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Challenges and Optimization Strategies for Implementing DEI Programs in Global Corporate Governance

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ABSTRACT

Diversity, equity and inclusion (DEI) has become the core of global corporate management, promoting diversity in gender, race and socioeconomic background to promote equity and inclusion. In recent years, DEI programs have been closely linked to corporate social responsibility (CSR) and sustainable development (ESG), such as the United Nations 2030 Sustainable Development Goals (SDGs) that emphasize reducing inequality. However, the implementation of DEI programs faces many challenges, mainly including legal barriers, economic difficulties, social backlash and management difficulties. In addition, the legal environment of different countries affects the implementation of DEI programs, such as the differences in regulations and social acceptance in the United States, Malaysia and the European Union. This article will critically analyze the implementation difficulties of DEI programs and propose optimization paths, including legal compliance, economic optimization, and social and cultural adaptation, to help companies balance commercial interests and social responsibilities and more effectively promote DEI goals.

KEYWORDS

Diversity; Equity; Inclusion; Corporate governance

1 Definition and Legal Framework of DEI Programs

1.1 Core Concepts of DEI

Diversity, equity and inclusion (DEI) is an important part of modern corporate management, aiming to promote fairness and social justice in the workplace. Diversity refers to the differences in gender, race, age, socioeconomic background, cultural identity, etc. among employees in the workplace. Companies ensure the development of diversity through diversified recruitment and increasing the proportion of representative groups in the organization [1]. Fairness, different from "equality", emphasizes providing fair resources and opportunities based on the specific needs of employees to reduce systemic inequality. For example, targeted support is provided in education and vocational training to narrow the opportunity gap between different groups. Inclusion refers to ensuring that all employees are respected, empowered, and can participate equally in organizational decision-making in corporate culture and management. Inclusion not only means representation, but also involves creating an environment where all employees feel safe and have a strong sense of belonging. The core goal of the DEI program is to build a fair and inclusive organizational culture to improve employee satisfaction, innovation, and corporate competitiveness.

1.2 Key Laws and International Conventions

1.2.1 Convention on the Elimination of All Forms of Discrimination against Women(CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women is an international convention adopted by the United Nations in 1979 and is regarded as a legal framework for global gender equality. CEDAW stipulates that governments should take legislative and administrative measures to eliminate gender discrimination and ensure that women have the same rights as men in employment, education, political participation, etc [2].

In corporate DEI programs, CEDAW urges organizations to take measures to promote gender equality, such as ensuring that women are not discriminated against in promotion, remuneration and career development. In addition, the convention requires companies to establish a complaint mechanism to prevent gender discrimination and regularly review the effectiveness of DEI policies.

1.2.2 United Nations 2030 Sustainable Development Goals (SDGs)

The United Nations 2030 Sustainable Development Goals aim to eliminate global poverty and inequality, of which Goals 5 and 10 are highly relevant to the DEI program. Goal 5 is gender equality, which advocates women's full participation in economic and political decision-making and ensures equal opportunities for women in the labor market.

Goal 10 is to reduce inequality, which requires governments and companies to eliminate unfair treatment in social, economic and legal systems and promote inclusive development of minorities and marginalized groups [3]. Companies can support the SDGs by developing DEI programs, such as providing equal career advancement opportunities, reducing pay gaps, and increasing the proportion of minority management.

1.2.3 Article 8 of the Federal Constitution of Malaysia

Article 8 of the Federal Constitution of Malaysia stipulates that all people are equal before the law and shall not be discriminated against on the basis of race, gender, religion or place of birth. This clause provides a legal basis for DEI and encourages companies to develop inclusive recruitment and compensation strategies. The Malaysian Stock Exchange requires listed companies to disclose DEI progress regularly to ensure that corporate governance is in line with the spirit of the Constitution. However, Malaysia still faces challenges in implementing DEI programs, such as low representation of women and ethnic minorities in some industries, which requires further policy support [4].

1.3 Main Theoretical Foundations

When promoting diversity, equity and inclusion (DEI) programs, companies not only need the support of laws and regulations, but also a solid theoretical foundation to guide decision-making and practice. Among them, equity theory, legitimacy theory and stakeholder theory are the core supporting frameworks of DEI programs. They help companies understand the organizational impact, social legitimacy and stakeholder needs of DEI programs, and optimize management strategies during implementation.

1.3.1 Equity Theory

Equity theory was proposed by Adams (1963), who believes that employees will evaluate whether an organization is fair by comparing their inputs and returns [5]. If employees believe that their returns do not match their inputs, they may feel unfair, which will lead to reduced job satisfaction, reduced work efficiency, and even increased turnover. DEI programs can reduce systemic injustices, such as narrowing the gender pay gap, providing diversity training, and improving promotion opportunities for minorities, thereby enhancing employee loyalty and organizational belonging. For example, Costco ensures that female and male employees receive equal pay through a fair pay policy, effectively improving employee satisfaction and productivity. Equity theory shows that DEI programs are not only a moral responsibility, but also an important management strategy to enhance corporate competitiveness, which helps to enhance corporate performance and attract top talents.

