ACCOUNTABILITY VIA CENTRAL DATABASE REGIMES IN THE CONTEXT OF NSW POLITCAL DONATIONS

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Abstract

Purpose: We examine the extent to which the NSW political finance disclosure regime promotes accountability in order to both improve this case as well as understand how accountability might be realised through a central database regime (CDR). A CDR is system in which organizations report information to a central agency, which then ensures that the information is accessible in a publically-available database. This paper also outlines the benefits and limitations of using CDRs as accountability mechanisms.

Design/Methodology: A framework for assessing accountability is derived from John Dryzek's discursive democracy and then applied to the NSW disclosure regime through an analysis of submissions to a recent Parliamentary Inquiry.

Findings: Our analysis of the data is not yet complete. However our initial observations are that the potential of this particular CDR to enhance accountability is not realised. We suggest that CDRs have the potential to significantly enhance accountability relative to TBL reports, primarily by collecting and presenting information at the level most relevant to the issue at hand, which is often not that of the organisation. For stakeholders with an interest in organisation-level performance, however, TBL reports may still perform an important accountability role.

Originality/Value: Few prior studies have considered disclosures in relation to political donations or the relative merits of disclosures in databases versus TBL reports. We also develop a framework for accountability derived from the recent work of political theorist John Dryzek.

Key words: Political donations, databases, triple bottom line reporting

Paper type: Empirical

1.0 Introduction

A central purpose of social and environmental accounting (SEA) is to develop new forms of accounting which allow citizens to hold organisations accountable for their social and environmental impacts (Gray *et al.*, 1996). SEA research has thus examined new forms of accountability including web-forums (Unerman & Bennett, 2004); online counter accounting (Gallhofer *et al.*, 2006); 'leading edge' reforms (Cooper & Owen, 2007); and sustainable cost calculation (Bebbington & Gray, 2001).

Numerous studies have also investigated the sufficiency, trustworthiness and usefulness of voluntary social and environmental disclosure (Adams, 2004; Danastas & Gedenne, 2006; Deegan & Rankin, 1996; Tilt, 1994) and have largely found it lacking. This has led to calls for mandatory sustainability reporting (Adams, 2004; Gallhofer & Haslam, 1996; Gray & Milne, 2002) and government inquiries into the matter (Legislative Assembly Public Accounts Committee, 2005 ; Parliamentary Joint Committee on Corporations and Financial Services, 2006). Critical theorists have frequently posited that sustainability will not be achieved without a radical transformation of social and political relationships (Tinker, 1991; Tinker & Gray, 2003; Tinker et al., 1991), fearing that the business world will likely capture any sustainability reporting process to ensure that the contradictions and exploitation inherent in capitalism are never revealed (Brown & Fraser, 2006). Whilst these concerns are well-founded, numerous studies (Fung & O'Rourke, 2000; Stephan, 2002) suggest that disclosure programs are still capable of producing *some* benefit, hence they are still worthy of research effort.

The majority of SEA studies are concerned with disclosure at the organisational level, such as triple-bottom line (TBL) reports (Gray, 2002; Gray, 2005; Gray & Guthrie, 2007; Lamberton, 2005; Mathews, 1997, 2004; Owen, 2008; Parker, 2005; Unerman et al., 2007). Such work has advanced our knowledge of organisational reporting, but also found that it may not be possible to address certain sustainability questions at the level of the firm. For example, Gray (2010, p. 48) observes that:

> Any simple assessment of the relationship between a single organisation and planetary sustainability is virtually impossible. The relationships and interrelationships are simply too complex. Furthermore, to assume that the notion of ''sustainability'' has tangible meaning at the level of organisation is to ignore all we know about sustainability. Sustainability is a systems-based concept and, environmentally at least, only begins to make any sense at the level of eco-systems and is probably difficult to really conceptualise at anything below planetary and species levels.

This limitation means that even if organisational sustainability reports were mandatory, comprehensive and reliable, they may be of limited use in many social and environmental disputes. In the area of pollution, for example, some are concerned about total company emissions, but many may not. People are more likely to be concerned about issues such as: the nature of chemicals released from a nearby site (requiring facility level data); or total river pollution from all facilities attributable to a certain catchment area (necessitating area-level data); or the pollution that a particular community, town, state or nation is exposed to (which requires systems-level data). Whilst TBL reports might provide facility level information, no matter how perfect TBL reporting becomes, it is difficult imagining them presenting area or systems level information. One might be able to obtain such data by going

through each report and aggregating the information, but this would be time consuming and require knowing each and every organisation involved. An alternative approach to organisational sustainability reports is what we term a 'central database regime' (CDR).

A CDR is a system in which all reporting entities provide data to a central agency (or central agencies) which ensures that it is accessible through a publically available database. Having this data all in one database not only makes it potentially easier for users to perform systems and area level analysis, but also to compare one reporting entity against either a sample of reporting entities or the entire population of reporting entities. Without such a format, users would have to identify and locate the sustainability report of each organisation they wanted in the sample and then convert the information to a common metric – assuming such information is available in every report. Obviously, the degree to which individual CDRs are useful for obtaining systems/area level data or compare reporting entities depends on their designs.

Even though CDRs have existed for decades and feature prominently in environmental disclosure discussions (Beierle, 2003; Kathuria, 2009; Stephen, 2002; Tietenberg, 1998), they have been the subject of few SEA studies. Perhaps the best known CDR is the US Environmental Protection Agency's (EPA) Toxics Release Inventory (TRI). The TRI program requires industrial and federal facilities to annually disclose the amount of each of the nearly 650 listed substances they emit. This information is accessible through a publically available database which permits users to search and organise data by facility, chemical, area or industry. By many accounts, the TRI is one of the most successful environmental disclosure programs and has been credited with causing a 45% reduction in listed chemical emissions over seven years (Fung & O'Rourke, 2000). The TRI has been replicated in many parts of the world including Canada (the National Pollutant Release Inventory), Australia (the National Pollutant Inventory) and the UK (the Pollution Inventory). This approach is also being applied to other environmental issues such as greenhouse gas emissions and water: Australian examples include the forthcoming Natural Greenhouse and Energy Reporting Register, the Australian Water Resources Information System and the Environmental Reporting Tool (which details for each suburb information regarding threatened species, important wetlands, heritage sites, pollutant emissions).

Table 1: List of Various Central Database Regimes (Our Source)

CDR Type	Name and Details
Political finance database maintained by government agency	- Australian Electoral Commission database - (US) Federal Election Commission database - Elections Canada database
Political finance database maintained by NGO	- Green's Democracy4sale database - (US) Centre for Responsive Politics opensecrets.org
Pollutant Release and Transfer Register (PRTR) maintained by government	- National Pollutant Inventory (Australia) - Toxics Release Inventory (US) - (UK) Pollutant Inventory

	- (Canada) National Pollutant Release Inventory
PRTR maintained by NGO	- Scorecard.org's database.
Other	- Australia's Natural Greenhouse and Energy Reporting Register
	- Australian Water Resources Information System and the Environmental Reporting Tool

CDRs can also be used for social disclosures. One such use is to record donations to political parties by both individuals and organisations. For good or ill, political donations present a way by which organisations can potentially influence government decisions and thereby affect society – a topic which has been the subject of a few SEA studies including: Cho *et al.* (2006); Cho *et al* (2008); Dwyer and Roberts (2004); Roberts et al. (2003); Roberts and Bobek (2004); and Thornburg and Roberts (2008). Political donation accountability is of such importance that it is a mandatory GRI component.

It might be argued that the very notion of allowing organisations to make political donations is problematic. However, the fact remains that such donations are legal in parts of the world, most recently in the US following the Supreme Court decision in *Citizens United vs. Federal Elections Commission*. Donation disclosures therefore have a potentially important role to play. In the US, lobbying has already begun to introduce a disclosure regime to catch the corporate donations that the *Citizens United vs. Federal Elections Commission* now permits. Australia, organisational donations are permitted and disclosure CDRs have been in operation for some time at both Federal and State levels.

The objectives of this paper are to: A) present an exploration of CDRs and their potential role in accountability; and B) to present an analysis of a real life political donation CDR. In order to achieve these objectives, the paper is structured as follows. Following this introduction, Section 2 explains the essential characteristics of CDRs and provides a literature review. Section 3 derives a theoretical framework for assessing how CDRs contribute to accountability from the political philosophy of John Dryzek. This framework is then used to assess the political donation CDR in the Australian state of New South Wales (NSW) in Section 4. This analysis is not only provides an example of the framework in use, but is also important in its own right as political donation accountability is an important element in democracy. Overall, it is found that the NSW system had a small potential to increase accountability, but problems regarding timeliness and relevance/comprehensiveness prevent this small potential from being fully realised. Section 5 then proceeds to compare CDRs to TBL reports in order to better understand their benefits and limitations whilst Section 6 presents the conclusions of this study.

Our paper contributes to the literature in three main ways. First, we add to the understanding of political donation disclosure, which has received limited attention within SEA research. Second, we explore the contrasts between CDRs and TBL reports and determine how they might complement each other. Third, by adopting a framework for accountability derived from John Dryzek's discursive democracy we contribute to the theoretical understanding of accountability and disclosure, responding to calls both within SEA (Spence, 2009) and outside (Stephan, 2002).

