Best Practice in Developing Best Practice

By Anthony Mathews

This past July, the Beyster Institute assembled a group of 20 employee stock ownership plan (ESOP) company statutory directors for the purpose of starting a dialogue among them as to their experiences, concerns, insights and objectives in that very important role. Although we didn't label the event as such, several of the members of the exchange made reference to attempting to define "best practice" in governance for employee-owned companies, and by the end of the event, it was clear that what we are developing with these sorts of meetings is a collaborative attempt to define just that.

It seems that the ESOP community is always focused on single topics that dominate our attention at conferences and seminars until they eventually give way to another. Over the last 30 years, we have witnessed a continual cycling of themes of concern starting with the most enduring theme of all in our world – "repurchase liability as the end of the world" and cycling through many newer comers – "have and have not;" "segregation of accounts;" "recycle versus redeem and the ideal dilution outcome;" "creative leverage and regulatory concerns about deal structure;" "various advisors as fiduciaries;" etc. And over time this line of thinking has evolved into the umbrella concept of "sustainability."

I am struck by the fact that throughout, our focus themes all represent an implication of the frailty of our employee ownership capital structure. Our focus over the years is often on a litany of the things that go wrong with employee ownership rather than on all the things that have been and are going so right. It's natural, of course, for us to focus on the threats to a very important tactic, but it does seem that the more we focus on the vulnerabilities the less we highlight the amazing opportunities this model represents.

That's why I particularly like the new kid on the theme block – the idea of "best practice" as an objective. Whenever we gather in a group larger than two, you can bet that in one area or another, we'll be getting into a lively discussion of "best practice." In our consulting practice we are constantly asked to deliver opinions as to "best practice" in things as diverse as benefit distribution timing, communication of financial information, structure of the ideal board of directors, and I am delighted because that implies that our citizens are both committed to the successful long-term existence of our ESOP model and convinced that there is a best way to do it.

Unfortunately with simple concepts, the implication that there is a single (or at least very limited scope) right way to decide anything, is just not true. Every ESOP in every company is unique to its own issues and objectives. There are multiple possible solutions to every ESOP company dilemma and each of them will compromise benefits with costs and values in a different balance. Each element of the possible might be the “best practice” for someone at some time.

“Best practice,” you see, is a description of process, not of outcome. The process of gathering to discuss and thoroughly understand, as well as we ever can, all the implications of the decisions we are formulating to deal with one situation or another is the best practice. Engaging others who have had similar experiences to share results and their roots is the best practice. Constantly seeking to arrive at decisions that balance the results to fit your goals and values and then continuing to monitor outcomes to stay true to those is the best practice.

In the process, never forget that the only rule that is absolutely never violated is the “rule of unintended consequences.” Best practice is to remember that and to never stop watching outcomes so that you can adjust your process to stay on course no matter how often the course needs to change.

I am delighted to see best practice come to the head of the line as our focus because it represents the best chance we have of creating over time, not just companies that can survive paying out value to their owners but companies that can sustain themselves and lead our country into the future with a broader, fairer and more sustainable distribution of wealth without taking anything away from anyone.

So, I get a special sense of excitement from the gatherings we get to host throughout the year that are environments in which the people who are guiding our ESOP companies from the management level, in the fiduciary role and in the board room gather with people in like situations. These annual events (and the growing number of similar events around the country) are collectively an environment in which we put our collective knowledge and experience to the task of perfecting the process of building ESOP companies and the wealth they are so good at creating for millions of employee owners.

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