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Date produced: 28 October 2015

# qLegal Legal Update
## <u>Woman in Tech to the Top: An Analysis of the Boardroom</u>

**In this legal update, we will analyse gender diversity within corporations and the technology industry, find out why achieving diversity is critical to a company's success, examine what is specific to the technology industry with regards to diversity and discuss solutions to attaining diversity.**

## Gender diversity in the workplace: An Introduction

Two out of nine Nobel Prize winners in 2015 were women. Looking at statistics of gender balance can well summarize the ongoing discussions on gender diversity. According to gender pay day measurements, women in the UK earn <u>19.1%</u> less than men. There are only <u>27 female CEOs</u> of Fortune 1000 companies. However, with the media championing role models like Sheryl Sandberg, chief operating officer of Facebook, and Marissa Mayer, current CEO of Yahoo!, the industry is lured into believing that things have indeed changed and we are now living in a more equal professional world.

## Why is gender diversity critical to a company's success?

While women may constitute the majority of the global workforce (<u>66%</u>), be the ideal consumers for myriads of companies and surprisingly own approximately <u>40%</u> of all private businesses, the numbers become disappointingly small when the discussion turns to women's presence in the technology sector (making up under <u>30%</u> of the relevant workforce). Evidence from the private sector indicates that <u>gender balance at the board level increases performance through improved governance, decision-making and financial returns</u>. One of the latest reports by US Management consulting firm McKinsey examined proprietary data sets for 366 public companies across a range of industries in America and the United Kingdom showed that companies in the top quartile for gender diversity are <u>15%</u> more likely to have financial returns above their respective national industry medians. Therefore, it is apparent that gender diversity can be a crucial factor in a company's success and it is something that new companies and start-ups should strive to implement in their corporate strategy.

## What is Specific to the Tech/Start-up Sector in Relation to Gender Diversity?

Although technology companies represent new and innovative ways of thinking and often working, the traditional trend of men landing most of the industry high level roles somehow continues. Indeed, according to <u>Facebook's 2015 diversity report</u>, 84% of employees in tech at Facebook are male. Google's report claims a similar statistic at <u>82%</u>. Technology companies often try to defend the statistics by citing factors lower rates

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of women with computer science degrees. However, Yale researchers conducted a [study which showed gender bias](#) towards male applicant in the selection process for a lab manager position when reviewing identical applications assigned male and female names. To counteract gender bias, technology companies can take a number of [measures](#). Firstly, tech start-ups often promote advanced engineers to management level without providing adequate training in aspects of human resources and human psychology. Coaching in these areas can lead to a more gender diverse work environment. Secondly, leaders must make clear that diversity is valued. Engineers and managers will follow perceptions of what executives value. Finally, formalising hiring criteria before looking at applications reduces the scope for gender discrimination in hiring for new roles.

## What efforts have been made by the UK government and the industry to address the issue?

### Efforts by the UK Government

Originally, two pieces of legislation were adopted and aim at dealing with sex discrimination ([Equal Pay Act 1970](#) and [Sex Discrimination Act 1975](#)). A nationwide voluntary business campaign, called [Opportunity Now](#), was established in 1991 and sets key goals for tackling inequality through a broad-based business-driven policy approach. In the public sector, the gender equality duty came into force in April 2007 requiring all public sector bodies to eliminate discrimination and to promote equality of opportunity between women and men.[1] Despite the measures taken diachronically by the state there had been a quite slow rate of progress in terms of the presence of women on Boards of companies which in 2011 led to the UK Government inviting Lord Davies of Abersoch to undertake a review of the situation at the time As a result, a number of targets for boards of FTSE 350 companies were set, including that FTSE 100 boards should aim to have a minimum of [25% female representation by 2015](#). Four years on from his original report female representation has almost [doubled to 23.5%](#). Currently, unlike other European countries, the UK has not imposed any mandatory gender quotas, but there had been an [amendment of the UK Corporate Governance Code in 2011](#) which requires the annual report to detail the process it has used in relation to board appointments. This section should include a description of the board's policy on diversity.

### Efforts by Industry

Measures have also been taken by the industry itself to address diversity issues. Barclay's has designed a ['Women on Boards' programme](#), aligning diversity, talent management and leadership development to increase the number of women in the boardroom across industries. Accenture (UK) host women's [mentoring programmes](#) which pair female leaders with leadership mentors and facilitate local women's networks which span globally, while Network Rail offers girls between the ages of 16 and 18 a £9000 first-year university sponsorship as part of their ['Could IT be you?' Competition](#). These programs reflect the hands on approach taken by companies in the UK to tackle diversity issues.

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[1] Marilyn Davidson and Ronald J Burke, *Women In Management Worldwide* (2nd edn, Gower, Pub 2011).

## From a corporate governance perspective, what are the advantages and drawbacks of a quotas policy? What was the impact in European countries where it was implemented?

Nowadays it is widely believed that the women in boardrooms quotas can substantially and effectively change the existing representation of the working world. They achieve this by helping to challenge unconscious bias and by allowing companies to learn to diversify while rectifying gender imbalance. By contrast, the critics of quota policies argue that by introducing a quota, "boardrooms will lose their meritocracy, opening their doors to amateurs, unsure of how to run a business" and that it's "more essential for gender diversity to come from the bottom up, rather than the top down". Europe displays the most noteworthy movement toward balanced representation levels with Norway, and Finland exhibiting two of the highest percentages of women in global boardrooms, at 40.9% and 26.8%, respectively[2] after having adopted gender quota laws. Moreover, in Italy a quota law promulgated in 2011 resulted in an increase of the percentage of women in boards from 7% in 2011 to 17% in 2012, making quite a case for an affirmative approach to encourage gender equality in the workplace.

## Conclusion

Diversity in the workplace is critical to long term success. There have been some efforts made to solve gender diversity issues in the workplace but it is time to go further. Additionally, it is important to note that gender is just one aspect of the diversity issue. Companies and government should ensure that they are inclusive towards gender, but also race, ethnicity, religion, disability, sexual orientation, age, and so on. Industry practices will not change overnight but by recognising the value of a diverse workplace and implementing a change in business attitudes, hiring processes and values, diversity can be achieved.

*This toolkit was drafted by students from the Centre for Commercial Law Studies, Queen Mary University of London: Samuel Grogan, Constantin Hoferer, and Epistimi Oikonomopoulou*.

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[2] Aaron Dhir, *Challenging Boardroom Homogeneity* (Cambridge University Press, Pub 2015).