2.0 Central Database Regimes

This section outlines prior research concerning CDRs. As noted above, we define a CDR as a system in which all reporting entities provide data to a central agency (or central agencies) which ensures that it is accessible through a publically available database. While this definition is somewhat vague, a CDR has the following essential components:

1. **Central:** Reporting organisations do not directly release reports to the public. Instead, their reports are collected by either single agency or group of agencies working together. These agencies are usually government departments, but there is no reason why a CDR could not be maintained by an NGO or private organisation.

2. **Database:** The information collected from the reporting entities is made available in a publically accessible database. The term database as used here is a catch-all term for information repository. There is no distinction between a sophisticated database with advanced search facilities, an online collection of Pdf files, or a graphical information system. CDRs are typically available online, but this is not a necessity.

3. **Regime:** A CDR refers to more than the hardware, software and information involved in the database. It is also concerned with how these components interact with society and other bodies of knowledge needed to turn data into information.

Individual CDRs may vary widely. Some may require a subscription fee and others might not. Some CDRs may be audited and others are not. Some CDRs rely on information provided by reporting entities and others may rely on third parties collecting the information. The following sections discuss the two most prominent CDRs - pollutant release and transfer registers (PRTRs) and political finance databases.

2.1 PRTRs

As its name implies, PRTRs requires organisations to report the type and quantity of pollutions released and/or transferred to sewage and landfill. The information is typically made available in an online database. There are many PRTRs worldwide including the TRI (previously discussed) and the National Pollutant Inventory (NPI) in Australia.

The TRI (and other PRTRs) have frequently been referred to as a successful program (EPA, 2003; Jobe, 1999; Konar & Cohen, 1995; Stephen et al., 2005). Fung and O'Rourke (2000) attribute the success of TRI primarily to the fact that the database focused public attention on the worst performers. Facilities on the list of worst polluters drew unwanted attention, which was detrimental to both their public image and share price. Therefore facilities on the blacklist had incentive to get off it whilst those not on the list had incentive to stay off. The result was a situation which encouraged continuous improvement (Fung & O'Rourke, 2000).

Other researchers have been less enthusiastic. Using the TRI to facilitate comparisons between industries, processes and operations is hindered by changing reporting requirements, changing chemical lists and the fact that reporting is on total emissions rather than specific processes (Gerde & Logsdon, 2001). Further, Natan and Miller (1998) find that a large proportion of the reduction of TRI chemicals from 1991 to 1994 were paper changes and that very little improvement was caused by source reduction. This does not automatically suggest that organisations are manipulating their pollutant releases, as De Marchi and Hamilton (2006) compared TRI data with that gathered from EPA monitors and found mixed results. In some cases the reported TRI data presented a more favourable picture, in other cases it did not.

Still other authors have suggested that the benefits of PRTRs are overstated. Koehlera and Spenglera (2007) observe that the majority of empirical analyses involving TRI data fail to adequately control for facility and chemical specific factors such as industry characteristics, regulatory influences and market effects. Further, Grant and Jones (2004) theorise– and find mixed evidence to support – that industry type and organisational size affect pollution reduction. Finally, Harrison and Antweiler (2003) find that the majority of reductions reported to Canada's National Pollutant Release Inventory (NPRI) were not voluntary, but instead attributable to regulations.

More recently, Thorning (2009) has found evidence that the major problem with the Australian NPI is not that people are uninterested or unable to understand it, but rather that they do not know it exists. Indeed, when Howes (2001) had a group of students use both the Australian NPI and the US TRI, it was found that the former easier to use.

SEA research has typically used PRTRs solely as a proxy for relative environmental performance (Al-Tuwaijri et al., 2004; Clarkson et al., 2008; Pattern, 2002), although there have been a few studies that look at PRTRs directly. Sullivan and Gouldson (2007) describe how PRTRs often lack all the information needed to benchmark environmental performance, but are still more useful than corporate environmental reports for that purpose. Cunningham and Gedenne (2003) use the introduction of the NPI reporting requirements to test whether mandatory reporting requirements causes increased voluntary disclosure.

The SEA paper that comes closest to studying how PRTRs contribute to accountability is Saka *et al.* (2004) who compare the quality of information provided by PRTRs around the world using the International Accounting Standard Committee's conceptual framework. They find: a) PRTRs generally produce poor quality data; b) the rules in each country are different so PRTR data cannot easily be compared cross-country; and c) PRTR data is generally absent from corporate sustainability reports. Overall, however, there has been little research into how CDRs can affect accountability, or their advantages and disadvantages when compared to TBL reports.

2.2 Political Donation Databases

CDRs have been employed in many countries – including Australia, the US and Canada – to provide details concerning donors, receivers and details of campaign contributions. Wilcox (2005) argues that an ideal political donation disclosure system is one that allows users to: a) learn the identity of major donors and their interests in political decisions; and b) trace where money came from and where it went. Wilcox then proceeds to go into detail about what such a system would require.

It has been argued that proper political finance disclosure can help voters make a more informed choice (Nassmacher, 2003a) by providing them with information on the interests financing particular candidates and parties, which can be useful in evaluating a candidate/party's position on an issue (Hourigan, 2006). However, disclosure potentially has side-effects. Fear of retaliation may discourage donations; candidates might discourage donors to their competitors by revealing their large war chests; and maintaining a disclosure regime places an administrative burden on citizens (Johnson, 2005). At an extreme, if the law is overly complex and there is little tolerance for mistakes, then citizens may have difficulty becoming involved in elections without accidentally breaking the law (Johnson, 2005; Smith, 2003).

SEA studies have used political donation data to investigate political activity (Cho et al., 2006; Dwyer & Roberts, 2004; Roberts & Bobek, 2004; Thornburg & Roberts, 2008) but have not assessed the extent to which the regimes enhance accountability. Malbin and Gais (1998), however, come close to doing this when they outline, discuss and critique the chain of steps that must occur in order for disclosure to be a means by which voters can potentially punish candidates for entering improper financial relationships.

In order to determine the potential contribution CDRs might make to accountability, we need a framework outlining what accountability is and how an accountability mechanism can be assessed. Its derivation is described in the next section.

3.0 Theoretical Background

Our conception of accountability is located within the broader framework of discursive democracy as articulated by John Dryzek, who has refined this framework over the course of several decades, releasing numerous books (Dryzek, 1990, 1996, 2000) and journal articles (Dryzek, 2005, 2009a; Dryzek & Braithwaite, 2000; Dryzek & Niemeyer, 2008; Dryzek, 2001; Goodin & Dryzek, 2006). His work has been cited in SEA papers (Brown, 2009; Gallhofer et al., 2006; Gray, 2010; Laine, 2005; Milne et al., 2009; O'Dwyer, 2005; Richardson, 2008; Shafer, 2006; Young, 2003), but a search through the major SEA journals found no indication that Dryzekian theory had been previously used to create an SEA accountability framework.

Dryzek's early work strongly echoed that of Habermas in emphasising communicative rationality as a normative ideal. Habermas has been widely utilised in SEA to inform evaluations of: stakeholder dialogue (e.g. Cooper & Owen, 2007; Unerman & Bennett, 2004); accounting standards (Gilbert & Rasche, 2007; Rasche & Esser, 2006); argumentation models (Shapiro, 1998); and the role of SEA (Lehman, 2001, 2005). While we remain within a broadly Habermasian concept of accountability, Dryzek suggests an alternative conceptualisation of a number of Habermas' ideas which are more suited to our project. These differences are discussed below, but in general terms, Dryzek's conception of discourse is wider than that of Habermas. For a more detailed comparison of Dryzek and Habermas, see Mendonca (2008).

Dryzek (2009b, p. 11) states that accountability literally means 'giving an account'.[1] This is consistent with definitions that have been used in SEA literature, including Gray *et al's* (1996, p. 38) often-used 'the duty to provide an account (by no means a financial account) or reckoning of those actions for which one is held responsible'. Cooper and Owen (2007), however, argue that true accountability requires not only giving an account, but also that accountees be empowered to hold accountors responsible for their actions. Although they do not suggest how such accountability might be brought about, the point remains that unless accountability is defined in this way, an organization which completely disregards the safety of its workers but is transparent about its activities could truthfully claim to be accountable. Accountability is therefore more accurately defined as 'a relationship in which people are required to explain and take responsibility for their actions' (Sinclair, 1995, p. 220). In order to dovetail better with Dryzek's (2009a, b) views on accountability in democracy, the

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[1] As will be shown later, accountability has also been defined by Dryzek (2009b, p. 9) as when 'empowered space answers to deliberative space for actions.' We do not believe that this definition conflicts with the one selected for use in this paper.

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definition of accountability used here is: a relationship in which those empowered to make collective decisions (i.e. empowered spaces) are required to explain and take responsibility for their actions.

The point here is that assessing the potential of CDRs or TBL reports to enhance accountability involves determining the degree to which the mechanisms helps create a relationship in which empowered spaces are required to explain and take responsibility for their actions. The quality of an accountability mechanism can be viewed as a sliding scale: better mechanisms will require accountors to take responsibility for their actions, whilst poorer ones will only require them to explain and justify their actions. The next section elaborates on discursive democracy, explaining how these accountability mechanisms might serve to create change.

3.1 Accountability and the Balance of Discourses

Dryzek (1996) shares the concerns of critical theorists that the very nature of capitalism constrains democratic reform. Not only must efforts to democratise a system contend with capital's wealth and political power, but also the state's need to prevent capital flight. However, he suggests that reform may be caused by altering the *balance of discourses*.

