

THE IMPACT OF THE DANISH LAW ON CSR REPORTING

A study by DanWatch - November 2011



Table of contents

1. Summary and key findings
 2. Background
 3. Part A: To what extent have the companies covered by the Act reported on key sector CSR-issues before versus after the law became effective?
 4. Part B: To what extent have the companies covered by the Act reported on CSR-cases raised by external parties before versus after the law became effective?
 5. Interviews with experts about the findings.
- Annex A: Detailed company information part A
- Annex B: Detailed company information part B

About this study

This is an independent DanWatch study conducted in accordance with DanWatch's ethical guidelines and international principles on the conduct of journalists. DanWatch is fully responsible for the contents of the study.

DanWatch is an independent non-profit research center and media that investigates corporations' impact on humans and the environment globally. DanWatch provides the public, consumers and policy makers with new information about companies' global impact and social.

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1. Summary and key findings

Since 2009, the largest companies in Denmark have been required by law to report on Corporate Social Responsibility (CSR). In 2008 the Danish Parliament decided that the 1,000 largest Danish companies must account for their work on CSR in their annual reports.

This study sheds light on the quality and relevance of the CSR-reporting by Danish companies covered by the Act - before versus after it became effective. This is done by looking into how selected large Danish companies have reported on CSR in two concrete areas: A) to what extent did companies covered by the Act report on selected CSR-issues that are prevalent in their sector? And B) to what extent did companies covered by the Act report on concrete CSR-cases raised by external parties?

The first question is answered by checking if 50 Danish companies from five different sectors had reported on sector-specific CSR issues. The study shows that the average number of issues reported on increased from 13 percent in 2008 - one year before the Act entered into force - to 21 percent in 2010.

Percentage of CSR-issues reported on per sector:	2008	2010
Supermarkets	19%	27%
Shipping	14%	23%
Timber	10%	14%
ICT-hardware	8%	19%
Extractives	15%	25%
TOTAL	13%	21%

Furthermore the study shows that 14 of the 50 companies - 28 pct. - reported having no CSR-policies. Almost half of these firms were from the timber sector.

The second question is answered by comparing how companies covered by the Act reported on CSR-issues raised by external parties two years before and after the Act was implemented. The result is that almost half of the CSR-cases identified were reported before the Act was implemented. Afterwards the number increased to almost 60 percent.

Percentage of CSR-cases reported on	Before 2009	After 2009
Cases identified	9	17
Cases reported on	4	10
Percentage	44%	59%

CSR-experts' comments to the study

Three CSR-experts has given the following overall comments to the findings of the study:

- The details of the study show that the CSR-reporting is more about quantity than quality.
- Companies generally focus on the low-hanging fruits and finding the business case.
- Difficult CSR-dilemmas and supply chain issues and generally not addressed.
- The Act has put CSR on the top management's agenda – but CSR is still treated as an add-on.
- It takes time for companies to move from policy to implementation.
- Soft-law might not be enough.

2. Background

In 2008 the Danish Parliament decided that the 1,000 largest Danish companies should account for their work on CSR in their annual reports. The Act entered into force on 1 January 2009. The Act is part of the Danish Government's action plan for CSR from 2008 and is intended to strengthen the international competitiveness of Danish trade and industry.

The aim of the Act is to *“inspire businesses to take an active position on social responsibility and communicate this.”*¹

The Act on CSR-reporting is, however, not just a matter of business opportunities. The remarks to the bill² show that the purpose is also to motivate Danish companies to make a difference in their supply chains abroad. This is shown in a number of quotes:

“Globalisation involves increased trade and a growing international division of labour by in for example production of goods. This raises - and highlights - a number of challenges related to social and working conditions, environment and climate that can not be resolved through national or even international rules.”

“Especially companies play a central role in contributing to finding solutions to social challenges. Businesses can with their market knowledge, flexibility and innovative power provide help to find solutions to national and global challenges in an effective and focused way.”

“Businesses can also often help to fill the space where rules do not yet exist or are not effectively enforced. This might be done by requiring a foreign

supplier to observe basic environmental standards or labour and human rights.”

“Denmark is one of the countries where many companies have adopted the CSR-agenda, and Danish companies can play a central role in contributing to solutions through their work with CSR, which also can enhance their business opportunities. The Government will therefore support and strengthen that Danish companies keep on working actively with social responsibility, thus contributing to, for example improved conditions in the countries they trade with and/or are established in.”