1.3.2 Legitimacy Theory

Legitimacy theory was proposed by Suchman (1995), emphasizing that if companies want to gain social recognition, they must follow social norms, values, and legal requirements, otherwise they may face legal challenges or social pressure. In today's society, the public and investors' expectations for diversity, fairness, and inclusion are constantly increasing. If companies fail to implement DEI programs, they may be considered to lack social responsibility, thereby affecting brand reputation and market competitiveness [6]. For example, Microsoft publishes a DEI report every year to show its progress in diverse recruitment, pay equity, and inclusive culture construction to enhance the trust of investors and society. In contrast, Google cut its DEI budget after being sued for anti-DEI, which led to a decline in the company's social evaluation in the market. Therefore, companies need to actively promote DEI programs to maintain social legitimacy, enhance market competitiveness, and reduce legal and public relations risks.

1.3.3 Stakeholder Theory

Stakeholder theory was proposed by Freeman (1984), who believes that companies should not only focus on shareholder interests, but also meet the needs of employees, customers, suppliers, government, and society to achieve long-term sustainable development [7]. Under this framework, DEI programs can help companies enhance employee belonging, improve customer loyalty, optimize supply chain diversification, and reduce legal compliance risks. For example, Apple has cooperated with small businesses in different communities through its supply chain diversification policy to enhance its brand social influence. This move not only enhances the company's influence in the ESG field, but also increases consumers' trust and loyalty to the brand. In addition, the company's DEI program can improve internal management, such as by establishing an inclusive corporate culture, improving employee job satisfaction and innovation, thereby enhancing overall competitiveness.

2 Key Challenges

2.1 Legal Obstacles

2.1.1 Anti-DEI Movement and Government Intervention

In recent years, the anti-DEI movement has developed rapidly in the United States, especially during the Trump administration. In 2020, the Trump administration issued an executive order to end DEI requirements in government contracts and prohibit federal agencies from promoting DEI programs. This policy directly affected technology and retail giants such as Google, Meta, and Target, causing these companies to adjust or scale back DEI programs to avoid legal and contractual risks [8]. In addition, the policy has triggered a broader anti-DEI movement, making companies face greater legal challenges when implementing policies such as diverse recruitment and pay equity.

The company's DEI program is also increasingly in litigation risk, especially in shareholder litigation and employee "reverse discrimination" litigation. For example, Target was sued by shareholders for its DEI program on the grounds that the DEI program undermined shareholder value and led to unequal resource allocation. At the same time, some of the white male employees complained that they were not promoted or discriminated against unfairly because of the DEI program, which has led to an increase in "reverse discrimination" lawsuits. Not only do such lawsuits interfere with firms' enforcement of their DEI programs, but they may also damage their brand reputation and investors' trust.

2.1.2 Legality of Uncertainty of DEI Programs

Legal frameworks in some countries have a substantive effect on the implementation of DEI policies. In the United States, for example, the Civil Rights Act forbids gender and race discrimination but allows business organizations to make efforts towards reasonable diversity. On the other hand, Article 8 of the Federal Constitution of Malaysia emphasizes that all citizens are equal under the law, and corporations must ensure they do not go against the government's "affirmative action policy" in implementing DEI programs. In the European Union, the General Data Protection Regulation tightly regulates employees' data collection, and companies must comply with data compliance and privacy guidelines when applying DEI programs [9].

In addition, DEI efforts also face privacy and compliance concerns, specifically in recruitment and pay equity analysis. For example, companies may need to collect employees' race, gender, and socioeconomic data in recruiting for diversity, but in doing so, they may violate data privacy laws in some countries. In the European Union and the United States, such organizations can be put into question of compliance or into legal proceedings if they collect such sensitive data without first obtaining the express consent of the workers. The implementation of DEI programs thus has to be balanced under different systems of law to be compliant as well as useful.

2.2 Economic Costs

2.2.1 Short-Term and Long-term Economic Impacts of DEI Programs

DEI programs usually require a lot of investment, including costs such as diversity recruitment, employee training, and pay equity review. Companies need to hire a dedicated DEI team and provide additional resources to ensure that minorities have equal development opportunities within the company. In addition, DEI programs may also increase legal compliance costs, such as regularly reviewing recruitment and promotion policies to ensure compliance with local anti-discrimination laws.

Despite the high short-term costs, DEI programs may enhance corporate innovation capabilities and brand reputation in the long run. For example, Microsoft and Costco believe that DEI programs help companies attract top talent and improve market competitiveness[10]. In contrast, Target and Google cut DEI budgets due to concerns about legal risks and shareholder lawsuits. These companies believe that the payback period of DEI programs is long, while investors are more concerned about short-term profitability. Therefore, the economic impact of DEI programs has a significant trade-off between the short-term and long-term.

2.2.2 Impact on Supply Chain and Partners

The adjustment of corporate DEI plans also affects the supply chain and partnerships. For example, Target terminated the DEI supply chain plan, causing black startups to lose important sales channels. The company originally planned to increase the proportion of product purchases from minority suppliers through a diversified procurement policy, but was forced to abandon the plan after facing legal challenges. This has affected many small and medium-sized enterprises that rely on Target's supply chain, further exacerbating market inequality.