Following Dryzek's later work, the term discourse can be defined as a worldview – a set of assumptions determining how people conceive an issue. Discourses refer not to a process as it does in, say, Habermasian theory (Mendonca, 2008), but rather to the understandings that are given to an issue. As an example, there have been – and still are - multiple discourses surrounding the concept of environment. Some discourses view the environment as an unending resource ripe for exploitation; others conceive of it as sacred and inhabited by ancestor spirits; whilst still others hold the environment to be a dangerous place populated by animals and savages. The existence of multiple discourses means that the same situation – and hence the appropriate response - can be viewed very differently.

Most issues can be understood in different ways, hence are associated with different discourses. Over time, the balance of discourses concerning an issue may change. A minority discourse might grow as it gains acceptance (e.g. the Earth revolves around that Sun and not vice versa). A once dominant discourse might shrink or even disappear (e.g. there is nothing wrong with slavery). Naturally, this process might span years, even decades or centuries. Even so, altering the balance can create real changes because this balance determines how the wider society conceives of a problem – how urgently the situation must be addressed; how it should be addressed; and indeed, whether the problem exists or not. Dryzek (2009b) observes that once a hole in the ozone layer was discovered, the balance of discourses concerning extent to which the ozone layer should be protected at the expense of economic interests shifted in favour of ozone protection. This shift led to an international agreement phasing out CFCs, thus demonstrating how altering the balance can create change.

Thus, even though the capitalist element can be expected to hinder reform efforts, information-based accountability mechanisms might still be able to bring about change by affecting the balance of discourses. Any such potential is a mixed blessing, however, as it can be deployed both to advance and impair the public interest. With the underlying theory briefly explained, we now turn to describing the model we use for assessing accountability.

3.2 Model for Accountability

Assessing the potential of CDRs or TBL reports to enhance accountability requires looking beyond the mechanisms themselves and considering the democratic context in which they operate. The reason for this is that as these mechanisms cannot give users formal power over organisations, the only way they can enhance accountability is by contributing to the balance of discourses. Hence a constraint on the democratic system to host effective deliberation limits the extent to which they can enhance accountability.

In order to create a model which reflects the need to assess democratic context, we have drawn upon Dryzek's deliberative capacity model. Dryzek suggests that the strength of a democracy should be evaluated by assessing its deliberative capacity, which is the degree to which a political system is capable of accommodating authentic, inclusive and decisive deliberation.

Authenticity refers to degree to which discourses are presented in manner aimed to 'induce reflection noncoercively, connect claims to more general principles, and exhibit reciprocity' (Dryzek, 2009a, p. 1382). Participants may attempt to appeal to each other's emotions using techniques such as rhetoric or story-telling, but the appeal must be non-coercive – i.e. it must not be intended to discourage people from presenting alternative points of view (e.g. branding people who support universal health-care as socialist). Further, the appeal must allow drawing a general point applicable to the issue at hand. Although permitting such appeals risks allowing emotional manipulation, Dryzek deems it necessary as: a) some points of view cannot be properly expressed as a rational argument; and b) rhetoric is often necessary when trying to communicate one's point of view to those who subscribe to a different discourse.

The simple way to assess authenticity is to consider whether there are any obvious factors limiting it – e.g. some important participants have a reputation for manipulating others or refusal to consider the views of others. For those wanting a more robust measure, Dryzek (2009a) suggests the discourse quality index of Steiner *et al.* (2004).

Inclusiveness refers to the extent to which a political system (or element of a political system) permits the full range of discourses and interests to be represented. It is not necessary for the system to allow all *people* to be represented, as that would be too difficult, just for all interests and discourses to be represented (Dryzek & Niemeyer, 2008). Given that it is impossible for a researcher to be certain whether the entire universe of discourses is represented or not, the best that can be done to assess this consideration is to determine whether there are any obvious impediments to inclusiveness.

Decisiveness refers to the extent to which the deliberative process is ultimately capable of influencing collective outcomes. If one had sufficient resources and believed that responses would be reliable, decisiveness might be assessed by surveying decision-makers about the factors that affect decision making.

Dryzek presents two different schemas (Dryzek, 2009a, b) for assessing discursive capacity. Combining both schemas suggest that there are five elements to consider when assessing the strengths and weaknesses of a democracy– *public space, empowered space, transmission, accountability* and *meta-deliberation*. The fact accountability is one of its components is beneficial as it shows the contextual elements that need to be evaluated when assessing accountability.

Our model for assessing accountability mechanisms contains two components – democratic context and accountability mechanism. Naturally, this reflects how evaluating an

accountability mechanism requires assessing the mechanism itself and the context in which it operates. For each component, list of important considerations has been provided. These lists, however, should be viewed as suggestions, not strict prescriptions. There are many complex issues involved in sustainability and an important consideration for one issue may not be as important in another. Thus, the model is intended to be a guide to assist analysis, not a step-by-step process.

Our model is as follows:

Component 1 - Democratic Context: Assessing democratic context involves determining the extent to which – if at all - accountability is impaired due to deliberative problems. This can be accomplished by evaluating the extent to which deliberation occurring in relation to the following elements results in an overall climate of authentic, inclusive and decisive deliberation:

a. **Public space**[2] Dryzek (2009a, p. 1385) defines this as any 'deliberative space (or spaces) with few restrictions on who can participate and with few legal restrictions on what participants can say, thereby featuring a diversity of viewpoints.' A public space may be associated with any area, forum or median where citizens can discuss an issue such as newspapers, citizen forums or even casual discussion at the local pub.

b. **Empowered space.** This is any deliberative space 'where authoritative collective outcomes are generated' (Dryzek, 2009b, p. 9) and may be associated with legislatures, courts, regulators, corporate stakeholder forums or even boards of directors. Empowered spaces need not necessarily have formal political powers – just sufficient influence such that decisions made in that space affect collective outcomes.

c. **Transmission** refers to any mechanism and/or techniques actors in the public space use in an attempt to influence the decisions made by actors in the empowered space. We suggest conceiving of transmission as a combination of techniques and mechanisms. Techniques refer to the method by which discourses are expressed, examples being rhetoric, bargaining, reasoned argument, testimony or character-assassination. Mechanisms are the media used to transmit the message, such as written letters, political campaigns, protest marches or oral communication.

d. **Meta-deliberation** refers to the extent to which the system facilitates engaging in an authentic deliberation about the rules and arrangement of the deliberative system itself. Meta-deliberative spaces may be found in connection to citizen assemblies formed to consider potential changes to the electoral system. Thompson (2008a) notes that even though such citizen forums do not directly deliberate upon the deliberative system, they may well affect it. This consideration can be assessed by evaluating the authenticity of meta-deliberative elements.

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[2] The term 'public space' should not be confused with the term 'public sphere'. Although Dryzek never states the difference between these terms it appears from Dryzek (2000, Chapter 4) that a public sphere always refers to discursive activity that occurs outside of the state whilst a public space involves discursive activity that may or may not involve the state.

A hindrance to deliberation affecting one component may enhance deliberation in another and vice versa (Dryzek, 2009a). For example, excluding actors from representation in the state is detrimental to deliberation in the empowered space, but may enhance deliberation in the public space by giving those actors greater incentive to communicate with the public.

Component 2 - **Accountability mechanism**. An accountability mechanism is any instrument that is intended to create and/or strengthen a relationship in which the empowered space is required to explain and take responsibility for its actions. Analysing this component requires the assessing the degree to which the mechanism provides information which is valuable – i.e. useful and worth obtaining - to its users. The best way to gather data on this component is by asking stakeholders. Most of the considerations here are derived from the Australian Accounting Standard Boards' (2009) *Framework for the Preparation and Presentation of Financial Statements*. Although they were designed for financial accounting, they can be adapted for social and environmental accounting. Important considerations are:

    a. Possible Accountability Pathways: Does information help by:

        1. Reducing information asymmetry

        2. Shocking or shaming users?

        3. Facilitating comparisons?

        4. Agenda setting?

    b. Representational feasibility (extent to which it is possible to usefully represent a particular sustainability issue using the mechanism)

    c. Relevance/comprehensiveness

    d. Reliability

    e. Timeliness

    f. Accessibility/usability

These considerations are often interconnected and can influence each other. For example, if data is not complete, then it may become both unreliable and irrelevant. If data is not timely, it may become irrelevant. It is therefore very difficult to draw a sharp distinction between considerations. To make matter even more complicated, a mechanism may still have value if some of the before-mentioned considerations are not met. For example, even if data is incomplete, unreliable and irrelevant, there may still be value to the company because the data collection process may identify opportunities to save money. Each of the considerations of accountability mechanism in elaborated below.

Possible Accountability Pathways

This consideration involves determining which groups of people might be interested in data from the mechanism and how it might be used. Stephan (2002) observes that four theories have been provided as to how environmental disclosure causes change in the context of CDRs. First, data might **reduce information asymmetry** – i.e. allow stakeholders, possibly backed by the threat of adverse media attention and/or lawsuits, to negotiate from a more

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equitable bargaining position. Second, information might **shock/shame** actors by revealing that the situation is worse than they expected. Regulators may impose new restrictions, citizen groups may draw unwanted attention to the organisation, or organisation itself might be shamed into proactively fixing the problem. Third, information might **facilitate comparisons** which lead people to perceive (rightly or not) an unfair situation. For example, communities might resent being exposed to a relatively high level of pollution. Finally, data might have an **agenda-Setting** role. Disclosure programs might highlight the importance with which the government regards the issue, which causes citizens to also be concerned. Further, the continual release of information serves to periodically remind the public about the issue's importance.