The design of the Act

The Act encourages companies to work with CSR by requiring them to report on CSR - whether they work with it or not. If a company covered by the Act works with CSR it must report on 1) its CSR-policy, 2) how it is implemented and 3) the outcome of this effort. If a company has no formulated CSR-policy, then it simply has to state this.³

Companies covered by the Act

The Act covers large businesses in accounting class C, and listed companies and state-owned companies in accounting class D. Large businesses in accounting class C are businesses that exceed at least two of the following three size limits:

1. Total assets/liabilities of DKK 143 million
2. Net revenue of DKK 286 million
3. An average of 250 full-time employees

Subsidiaries are exempt from having to report on social responsibility if the parent company does so for the entire group.⁴

¹ <http://www.csrgov.dk/sw51190.asp> - 19/7 2011

² <http://www.ft.dk/samling/20072/almindel/eru/bilag/289/591586/index.htm>

³ <http://www.csrgov.dk/sw51190.asp> - 19/7 2011

⁴ <http://www.csrgov.dk/sw51190.asp> - 19/7 2011

How are legal requirements concerning CSR-reporting satisfied?

»§ 99 a. Large companies must supplement their **management's review** with an account of social responsibility, cf. sub-clause 2-7. By companies' social responsibility is meant that companies voluntarily integrate considerations for human rights, social relations, environmental and climate considerations as well as combating corruption, inter alia, in their business strategy and activities. If the company does not have policies for social responsibility, this must be stated in the **management's review**.

Sub-clause 3. The account must be stated **in affiliation with the management's review**. However, the company can instead choose to state the account

- 1) **In a supplementary account to the annual report**, cf. § 4, tem 1, or
- 2) **on the company's website**, which is referred to in the **management's review**, cf. sub-clause 4, item 2

Item 6. A **subsidiary**, which is part of a concern, can refrain from including information in its own management's review, if

- 1) **the parent company** adheres to the information requirements according to **item 1 and 2 for the entire concern** or
- 2) the parent company has **compiled a progress report when signing the UN Global Compact** or UN's Principles for responsible investments.⁵

⁵ <https://www.retsinformation.dk/Forms/R0710.aspx?id=122862>

3. Reporting on key sector issues

This chapter will answer the first research question: *To what extent did companies covered by the Act report on selected sector-related CSR-issues before versus after the Act became effective?*

In order to answer the question we have:

1. Created a sample of 50 companies from five different sectors among the approximately 500 companies covered by the Act⁶.
2. Identified a number of core CSR-issues relevant for each of the five sectors.
3. Checked how many of the identified core issues are mentioned in the 50 companies' CSR-reports from two different years: The year before the Act was implemented (2008) and two years after the Act entered into force (2010).

3.1 Sample of 50 companies

To achieve a representative survey and be able to go into detail with the contents of each company's reporting, we have decided to look at 10 companies within five different sectors.

The companies included in the analysis are chosen among some of the largest Danish business sectors in order to ensure that each sector contains ten companies covered by the Act. We mainly used the Danish Central Business Register (CVR.dk) to identify five sectors that live up to this criterion.

Since not all relevant companies are listed in the Central Business Register's data-bank we cross-checked the data with a list of companies covered by the Act in 2009 provided by the Danish Government Centre for CSR.

⁶ The law covers 1,100 company entities, many of which belong to the same group. DanWatch has estimated that 500 companies are covered by the law.

The sectors we finally identified were:

Supermarkets, shipping, timber, ICT-hardware and extractives.

Selected sectors	Industrial classification name	Industrial class. code
Supermarket	Supermarkets and other retail	471120, 471900
Shipping	Sea and coastal freight	502000
Timber	Wholesale of wood, timber and building materials	467310
ICT-hardware	Manufacture of computer, electronic and optical products	260000
Extractives	Wholesale of liquid fuels, metals and ores,	467100, 467200

3.2 Selection of sector-specific CSR-issues

There is no exact definition of which and how many CSR-issues are particularly relevant for a certain sector.

This study is based on the sector-based CSR-profiles from the European Sustainable Investment Forum EUROSIF. The reason is that EUROSIF covers CSR-issues broadly and the organisation is widely acknowledged. It is important to point out that the analysis is not based on a complete list of CSR-issues. The aim is to shed light on whether a certain company is demonstrating awareness on specific problems in its sector - and not just general CSR-concepts such as human rights, corruption, etc.