Investors also have different views on DEI plans. Some shareholders believe that DEI plans may affect corporate profitability, so they put pressure on companies to cut DEI budgets. For example, Walmart chose to withdraw from some DEI plans after being pressured by shareholders, while Costco adhered to the DEI goals and believed that this would help enhance brand value in the long run [10]. This reflects the differences in shareholders' attitudes towards DEI plans and also affects companies' strategic decisions in the field of DEI.

2.3 Social and Cultural Barriers

2.3.1 The Impact of Public Opinion on DEI

With the execution of DEI plans, companies are also increasingly pressured by social opinions. Right-wing politicians have criticized DEI programs, assuming that they are "reverse discrimination" and counter to the free market spirit. Due to this image, some firms have taken a conservative stance regarding DEI programs in an effort to avoid social controversy. For example, Target and Meta were boycotted by the public due to their DEI programs, and the customers felt that these companies are "overly catering to political correctness" and this has ruined their brand image. This indicates that the companies need to walk a tight rope between moral duty, legal compliance, and marketability while enforcing DEI programs [11].

2.3.2 Cultural Alignment of DEI Programs

The reach of acceptance for DEI programs varies to some significant extent in different countries. In America, for example, the proliferation of DEI programs is rather progressive but more modest in Europe and Asia because they have multiple legal and cultural frameworks[11]. In multiculturally diversified markets, fostering DEI, companies will be required to make their strategy suit the culture of the region, i.e., emphasize inclusion over racial diversity while in Asia. Companies listed on the exchange in Malaysia are required to report against progress on DEI at times from time to time by the Malaysian Stock Exchange so that company governance is as per the objectives of the constitution. However, due to the affirmative action policy of Malaysia, companies must be racially sensitive when promoting DEI so that they are not at variance with policies of the government. This would mean that in the context of globalization, implementation of DEI programs needs to be framed locally and not as a carbon copy of European and American practices.

3 Improvement Recommendations

3.1 Legal and Policy Strengthening

To reduce the legality risks of DEI programs, organizations have to ensure that policies are balanced with provisions in the law and do not adopt measures such as racial quotas that can lead to "reverse discrimination" lawsuits. For example, organizations in the United States must comply with a law that promotes diverse hiring by using fair competition rather than quota requirements[10]. Second, businesses can customize DEI language and initiatives to reduce legal controversy. For example, "Belonging" instead of "DEI" can be employed to stress organizational culture building over policy intervention. Walmart is among the firms that have begun eliminating the use of the term "DEI" at the company level in order to curb political controversy and shareholder activism. With these changes, businesses are able to retain their diversity goals while keeping social and legal dangers posed by policy language at bay.

3.2 Economic and Management Optimization

When promoting DEI programs, companies should optimize budget allocation, shift from external recruitment to internal training, and enhance career development opportunities for existing employees. Compared with investing heavily in diverse recruitment, training and developing existing employees can reduce costs and increase employee acceptance of DEI programs. For example, companies can provide diversity leadership training to give minority employees more promotion opportunities instead of simply increasing recruitment targets[10]. In addition, companies should increase the transparency of DEI programs and demonstrate DEI progress and results through regular reports. For example, Microsoft continues to publish DEI reports, which not only enhances investor confidence but also increases employee trust in DEI programs. Transparent DEI performance measurement standards help companies adjust their strategies and better demonstrate the actual impact of DEI to stakeholders.

3.3 Social and Organizational Changes

To enhance the effectiveness of DEI programs, companies should strengthen employee communication and cultural construction to ensure that DEI programs are not just at the policy level, but are deeply rooted in corporate culture.

Companies can hold DEI theme discussions, employee training and regular feedback mechanisms to increase employee recognition and participation. In addition, companies should integrate DEI into ESG (environmental, social, and governance) strategies to make it a key component of sustainable development. For example, Costco combines DEI goals with corporate social responsibility to enhance the company's long-term competitiveness through diversified supply chain procurement and fair pay policies[11]. Combining DEI with ESG can not only enhance the company's social impact, but also help improve the company's recognition among investors and consumers.

4 Conclusion

Diversity, equity and inclusion (DEI) has become an important part of corporate management, helping to improve employee satisfaction, promote innovation, and enhance the company's market competitiveness. However, the implementation of DEI programs faces many challenges, including legal compliance risks, economic cost pressures, and social resistance. These factors require companies to find a balance between corporate ethics, legal compliance, economic feasibility, and social responsibility when promoting DEI programs. In the future, DEI programs will pay more attention to compliance and corporate sustainability, avoid legal risks, such as using broader concepts such as "inclusion". At the same time, more and more companies are integrating DEI into the ESG (environment, society, governance) framework, such as Microsoft and Costco, which improve transparency through DEI reports to ensure that DEI programs bring long-term business value. If companies can optimize DEI plans within the legal framework and combine them with ESG strategies, their competitiveness in the global market will be further enhanced.

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