Each of the four points listed above constitutes a possible accountability pathway. A mechanism can be assessed by looking at the extent to which it facilitates the creation of these pathways.

Representational Feasibility

Representational feasibility is concerned with the extent to which it is possible to usefully represent a particular sustainability issue using a CDR and/or TBL report. Whilst it is technically possible to report any issue using either mechanism, it is not always practical or beneficial. For example, one contemporary sustainability issue is whether coal mining should be permitted in the Liverpool Plains and whether such mining can occur without damaging the farmland. This issue is too complex to describe in the short amount of space appropriate for a database entry and there does not appear to be any obvious benefit of having this information in a database. By contrast, there would be sufficient space for the mining companies to describe the issue in their TBL reports; also, this issue would seem to be relevant for a TBL report, if for no other reason than to inform investors about a situation likely affect future profits.

Relevance/Comprehensiveness

At first glance, relevance and comprehensiveness might appear to be two different criteria. However, they are interconnected as a lack of comprehensiveness is by definition a lack of relevant data. Hence they are examined here together as a single consideration.

Relevance/comprehensiveness is best conceived as a sliding scale to reflect how it is possible to provide data which is relevant, but does not succeed in fully providing the desired information. For example, PRTRs provide data concerning the quantity and effect of toxic emissions, but often do not answer the real question many citizen have – whether or not they are at risk. Given how citizens may have trouble interpreting and acting upon this information, it may be up to governments, regulators and public interest groups to provide interpretations and suggest appropriate responses.

Naturally, a major issue concerning relevance/comprehensiveness is the scope of information sought. Decisions must be made concerning the quantitative measures and qualitative descriptions that will be sought. In addition, thresholds - the level of activity that may occur before reporting is required - must be set. Typically, thresholds are set so as to exempt certain entities, such as small businesses, from reporting requirements. Thresholds do create the risk of under-reporting and/or the release of reports which are useless because they do not identify reporting entities. Further, thresholds can lead to reporting entities who operate near the threshold level having to report one year but not another, which makes tracking performance

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difficult. One method reporting mechanisms may attempt to address the incompleteness of system level is by providing estimates at to the data that is not caught due to the threshold.

Several points must be remembered when assessing relevance/comprehensiveness. First, it may not be desirable for a single mechanism to contain every possible piece of relevant data, as that would lead to information overload and detract from its usability. It is quite possible that the ultimate regime involves several reporting mechanisms working alongside each other. Second, the contextual information needed for complete relevance and comprehensiveness may not be intuitively obvious. For example, those unfamiliar with environmental justice might not appreciate how important it is to have information connecting toxic emissions, demographics and compliance[3]. The challenge of identifying all necessary contextual information is made even harder when one considers the possible ignorance concerning exactly what contextual information is necessary.

Timeliness

Timeliness is concerned with A) Frequency - how often reporting entities update their information; and B) Lag - the time difference between the occurrence of significant events and the time relevant information can be accessed.

Frequency is important to some users because it determines how and when they can respond to that information. For example, according to the template Environmental Defence emails, current TRI information is necessary for informing campaigns.[4] Frequency can also be important because the release date of information can be an event which draws media attention. The importance of lag is that there are some issues for which the information's relevance decreases after an event. An example is political donations, where information is often less useful after an election than before.

Reliability

Reliability refers to the extent information can be taken at face value. Sometimes there is no precise measuring technique available and reliability suffers as an estimate, rather than a measurement, must be used. (An example would be groundwater reserves.) Even when good measuring technologies exist, calibration errors may still occur. Error caused by measuring techniques is not an easy problem to fix, given that the requisite knowledge to do so is often absent.

It is possible that reporting entities might doctor their reports in order to present a better result than they actually achieved. This might be done by omitting important information, or by using a favourable reporting method. Natan and Miller (1998) report that, in the context of pollution reporting, adopting an alternate estimation method can cause a 100% variation in the reported result. A more extreme possibility is that reporting entities may knowingly report false and misleading information. To a certain extent, the risk of illusionary changes may be

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[3] Information on the relationship between toxic emissions and demographics is necessary in order to determine whether minority communities are bearing an uneven pollution load. Legal compliance information is needed to determine if regulators are selectively enforcing the law.

[4] To get this email, select a facility and go to the box labelled 'Take Action' and select 'Email EPA'. Current 29/11/09

mitigated by having mandatory audits of both the reports and the processes used to generate them. However, it is impossible to prevent outright dishonesty.

Studies such as de Marchi and Hamilton (2006) and Natan and Miller (1998) show that there is an element of unreliability regarding TRI information – something which does not appear to have prevented industry, government and civil society from making use of it. This suggests that a certain level of unreliability can be tolerated by users. It is likely, however, that as the level of unreliability increases, the information becomes increasingly unusable to particular users. For example, Howes (2001) suggests that the unreliability of Australian NPI data might preclude it from being used as evidence in court.

<u>Usability/Accessibility</u>

The less useable and accessible a mechanism is, the slimmer the chances that it will influence deliberation. In order to be usable and accessible, users must:

1. **Be aware that the system exists:** Ignorance concerning the existence of TBL reports or CDRs is an obvious hindrance to their use, although widespread non-awareness of their existence may be normal, considering Atlas' (2007) finding that even the TRI experienced low public awareness.

2. **Know how to locate and extract the desired information:** One way to help users locate and extract the necessary information is by designing the system to answer the questions users are likely have and/or providing data to assist in drawing conclusions. For example, Fairley *et al* (1998) notes that scorecard.org was designed to answer common sense questions such as: which pollutant is the worst and has the situation improved? This same site takes TRI information and adds a toxicity weighting, so that people can compare the danger associated with particular emissions.

3. **Know what to do with any significant information:** The mechanism could provide suggestions concerning how to proceed if worrying data has been located. For example, Scorecard.org invites people to take action by: posting a message concerning a facility in its online forum; e-mailing the EPA; and sending a fax to facility management. A sample letter is provided to help people, as is a list of important questions to ask in order to determine whether a reported decrease in TRI chemicals is real or illusionary.

4. **Have access to the necessary technology**: This is rarely a problem for TBL reports, as they are often available in paper-based format and can be posted to interested persons. People who do not have an internet connection may find it harder to access a CDR, but it is not necessarily impossible. Public libraries, community centres or regional environmental centres might provide online access. The agency responsible for a CDR might allow people to visit their offices to view information. Printed copies of requested data might be made available on request. Further, an agency might make a CDR available by posting it to people on CD-ROM or USB.

5. **Ease of system use**: For a TBL report, this mostly involves ensuring a clear layout to facilitate easy location of information. Ensuring ease of system use may be harder for a CDR because the limits of technology play a greater role. For example, users of the Australian NPI can experience problems such as searches freezing, timing out, or not linking to the information that they want. (Lloyd-Smith, 2008).

In the next section, the framework is applied to the political finance CDR used in the Australian state of NSW.

4.0 The NSW Political Finance Regime

This section uses the framework derived from Dryzek's work to assess how NSW's political donation database contributes to accountability. The database analysed here does not have an official name, so it is referred to as the NSW political finance database (NSWPFD). The NSWPFD is maintained by a state regulator known as the Election Funding Authority (EFA). As it will be seen, this database is a regime that had a slight potential to enhance accountability, but mostly failed to live up to that potential.

NSW political disclosure began with the passing of *Election Funding Act 1981* by Neville Wran's Labor government. This Act was responsible for the introduction of public funding into NSW, establishing the EFA and for legally requiring candidates lodge declarations of donations received and expenditures. Subsequent legislative changes: reduced the disclosure threshold; imposed disclosure requirements on donors at fundraisers and third parties; and prohibited anonymous donations exceeding certain thresholds (Callinan, 2001).

In June 2007, NSW Parliament established the Select Committee on Electoral and Political Party Funding (SCEPPF) to *'inquire into and report on the funding of, and disclosure of donations to, political parties, and candidates'* (SCEPPF, 2008a, p. iv). In discussing the context of the Inquiry (SCEPPF, 2008a, Chapter 2) SCEPPF does not list any specific event as being the cause of its creation, although it notes how calls for reform were fuelled by the Wollongong and Port Macquarie-Hastings scandal which occurred whilst the Inquiry was being conducted.

The reason NSWPFD was chosen for this analysis is that the SCEPPF Inquiry generated a comprehensive data source. The inquiry received a total of 189 submissions from the full range of stakeholders, including politicians, public interest groups, EFA staff, industry representatives and private citizens. Some of the more important stakeholders were even interviewed by SCEPPF. As a result, the SCEPPF inquiry presented an opportunity to assess a CDR after ascertaining the viewpoints of an array of stakeholders. We begin by outlining the NSWFD rules.