EUROSIF's sector reports cover 14 sectors by now. All reports can be found here: <http://www.eurosif.org/research/sector-reports>

3.3 Check: How many sector-issues are mentioned in 2008 versus 2010?

Method for 2010: First, the annual reports from the 50 selected companies were collected and the management reviews were checked for information about CSR.

1. The relevant CSR-information was either gathered directly from the management review or by following an eventual link to the company's website, the parent's CSR-report etc. We also checked if the company or its parent reported to the UN Global Compact, since it is another way to comply with the law.
2. If the company stated in the management review that it has no policies on CSR, no further research was done.

Method for 2008: Since the Act was not implemented in 2008, another method for analysing this year's CSR-reporting was used:

1. We checked the annual report for CSR-information.
2. If no result, we checked if the company had a separate CSR-report for the current year.
3. If none of the above gave any result we searched through the company's website for CSR-info posted in the year 2008 by using Google's advanced search function.

How did we compare company data with EUROSIF's criteria?

We checked if each company mentioned any of the sector-specific CSR-issues in their CSR-reporting rather than how the issue was mentioned or dealt with. It means that we didn't distinguish between the three levels of reporting mentioned in the Act; CSR-policy, implementation, and impact. The reasoning is that the purpose of this study is to clarify whether a certain issue is on the company's agenda or not.

If a company writes that it has adopted a certain CSR-standard without providing any further information about the contents of this standard, we haven't checked if the sector-specific issues are covered by the standard. Only the company's own reporting is taken into account.

Results

The detailed results for each of the five sectors are presented in **Annex A**.

The table below shows what percentage of the key-sector issues each company in the five sectors on average reported on - before the Act came into force (2008) versus two years after (2010).

Sector ⁷	2008	2010
Supermarkets	19%	27%
Shipping	14%	23%
Timber	10%	14%
ICT-hardware	8%	19%
Extractives	15%	25%
TOTAL	13%	21%

The table shows that all sectors reported on a larger share of the key sector issues in 2010 compared to 2008. It also shows that the general percentage of key-sector issues reported on is low.

The percentages of each sector above represent the average scores of ten individual companies, which can be found in Annex A.

⁷In Annex A some of companies have none of the listed industrial classification codes. The law states that a parent company can report on behalf of a subsidiary. In some cases we had to jump up a level in the corporate structure to find the reporting entity.

4. Reporting on issues raised by external parties

The aim of this chapter is to answer the second research question: *To what extent did companies covered by the Act report on CSR-cases raised by external parties before versus after the Act became effective?*

In order to answer the question we have:

- 1) compiled all CSR-cases relating to Danish companies presented in the Danish media from the beginning of 2007 to the end of 2010 - two years before and after the Act was implemented.
- 2) Identified those cases that related to the companies covered by the Act, and selected those which contained substantial critique of the companies.
- 3) Evaluated to what extent the companies did report on the CSR-cases in the years before versus after the Act entered into force.

4.1 Compilation of CSR-cases

Through a media screening a wide range of media stories with different types of CSR-cases raised by external parties were identified and compiled.

4.2 Identification and selection of CSR-cases

The list of cases was cross-checked with a list of companies covered by the Act from Danish Commerce and Companies Agency.

The number of cases relating to companies covered by the Act was 28. The list contained 17

individual companies. The number of cases is larger than the number of companies, because some cases involve more than one company. Some companies have been mentioned in connection with several cases, and some cases include several companies who were not mentioned in connection with any other case. There are, for instance, several independent CSR-cases about A. P. Møller Mærsk, while Telenor and Ericsson Danmark are both addressed by the same CSR-case.

4.3 Evaluation of reporting on CSR-cases

All reports were examined in order to determine whether the cases were mentioned as part of the companies' reporting on CSR.

A few cases were counted as included without being directly mentioned if there was substantial reason to. This includes for instance the case where Danica and Danske Bank were criticised for not making ethical investments in 2008, although the critique was not mentioned, ethical investments in general terms were mentioned in the CSR reporting for 2008 and not in the reports for 2007, 2009 and 2010. Thus there is reason to infer that the sudden mentioning of ethical investments could be due to the external criticism, and the case has been included in the final count.

Results

The detailed results for each of the five sectors are presented in **Annex B**.

The tables below summarise the numerical findings from the companies' reporting on CSR.

