, expanding globally, “compulsory pillar 5”?
- **Case studies**: a library to show how this has worked, how it could work better
<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Explanation</th>
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<tbody>
<tr>
<td>Can include social mission as <strong>secondary</strong> object for profit distributing entity?</td>
<td>This is the basic requirement for profit distributing entities to be able to carry out social mission activity</td>
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<tr>
<td>Can include social mission as <strong>primary</strong> object for profit distributing entity?</td>
<td>Allowing for social mission as a primary object means that the entities can be “social first” or “social and financial equal”</td>
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<tr>
<td>Is there an established legal precedent and practice or clear civil code?</td>
<td>Most countries have existing detailed company law, both in statute and case law, and it may take some time or specific regulation or guidance to give certainty of how new corporate forms will be treated in practice</td>
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<td>Are there mechanisms to embed social purpose in a profit distributing entity?</td>
<td>What practical methods of implementation for social purpose are available? Are these easy to use and effective in practice?</td>
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<td>Are there specific legal forms designed for profit-with-purpose businesses or social/solidarity enterprises?</td>
<td>Some countries have chosen to create new profit-distributing corporate forms specifically for such businesses</td>
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<td>Is social purpose included in fiduciary duties, and clearly enforceable?</td>
<td>For the social mission to become real, directors should have fiduciary duties towards all the objectives of their company, the social object as well as financial return</td>
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Activities in the UK

• **Using the momentum:** building confidence in the idea of profit-with-purpose business

• **Legal backing:** the missing link in the UK is the duties of directors, but in practice, who would ever go to court?

• **Standardising:** model Articles for profit-with-purpose companies limited by shares, potentially an online tool to generate Articles with standard clauses

• **Reporting:** B Lab UK is already in development with influential leadership. It will encourage registration by existing major social businesses as well as startups

• **UK starting point:** UnLtd’s Big Venture Challenge has been working on bespoke versions of PWP business already, and has good research evidence that it does attract high potential entrepreneurs who are committed to long term social value, and also attracts commercial angel investors

• **Familiarity:** sessions with lawyers (via Orrick) and angel investors (via Cabinet Office) to create awareness and disseminate information

• **Case studies and media:** the more success stories, the more likely this is to achieve the confidence of all stakeholders

• **Overall:** strong backing from government, investors, and high-ambition social entrepreneurs; acceptance from many in the social enterprise world; challenges from traditional social sector mainly on the dangers of mixing profit and purpose
Other country activities

- **Canada**: MaRS led Social Finance Forum in Toronto – considerable interest
- **Canada, France, Italy, Japan**: legislative changes in consideration or underway, broadening the opportunities for social and enterprise combinations. Clark Bill available to assist other countries.
- **EU**: EUSEF standard for social investment funds, GECES work on social impact reporting. Some danger this may not be compatible with B Lab approach.
- **B Lab expansion**: into Europe, Australia, Canada; Sistema B into South America.
- **International**: UnLtd will provide materials and support to the 35 countries with Global Social Entrepreneurship Network members (http://gsen.unltd.org.uk). Interest in a number of G20 countries.
- **Informing the lawyers**: outreach to lawyers through Thomson Reuters Foundation, raising awareness.
- **Significant challenges**: cultural, vested interest, sceptical, awareness.
- **Outright opposition in some countries**: profound discomfort with mixing profit and purpose – fears it will undermine the social sector, lose trust, fears of mission drift.

Technically this is all now possible. It’s culture not mechanics that are challenging. In practice entrepreneurs and investors are doing this already. The question for each country is: “do we see more social business as part of our future?”
YOUR QUESTIONS

Have thoughts or feedback? Email the GIIN: Lgustafson@thegiin.org

Find the full working group report at www.socialimpactinvestment.org including the Clark Bill and case study library

Find the other webinars in this series and further information on impact investing at www.thegiin.org

Find the Orrick Report on the starting point in the G8 countries on http://www.trust.org/services/publication-library/?show=LegalAndProBono

More on UnLtd including research reports on our pilot profit-with-purpose work on www.unltd.org.uk

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