4.1 NSWPFD Rules

The NSWPFD regime requires candidates, political parties and groups of candidates to report to the EFA their electoral expenditures as well as any monetary and in-kind donations they have received. Donors must also report their donations and electoral expenses. These forms are available in an online searchable database. Those parties who are also registered to contest Federal elections – and their donors – are subject to Federal disclosure law, which requires annual reporting to the Australian Electoral Commission (AEC), which has different rules. Thomspon (SCEPPF, 2008e, p. 38) notes that although there is overlap between the Federal and State regimes, it is worthwhile having both because:

> *we could have the situation of government being formed Federally that has control in the lower House and the upper House and they could again raise the disclosure threshold so high that it would hide most of the money.*

The NSWPFD has changed since the SCEPPF's Inquiry. The disclosure period has been reduced from every four years[5] to every six months; the EFA's website now contains an online searchable database rather than a collection of PDF files; and record-keeping requirements have been tightened so as to create a superior audit trail.

Further, the donation reporting threshold rules have changed. Previously, parties, groups, candidates and elected members/councillors were required to disclosure the total number of donations as well as the value of each and the date received. They were also required to disclose the names and addresses of donors whose total contributions during the election period exceeded $200 for a candidate or $1500 for a party or group. Donors were not subjected to any disclosure requirements unless their aggregated donations during an electoral period exceeded $1500, at which point they had to disclose their name and address, the donation date, donation value and recipient.

The reporting rules for all parties, groups and candidates has since been changed such that donor name and address must only be declared for those who, during a single financial year contribute at least $1000 to a party, candidate, elected member, council or another donor. The total number, aggregate value and date of donations below $1000 must still be reported. Additionally, donors must file a return to the EFA if during a financial year they contribute $1000 or more to a party/group/candidate/elected member/councillor and/or incur electoral expense of $1000 or more.

An important clarification that must be made is that the terms 'candidate' and 'group of candidates' have specific definitions and give rise to disclosure obligations different to those experienced by 'elected members' and 'political parties'. A candidate is anyone who is registered to contest an election. Those candidates who win become elected members and must make disclosure under the rules for elected members, until they register to contest the next election at which point they disclose again under the candidate rules and the process repeats. Similarly, political parties disclose under the political parties rules, except during the periods where they are registered to contest elections, in which case they follow the rules for groups of candidates. The difference between candidate/group and elected member/political party disclosure is this: the former covers disclose donation and expenditure information dating back to 30 days since the last election (or dating back 12 months if they did not contest the last election) whilst the latter only covers the six month period since the last declaration. In this paper, the term candidate is used as it is in the political finance literature – as a term referring both to elected politicians and those seeking election.

4.2 Method

The transcripts of all stakeholder interviews, along with the final report and all but three submissions are available online. All interview transcripts, along with selected submissions were analysed using the process of content analysis, which was conducted using the following steps:

1. **Deriving a theoretical framework** (which appears in Section 3) for assessing the benefits and weaknesses of an accountability mechanism. In order to maximise the

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[5] The reason for this 4 year period is that declarations were intended to cover the entire election period and a month either side. The disclosure period began 31 days after the previous election and ended 30 days after the following election.

chances of the framework reflecting stakeholder concerns, during this period we read PRTR literature, user comments about scorecard.org, the SCEPPF final report and SCEPPF transcripts.

2. **Create coding categories in NVivo to analyse the transcripts and selected stakeholder submissions**. Our objective was to use NVivo to create a list of stakeholder comments concerning the accountability considerations identified by the framework, organised by stakeholder interest group.

   To accomplish this, we first uploaded the SCEPPF documents into NVivo. The submissions by Liberal, Labour and the Cancer Council could not be directly imported, so their main paragraphs referring to accountability were typed into a Microsoft Word document which could be imported. We then created the coding categories. First, we created a category for each stakeholder interest group which may have offered insights into political finance disclosure. These categories were: academic, business, EFA, political parties or candidates, public interest groups, unions or citizens/association unknown. For each interest group category, we created a series of sub-categories that reflected the accountability framework. These subcategories were as follows:

   a. Democratic context sub-categories: public space, empowered space, transmission, meta-deliberation and decisiveness.

   b. Accountability mechanism sub-categories: accountability pathways, representational feasibility, comprehensiveness/relevance, reliability, timeliness and usability/accessibility.

3. **Code the SCEPPF documents**. We read through all of the SCEPPF transcripts and a number of stakeholder submissions. Whenever text relating to any of the categories was located, it was coded. We had attempted to follow Krippendoff's (2004) advise to create coding categories that were mutually exclusive, but it proved too difficult to draw clear boundaries between every accountability consideration. For example, references to the media were relevant both to public space and to transmission. Therefore, references were coded into multiple categories when necessary.[6]

4. **Drawing conclusions.** By following the above steps, we created in NVivo a list of stakeholder comments concerning the elements of accountability, arranged by accountability consideration. We read through each list, identified which issues had not been affected by the legislative changes that occurred after the completion of the SCEPPF inquiry and then used the list to write up the remainder of this section.

At the time of writing, only 130 of the 189 submissions were coded. We coded submissions from an array of stakeholders, including:

Political Parties: Liberal, Labor, National, Greens and Shooters.

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[6] The one exception to this rule concerned comments by Dr. Norman Thompson of the Greens' Political Donations Research Project. This Project is a public interest group attached to a political party and any comments made by Thompson could have been assigned to both the 'political parties and candidates' and 'public interest group' categories. In this case, Thompson's comments were coded as a public interest group.

Public interest groups: Greens Political Donations Research Project, Australian Centre for Democracy and Justice (ACDJ) and Public Interest Advocacy Centre (PIAC), and the Cancer Council.

Regulators: The EFA

Business Urban Taskforce Australia and Property Council of NSW.

Private Citizens Jo Holder, Eric Jones and Geoff Wall who sent in particularly illuminating submission.

Further, we coded all SCEPPF Inquiry interview transcripts and the public forum, which involved the following people:

- **Academics**: Marian Sawyer, Norm Kelly, Joo-Cheong Tham, Simon Longstaff

- **Local Council Representatives**: Genia McCaffery (North Sydney Mayor), Bruce Miller (Cowra Mayor), Ian Longbottom (Lane Cove Mayor), Judy Lambert (representing Mayor of Manly Council), Penny Holloway (North Sydney Council General Manager), Warren Welham (Wyong Shire Mayor), Neville Castle (Lithgow City Mayor), Paul Anderson (Lithgow Council General Manager), Greg Watson (Shoalhaven Mayor), Greg Piper (Lake Macquarie Mayor), Clover Moore (Sydney Lord Mayor), Robert Drew (Port Macquarie-Hastings Former Mayor).

- **Political party representatives and Independent candidates:** Dawn Fardell (Independent), Lee Rhiannon (The Greens), Barry O'Farrell (Liberal, NSW Opposition Leader), Martin Laverty (Liberal Interim State Director), Peter Draper (Independent), Greg Piper (Independent), Clover Moore (Independent), Paul Davey (National Party Vice Chairman), Karl Bitar (Australian Labor Party General Secretary).

- **Public interest group representatives:** Anita Tang (Cancer Council Health Strategies Director), Anne Jones (CEO, Action on Smoking and Health Australia), Robin Banks (CEO, Public Interest Advocacy Centre), Norman Thompson (Director, The Greens Political Donations Research Project).

- **EFA:** Colin Barry (EFA Chairperson), Trevor Follett (EFA Secretary).

- **Business:** Ken Morrison (NSW Executive Director, Property Council of Australia), Aaron Gadiel (Chief Executive, Urban Taskforce Australia).

As it can be seen, the coded material represents the opinions of a diverse array of stakeholders. Although only 130 of the 189 submissions are coded, most – if not all – of the remaining uncoded submissions merely echo the comments that appear elsewhere without introducing substantially new considerations.

4.3 Assessment of Democratic Context

Assessing democratic context involves determining the extent to which – if at all- accountability is impaired due to factors hindering the occurrence of *authentic*, *inclusive* and *decisive* deliberation around political finance issues. On Dryzek's account, this can be ascertained by examining the quality of deliberation occurring in relation to *public spaces*, *empowered spaces, transmission* and *meta-deliberation*. A lack of *decisiveness* hinders

accountability as talk is never turned into action. A lack of *inclusiveness* may result in empowered spaces not being held accountable for how their decisions affect the full range of stakeholders. A lack of *authenticity* generally does not impair accountability, as the mere introduction of flawed arguments and/or the presence of people unwilling to reflect upon opposing viewpoints is usually insufficient to derail public debate. The exception to this rule would be if a manipulation significantly changes how people view an issue – for example scientists deliberately fabricating evidence to 'prove' that a facility emits dangerous levels of toxic emissions. Unsurprisingly, the SCEPPF Inquiry provided little information on democratic context, as participants rarely consider it.