Cases from before 2009	9 cases
Number of cases addressed	4 cases
Number of cases mentioned from before 2009	44 percent of the reviewed cases brought up by external parties before 2009 were reported on.

Cases from after 2009	17 cases
Number of cases addressed	10 cases
Number of cases mentioned after 2009	59 percent of the reviewed cases brought up by external parties after 2009 were reported on.

The table shows that the ratio of CSR-cases reported on was close to half during the years before the Act entered into force. In the years after the Act the ratio raised to 59%.

5. Interviews with experts about the findings

DanWatch has asked three CSR-experts to give their view on the impact of the Act, based on the findings from the previous chapters.

Karin Buhmann - Ph.D., Associate Professor of law and CSR, at Institute of Food and Resource Economics at the University of Copenhagen.

Karin Buhmann pays particular attention to the details of the study:

“If you look at the overall numbers the Act has made a difference. But if you go further into the details of the study, the impact appears to be limited to a few issue areas”, she says and continues:

“It is mainly on climate change that companies started reporting on after the Act entered into effect - for instance this appears to be the case among the shipping companies.”

There is likely to be one main reason why climate and environment are the most common issues for companies’ reporting under the reporting clause, according to Karin Buhmann:

“It might play a role that climate has been on the global and political agenda in recent years. But the economic impact for companies – part of what some refer to as ‘the business case’ is important. Addressing energy use or CO2 emissions can save money. Dealing with human rights, labour rights and anti-corruption is often more expensive for the companies, at least in the shorter run”, she says and adds:

“It puzzles me to see a relatively limited reporting on human and labour rights, since those are the topics that consumers are probably the most concerned about.”

Furthermore, Karin Buhmann calls for more reporting on supply chain issues:

“From the overview it appears that few companies deal with supply chain issues. Although there is no direct requirement that companies report on supply chain issues these kinds of issues were explicitly mentioned in the preparatory work for the Act.”

Karin Buhmann is concerned that the Act will contribute to a shallow reporting-exercise, rather than getting CSR integrated into the core business management. Moving from policy to implementation - step by step - takes time,” she says.

“I believe in the potential of promoting CSR through making company managers think about the company’s impact on society - reporting can contribute towards that by stimulating change within the company. That was the original intention of the law.”

Sune Skadegaard Thorsen, expert in Business & Human Rights and Senior Partner in GLOBAL CSR.

Sune Skadegaard Thorsen is not surprised by the results of the study. He says that it shows increased quantity but a general lack of quality in companies’ current CSR-reporting:

“The study indicates, that the law is successful when it comes to the number of companies reporting but less successful in relation to the quality”, he says and explains:

“Most companies are in a process with CSR. The study indicates that they have focused on the easier solutions so far. Challenging or key CSR-dilemmas are generally not addressed.”

According to Sune Skadegaard companies often lack the knowledge and resources to build CSR-capacity – something the financial crisis has also contributed to:

“Working diligently with CSR requires in-house resources. But the law came simultaneously with the financial crisis where companies changed focus to cutting costs. Many companies feel that they can’t fire employees and ‘give away’ money for CSR-purposes at the same time.”

According to Sune Skadegaard the main achievement of the legal requirement is that it brought the CSR-agenda to top management and board levels of the companies. But improvements are still needed:

“CSR is still being treated as an add-on by many companies. A lot of communication around the new legal requirement send the signal that companies were already acting responsibly – they just needed to communicate some voluntary initiatives they had taken. But there is more to CSR,” he explains and continues:

“Many companies still think that CSR is a vague concept –it’s not”.

Christa Thomsen, associate professor, Department of Business Communication, Aarhus University

Christa Thomsen is focused on the fact that the extent of the reporting has actually increased:

“It’s interesting that the level of reporting has increased. It indicates that the law is in fact motivating companies to start reporting”.

However, Christa Thomsen does not believe that the Danish law on CSR-reporting is the main driver behind companies’ CSR-efforts.

According to Christa Thomsen the relatively small numbers of reporting is either because this

development takes time or because the Danish law on CSR-reporting is a ‘soft’ law.

To the fact that the study shows some relatively low rates of corporate reporting, although increasing, Christa Thomsen says:

“It is important to follow the development in the CSR-reporting during the next years. It might be necessary for the Government to supplement with ‘hard’ law on this area at a later stage if too little happens.”

“As it is now, the market is the most important factor”.