The main *empowered spaces* that are of concern for this issue are NSW Parliament and the donors. Parliament certainly discusses this issue, as demonstrated by the occurrence of the SCEPPF Inquiry and the Joint Standing Committee on Electoral Matters' (JSCEM) subsequent inquiry into public funding of local elections. The SCEPPF Inquiry was quite inclusive – it received submissions from a variety of stakeholders and held a public forum for members of the public who wanted to speak but were not called as witnesses. Further, it produced a comprehensive report that thoroughly examined the advantages and disadvantages of the different reform options. This suggests that deliberation in Parliament which occurs as part of an inquiry is quite inclusive. Whilst it is quite possible that individual people who wanted to provide input into the process were not able to do so – and some, such as Harrison (SCEPPF, 2008b, p. 14) were disappointed that they only were allowed 5 minutes to speak - it seems quite probable that all important discourses were represented in the process.[7] However, some participants such Pederson (SCEPPF, 2008b, p . 19) questioned whether the SCEPPF Committee would engage in authentic deliberation given that *'the most active spokesperson in Parliament on this issue'* [Lee Rhiannon] was denied a place on the Committee. Others such as Wyldeck (2008, p. 2) have expressed a doubt that he inquiry will lead to anything:

> *I hope something good may come out of this inquiry, but as it must be the hundred thousandth inquiry already set up by this government to delay action, and to quietly sweep people's concerns under the carpet, I have no faith or hope, and I am probably wasting my time even writing this letter.*

It is far beyond the scope of this study to determine the quality of deliberation that donors engage in concerning political finance, although the fact that the SCEPPF Inquiry received submissions from bodies such as Urban Taskforce Australia and the Property Council of NSW suggests that there is at least some level of discussion in the business world about political finance.

Public spaces where political finance can be discussed certainly exist, but it is doubtful that there is extensive deliberation. The Greens' democracy4sale website contains an archive of newspaper stories relating to political finance and even though they permit people to comment on the articles, very few do so. This site discusses the problems associated with political donations, but does not mention the possible problems outlined by authors such as

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[7] Whilst SCEPPF' final report cites people who spoke at the public forum, it only cites one submission that is not a from a person who is a famous academic, represents an NGO, is a political candidate or is otherwise special in some way. However, this provides no reason to believe that important viewpoints have been left out as the number of submissions cited was quite large and likely covers most, if not all, points made by 'ordinary' people.

Smith (2003, 2007) or Johnson (2005) about reform. Newspaper articles frequently carry stories of donation scandals, but they usually do not discuss the benefits and limitations of reform. Sometimes, the stories may not even make the news. McClimont (SCEPPF, 2008b) notes that:

> *in rural and regional areas there is limited media scrutiny of relationships between local government candidates and real estate developer interests. This problem is due in large part to regional newspapers and the commercial electronic media relying heavily on real estate and developer advertising for revenue. Understandably, they are reluctant to do anything that may affect that revenue (SCEPPF2008b, p. 12).*

Even when troubling relationships are discovered and printed, very little happens. Typically the parties deny that anything inappropriate, the scandal becomes old and is then forgotten.

An assessment of the quality of deliberation associated with *transmission* cannot be provided as quality depends on the mechanism. For example, newspapers are not especially conductive to deliberation as they do not allow interaction. By contrast, public forums may not suffer from this problem, provided there is genuine two-way communication and reflection. Overall, we do not see any factors related to *transmission* that would help or hinder accountability with regard to political finance.

Meta-deliberation can occur through Parliamentary Inquires that examines the conduct of elections, such as those conducted by JSCEM or by SCEPPF. Such inquiries are good in that submissions from anyone are (one hopes!) viewed and considered. Further, Committees conducting these inquiries typically call select stakeholders as witnesses and discuss their views further, sometimes asking for their response to points raised by other stakeholders.

Ultimately, the democratic context of political finance in NSW appears neutral in its ability to support accountability. We have virtually no evidence on the authenticity of participants, but given that authenticity is unlikely to have a significant effect on accountability, this matters little. The public space may be lacking in inclusiveness, but the inclusiveness shown by the thoroughness of the SCEPPF inquiry suggests that this is not a problem to be concerned about. Deliberation in the public space is usually not decisive, as it revolves around scandals. Typically there is no solid proof that wrongdoing has occurred and the scandal eventually blows over. Deliberation in the empowered spaces associated with donors is likely to be decisive. Deliberation in Parliament about political finance law reform is likely to be moderately decisive; although deliberation concerning suspected instances of corruption is unlikely to be decisive as such cases often lack solid evidence.

4.4 Assessment of Accountability Mechanism

Accountability Pathways

Generally a mechanism might create accountability by: reducing information asymmetry; presenting shocking or shaming information; facilitating comparisons which have shocking or shameful implications; or setting the agenda. Submissions have suggested that the NSWPFD should *'allow scrutiny ('keep the bastards honest') by groups, such as the media and community organisations, to highlight those conflicts of interest that will result in sub-optimal outcomes for the community'* (Reynolds, 2008, p. 2) and help the media and public *'be rapidly informed of trends and of any transgressions'* (Paul, 2008, p. 2; Poyzer & Poyzer, 2008, p. 2; Ryan & Ryan, 2008, p. 3; Save Our Suburbs, 2008, p. 2; Willetts & Willetts,

2008, p. 2; Wyatt & Wyatt, 2008, p. 2; Wyldeck, 2008, p. 2) Further, Festival of Lights (2008, p. 5) describes disclosure as an '*important safeguard against inappropriate influence on the political system.*'

The NSWPFD results in bi-annual release of information and this might exert an agenda setting effect. Further, the NSWPFD certainly reduces information asymmetry between those who involved in political finance and the general public. However, Thompson (2008b) notes that this regime does not require donor companies to specify which business they are in and that determining this information can be quite problematic, stating:

> *Personally I have worked for hours attempting to find information on many companies, and often have been unsuccessful even after paying for ASIC recommended brokers for information.*
>
> *… Even senior Sydney Morning Herald journalists have unsuccessfully attempted to discover the nature of work for some of these companies or organisations. (Thompson, 2008b, p. 9)[8]*

Theoretically, voters might use the NSWPFD to learn about the interests financing particular candidates and parties and gain insight to the political positions parties/candidates are likely to hold (Hourigan, 2006). The Member for Dubbo, Dawn Fardell, argued: '*it may not worry too many people in the city areas but certainly where I come from in rural areas people like to know who is who*' (SCEPPF, 2008e, p. 31). Even so, only a minority of voters will use NSWPFD information for this purpose as there other factors more likely to determine voting choice, such as personal ideology and party policies. The chances of other users causing an increase in accountability from the declarations are equally slim. Political parties and the media might use the information to identify potential cases of corruption; regulators might use it to enforce limits and identify incidents whether bribery or corruption may have occurred (Ansolabehere, 2007; Wilcox, 2005); and academics might use political information for study (Ansolabehere, 2007; Wilcox, 2005). In all cases, the problem is that merely finding a connection between donations and favourable decisions does not prove that corruption occurred. The media, NGOs, regulators and academics might be able to raise awareness of a concerning situation, but that is the limit to the action they can take.

Disclosure might cause shocks by revealing startling/shameful information – for example, 90% of a candidate's funding coming from a single developer – but this is only likely to occur in very unusual situations. It is difficult to conceive of how facilitating comparisons might galvanise people into taking action for this issue.

Ultimately, the most that disclosure can contribute to accountability is to create the risk – however faint - that the accepting compromising donations will cause political embarrassment. This may cause donors to be more cautious about donating money which could later be seen as a bribe; and for politicians to be more selective about the people from whom they accept money (Nassmacher, 2003b). Thus, the fear of creating appearance of corruption may in itself be sufficient to deter corruption (Wilcox, 2005).

Representational Feasibility

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[8] This comment was said prior to EFA introducing the requirement that companies disclose their ABN, so it is possible that discovering a company's business has since become easier.

There is little reason to believe that representational feasibility poses a problem, as political donation information can usually be expressed using numbers and short sentences capable of fitting inside database fields. Indeed, an online database would appear to be an excellent presentation format as it would permit users to take advantage of searching and sorting functions to assist analysis – a point which was even explicitly made by the Greens (2008), the EFA (SCEPPF2008c, p. 5) and Wall (2008). The Greens (2008, p. 5) argue that:

> *The current level of web technology should make it easy and affordable for the NSWEFA to both allow for electronic lodgement of returns via the internet, and to display all the donations data stored in its database in a user friendly, fully searchable website. People should be able to view donations by donor name, donor industry, year, electorate, candidate, party or amount. The Greens democracy4sale.org website has provided this service to the public for the past four years.*

Relevance/Comprehensiveness

Stakeholders identified several problems concerning relevance/comprehensiveness. First, corporate donors are not required to identify the nature of their business, which hinders assessing their interest in politics (The Greens, 2008). Hughes (2008), however, argues that this is not possible as '*a corporations' sole objective may be to hold shares in other companies, or the motivation behind a political donation may be agreement on behalf of the beneficial owner(s) or some directors with a party's social values.*'

The second problem is that the wording of the legislation governing the NSWPFD results in it capturing donations not just for state and local elections, but also Federal ones. The National Party (2009) suggested eliminating this redundancy by altering the NSW legislation so that it does not require reporting of federal donations; whilst the Greens (2008) recommend keeping the requirement that captures federal donations, but making clear whether the donation was for a local, state or federal election.

A third issue is that some stakeholders argued that disclosure thresholds were too low (ACDJ, 2008; Thompson, 2009), although others not only disagreed, but suggested that the thresholds needed increasing (Jones, 2008). The fourth problem is that disclosure returns can be very complex, with the Christian Democratic Party (2008, p. 1) stating that '*If ever there was a disincentive to become involved in standing as a candidate, it is the onerous requirements of the candidate to provide all receipts and all expenses, and all sources of income and in kind to the EFA.*'

A fifth issue concerned disclosure of fundraisers. Stakeholders argued that disclosure concerning fundraisers could be improved by requiring disclosure of: the identity of people who attended the event (SCEPPF, 2008d, p. 40); the donors of auction items (SCEPPF, 2008d, p. 40); and the identities of those who purchased auction items (ACDJ, 2008; Thompson, 2008b).

The biggest relevance/comprehensiveness problem is if donors send money to a party's state branch – even if it is earmarked to go to a specific candidate - then disclosure is made by the party and not the candidate (Thompson, 2009). This makes it harder to keep candidates accountable. Thompson (2009, pp. 1 & 2) illustrates the situation:

The Greens Democracy4Sale research team has checked many of the Liberal groups in NSW and only found nil returns from all inspected. It appears all Liberal donations were funnelled through the Liberal Party head office, and all campaign expenses were paid by the Party's head office…

However, it appears the Sydney Liberals group did receive contributions. In an email sent to a number of people and me (as a member of the Darlinghurst Residents Action Group and 2011 Residents Association), Cr Mallard reported that "our friends" have donated drinks and food at Giovani's at the Toxteth Hotel in Glebe… He also stated that three members of his team had raised "much needed funds" at a fundraiser at the Zilver restaurant in September 2008.

I have searched returns [from] a sample of donor forms from the approximately 2000 submitted to the NSW EFA and some donors claim to have contributed to various Liberal Party local government campaigns for the 2008 election.

The lobbyist and public relations firm John Connolly & Partners contributed $1000 on 12/9/08 to "The 100 Friends of Shane (sic) Mallard Sydney Liberal Action Committee"

All donations of $1000 or above should be reported to the NSW EFA, yet the Sydney Liberal group did not report this donation. It may have been reported to the NSW EFA by the NSW Liberal Party, but this is unclear.

Timeliness

Several stakeholders, including Kelly (SCEPPF, 2008c, p. 42), Jones (2008) and Holder (2008) have suggested increasing the frequency of disclosure during election periods so that as much information as possible is available prior to the election. The Greens (2008, p. 5) argue that:

There should be prompt and transparent disclosure of all donations on a public website maintained by the Election Funding Authority. All contributions to a party, group or candidate must be available to the public before an election. We have a right to know who is bankrolling parties, groups and candidates before we vote.

The Liberal, Greens (2008) and Shooters Parties (2008) have all recommended an annual disclosure period in order to bring NSW requirements in line with Federal requirements. However, they made this recommendation before the disclosure period was bi-annual and it is not known whether they still support annual disclosure.

Reliability

There are three major reliability issues. First, the EFA noted donor contributions to fundraisers are GST-inclusive whilst parties and candidates report them GST-exclusive (SCEPPF2008c, p. 11). Second, Thompson noted problems with the accuracy of reported in-kind donations (SCEPPF, 2008e, p. 38). Thirdly, several stakeholders, including Cr Cassidy (JSCEM2009, p. 8) and the Our Sustainable Future Party (JSCEM, 2009, p. 47) argued that requiring bi-annual audits is prohibitively expensive for small parties and independents, who often have no new donations to report anyway. They argued that this attempt to increase the reliability of political finance reporting risks undermining democracy by driving out smaller parties.

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<u>Usability and Accessibility</u>

From our personal experience, the NSWEPD scores moderately here. Understanding how to correctly use it can take several minutes; however, the database does contain useful suggestion boxes which are invaluable when one does not know the full name of the organisation/council/party affiliation one is looking for. As an example, if one is looking for donations by Macquarie Bank, typing in Macquarie causes the suggestion box to suggest typing in 'Macquarie Group Limited' or 'Macquarie Group Services Australia'. Thus, the NSWEPD appears to meet Thompson's (2008b, p. 8) call for a web site that is *'set up so that a person can type the name of a company, union, other organisation or individual into a search function and access all donations made by that entity to all parties and candidates'*. The NSWEPD does not allow viewing donations by donor industry as called for by the Greens(2008), however, given that this information is available at democracy4sale.org, the regime as a whole does provide this information. The biggest usability issue with the NSWEPD is that it requires the users to know beforehand what information they want, or else be willing to wade through possibly thousands of declaration records to find something of interest.

4.5 Conclusions of NSWEPF

While it might be argued that elections should be publicly funded (an issue which JSCEM is currently investigating), the NSW political finance regime has some potential to increase accountability by creating a public record of donor-receiver relationships and possibly deterring corruption. However the fact that disclosure suffers from a lack of timeliness and comprehensiveness/relevance prevents this potential from being fully realised. Further hindering accountability is the difficulty involved in accessing or using the data and the absence of any agency performing an investigatory function.

In terms of the discussion regarding the relative merits of CDRs and TBL reports, political donations appear to be an issue well suited to being disclosed in a CDR. The submissions suggest database search functions are extremely useful, allowing people to search donation records by party, donor, donor industry, donation amount, or electorate. Further, database tools can enable users to determine the percentage of a candidate/party's total funds which come from a single donor/industry.

None of the submissions discussed TBL reporting, although requiring the reporting of corporate donations in TBL reports is likely to enhance accountability. A TBL report would not provide the searchability of a CDR, but it could list every donation made by an organisation. This would be useful for those who want to know about a single corporation's donation activities worldwide. Further, TBL reporting may hold management accountable to investors, an issue raised by Ramsey *et al.* (2000) . The fact that AMPCI Sustainable Funds (2005) specifically requested that mandatory reporting require disclosure of political donations and that the GRI lists this as a suggested disclosure (albeit non-core) demonstrates that there are at least some people who would use such information. In Australia, however, such information is scarce (Melendez & Hazelton, 2008). The potential differences between CDRs and TBL reports as accountability mechanisms are explored more in the next section.

5.0 Comparing the Potential of CDRs and TBL Reports to Enhance Accountability

Given that a primary purpose of this paper is to explore the concept of a CDR, the study would be incomplete without considering how CDRs might be used as an accountability mechanism for issues other than political finance. In order to do this, we use the framework derived in the third section of this paper as a basis for discussing the differences between CDRs and TBL reports. Understanding their differences is the first step to understanding how these two mechanisms, with their different advantages and drawbacks, might work together to enhance accountability concerning the various social and environmental issues SEA is concerned with.

5.1 Democratic Context

All information-based accountability mechanisms have the potential - theoretically at least- to enhance democracy by contributing to *decisiveness*, *authenticity* and *inclusiveness*. *Decisiveness* may be improved through the provision of information against which the performance of *empowered spaces* can be judged. This may cause *empowered spaces* to care more about the issue(s) and to listen to the different discourses and then act according to what seems best.[9]

Both mechanisms might enhance the authenticity of deliberation concerning *public space, empowered space* and *transmission* by providing data against which organisational claims can be checked, thereby making deception less likely. However, it is unlikely that this potential will result in any real increase in *authenticity*, as it depends on organisations being unable to significantly manipulate the information they provide to the mechanisms or its interpretation. Unerman and Bennett's (2004, p. 701) finding that even Shell's online discussion forum '*has not been used by many stakeholders as part of an open and honest attempt at reaching a mutual understanding regarding Shell's environmental, economic and ethical responsibilities*' is further reason to be pessimistic about the chances of these accountability mechanisms causing any significant increase in authenticity.

The mechanisms may also enhance *inclusiveness* when a lack of information hinders the formation or proper representation of discourses. For example, Wolf (1996) records how it wasn't until Boerum Hill residents received TRI information showing that Ulano was the city's worst air polluter that their concerns were headed. Further, *inclusiveness* may benefit from the creation of *public spaces* associated with the mechanisms. The agency maintaining a CDR might, for example, host an online forum or stakeholder consultation process. Organisations producing TBL reports might do the same. If decision-makers are genuinely willing to listen and reflect upon the results of these stakeholder consultations, then these consultations may even constitute *empowered spaces*. Such spaces may provide a venue where *meta-deliberation* may occur.

A difference between the two mechanisms is that the spaces they may generate will have different characters. Spaces generated around CDRs and hosted by government agencies are likely to involve regulators, meaning that these spaces have a greater chance of influencing regulation than spaces generated around TBL reports. However, spaces hosted by organisations releasing TBL reports are usually better able to present concerns to

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[9] For Dryzek (2001) collective decisions should reflect the balance of discourses, but only to the degree to which this balance represent public opinion that is informed, reflective and dispersed throughout the community.

management. These differences will not always apply. For example a CDR space may be attended by industry representatives who can serve as direct a line to management.

Before turning to accountability mechanism, it is worth noting that there are numerous problems with relying on deliberation for accountability. First, deliberation may be hindered by different langue used by experts and laypersons. Second, the issues that receive the most attention in the public forum may not be the most important. Indeed, Yencken and Wilkinson (2001) observe that the Australian public's belief about which environmental issues are the most problematic differs from that of environmental experts. A third problem is, as Cox (2006) notes, that social and environmental problems are not self-evident. They exist only when someone argues that an existing situation conflicts with an important value. For example, there was once a time when the dangers of radium were not understood by the public (Neuzil & Kovarik, 1996, Chapter 2). During this period, worker exposure to radium was not viewed as problematic and hence there was no accountability. The implication is that there may well be important issues for which organisations are not being held to account because stakeholders are unaware of the significance of the problem.

5.2 Accountability Mechanism

Possible Accountability Pathways

TBL reports would seem particularly well suited to inform investors and analysts, since it would reveal to them how the company is managing the social and environmental risk across a variety of issues. TBL reports could also be relevant to public interest groups or community members who want to gain knowledge of particular organisations' commitment to responsible business practises. CDRs would probably be better for environmental groups or scientists, who are more likely to require area or system level data.

Both CDRs and TBL reports can reduce information asymmetry, cause shock or shame, facilitate comparisons or set the agenda. However, CDRs have more possible accountability pathways open them by virtue of the fact that they contain data from every reporting entity of interest rather than a single organisation. PRTRs, for example, potentially permit the discovery of shocking, shameful or striking comparisons relating to total pollution of a catchment area, suburb, industry or state. By contrast, it is often too impractical to have this all this data in TBL report. (Indeed it is difficult to imagine TBL reports having the same level of information that is reported in a PRTR, as that could require reporting the emissions of up to several hundred chemicals, arranged by facility and complete with a description of the known and suspected risks associated with each chemical). One major exception concerns international organisations. CDRs tend to be state or nation based, hence this is one situation in which TBL reports can present data on a level (the organisational level) that CDRs generally cannot.

Representational Feasibility

Representational feasibility refers to the extent to which it is possible to usefully represent a particular sustainability issue using a CDR and/or TBL report. Ultimately, neither mechanism is completely superior to the other. There are some issues for which a CDR is a more appropriate reporting mechanism and others in which a TBL report format is better. CDRs, as previously stated, are more appropriate than TBL reports for presenting information that requires inter-entity comparison, area or systems level data, or the aggregation of data from numerous reporting entities. Whilst it would be theoretically possible for a TBL report to

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possess these advantages if the reporting organisation were to create its own CDR or to incorporating all the information from an existing CDR into its own TBL report, this is an implausible scenario given the time and resources required.

TBL reports, by contrast are generally better for presenting data on numerous sustainability issues at the organisational level. One may also think that TBL reports are better than CDRs to express the information requiring a large amount of space – such as policies – on the grounds that if the contents of database cells are too large, then the database becomes less usable. Whilst this assertion may have some truth, CDRs can cope with databases entries containing pages of information quite well. PRTRs, for example, typically contain information concerning the nature and suspected effects of pollutants. Many political donation reporting regimes consist of databases which bring up scanned copies of multi-paged annual and election returns.

Relevance/Comprehensiveness

Relevance/comprehensiveness is the consideration where the potential differences between TBL report and CDRs to enhancing accountability are the most pronounced. TBL reports have the potential to better inform users interested in knowing about a single organisation, whilst CDRs have the potential to better inform using wanting to know about: a particular geographical area; a specific social or environmental issue; or who want to compare one reporting entity against others. Of course, the degree to which that potential is realised depends on numerous factors, such as the design of mechanism and its quality its content.

TBL reports can consolidate information concerning a wide range of sustainability issues from numerous sources – including CDRs. They can provide information on organisational social and environmental goals, policies and performance. Reports whose content is guided by an authentic stakeholder consultation process could the present the data most sought by users. Further, TBL reports can potentially deal with information concerning foreign interests better than CDRs. This is as CDRs tend to be created by governments and only require reporting concerning activities in that government's jurisdiction. Besides, it would be difficult to verify information from a foreign jurisdiction.

CDRs can potentially present more relevant and comprehensive information to those interested in a particular geographical area and/or specific social or environmental issue. Examples of information that can potentially be found more readily using a CDR than a TBL report are: the chemical risk posed to a certain town, the sum total of political donations made by a particular industry, or a comparison of the workforce composition across different industries. It is more efficient to gather this data from a CDR than manually go through every TBL report to gather the information.

A further advantage of CDRs is that as the information is all in one place, it is easier to modify in order to enhance relevance/comprehensiveness. For example, www.scorecard.org combines TRI data with information concerning demography and toxicity weightings to help assess environmental justice and toxic risks. Democracy4sale.org takes data concerning corporate donations from the Australian Electoral Commission and New South Wales Funding Authority, then notes which industry types the companies are associated. Further, some CDRs permit displaying the information as a map in order to give a visual representation.

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There are, however, numerous factors that can prevent the provision of fully relevant/comprehensive information. The scientific knowledge and measurement techniques required to turn data into a definitive piece of information may not exist. For example, reporting on biodiversity in Australia is hindered by a lack of knowledge concerning which species actually exist (Yencken & Wilkinson, 2001, Chapter 8). The ownership of hardrock mining sites may change frequently, making it difficult to know who owns a certain facility. The data may be too expensive or impractical to collect. The desired information may require a judgement call that is too subjective to appear in a government reporting mechanism. Providing the information may jeopardise trade secrets or provide terrorists with information to plan a devastating attack. Organisations may simply fail to comply with the law – a problem which has even plagued the venerated TRI (Wolf, 1996).

Timeliness

For most social and environmental issues, there is little reason to believe that data is needed especially frequently or that lag is a significant issue. Timeliness is likely to be one of the least problematic considerations of information value. Reporting mechanism type is unlikely to have a significant effect on how quickly the information can be collected and reported, hence there is little reason to believe that there is a significant difference between CDRs and TBL reports regarding this consideration.

Reliability

Whether information is reported in a TBL report or CDR will not directly affect its reliability. It is possible that mechanism type may indirectly affect reliability. For example, a CDR may produce more reliable data by specifying how data is to be measured and/or conducting its own independent – and more reliable – audits. However, there does not appear to be any rule affecting the reliability of a CDR that could not also be imposed on TBL reports and vice versa.

Usability/Accessibility

There is no reason to believe that there is a significant difference between people's ignorance of the existence of either mechanism, but ignorance concerning how to use the mechanism is a problem more likely to be associated with a CDR than a TBL report. The reason for this is that the latter only involves reading through a report or webpage, whilst the former requires knowing how to search a database – which is sometimes *very* difficult and often requires the user to know exactly what type of information they are seeking. Access to technology poses a greater problem to CDRs as TBL reports are often available in hardcopy. It is also harder to make a CDR easy to use, as database search functions automatically make the mechanism more complex.

6.0 Summary and Conclusions

This paper began with the idea that although TBL reports may contribute to corporate accountability, as papers such as Gray (2010) contend, they present information at the organisational level which is not conductive to assessing sustainability. Indeed, there are numerous issues for which it is systems or area level data that is more relevant. One way to overcome this problem would be if TBL reports were to work alongside CDRs which are capable of presenting this level of data.

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After describing CDRs and the state of the prior literature, we used Dryzek's discursive democracy to derive a framework for assessing the benefits and limitations of using both CDRs and TBL reports as accountability mechanisms. The major point that arises from discursive democracy is that assessing accountability requires looking beyond the mechanism into the democratic context and looking at the extent to which there exists authentic, inclusive and decisive deliberation to support the creation of accountability relationships. This in turn involves determining the quality of deliberation that is associated with public spaces, empowered spaces, transmission and meta-deliberation.

The framework was then applies to the NSW political finance regime. Democratic context appears neutral in terms of its ability to affect accountability. However, the NSWPFD itself suffers from several problems including: not all donation records being available before an election; possible links between donors and candidates not reported due to contributions – even those earmarked for specific candidates - being received by state branches; the cost of bi-annual auditing for smaller parties; and the lack of accountability pathways. Hence the potential contribution of the NSWPFD to accountability is small.

The analysis of the NSW political finance regime also yields one final consideration. Political finance is an issue for which organisational level data *is* highly relevant. However, there is still good reason to have the organisational data available in a publically-accessible database, namely to take advantage of database search functions and to identify donations by an entire industry. Future research should therefore determine whether there are others issues – even ones which are well suited to be presented in a TBL report – which may benefit from disclosure through a CDR.

Applying the framework to CDRs more broadly suggests that they have the potential to enhance accountability in the following ways. First, CDRs are potentially advantageous for collecting and presenting: area-level data, systems-level data and facilitating comparisons. Second, CDRs might cause the creation of a deliberative space and the information they provide might cause decision-makers such as governments, regulators and business leaders to become answerable to the public. There are, however, a number of factors impairing the extent to which CDRs can enhance accountability, including the fact that sustainability problems are not self-evident and that it is difficult to provide implications of the data.

Applying the framework to TBL reports revealed that they also have the potential to enhance accountability by creating a deliberative space and informing public or empowered spaces, although they too suffer from factors limiting the extent to which they can enhance accountability. Where TBL reports differ from CDRs is that they are potentially better for presenting information relevant to those concerned primarily with the success of the organisation itself, such as investors and possibly employees. Yencken and Wilkinson (2001) argue that TBL reports can encourage organisations to develop creative ways of becoming more sustainable and other research suggests that internal users are an important audience for sustainability information (Morsing, 2006). TBL reports may also be better for presenting information which takes a large amount of space, such as policies or contextual narrative. Given the theoretical capacity of CDRs to handle significantly large pieces of information, however, this advantage should not be overstated. Nevertheless, future research could usefully consider how the strengths of CDRs and TBL reports could be enhanced both individually (particularly in relation to CDRs) and in combination.

Prior literature has raised concerns about voluntary corporate disclosure with regards to its comprehensiveness (Adams, 2004; Deegan & Rankin, 1996); credibility (Danastas & Gedenne, 2006); and sufficiency (Danastas & Gedenne, 2006; Tilt, 1994). Whether or not CDRs will fare better depends on the rules surrounding both mechanisms, as there is nothing innate to a publicly-available database which causes it to be more or less comprehensive, credible or sufficient than a TBL report.

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