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Corporate Management: Club of Old Boys or Something Else?

AINO ASPLUND¹

Abstract

The European Union has issued a directive initiative on gender quotas to increase the proportion of the under-represented sex among non-executive directors of large companies listed on stock exchanges and related measures. The article critically discusses the impacts of quotas, which despite of the proposals relating to better performance, fundamentally are highly equality driven ignoring the purpose of corporations as entities that seek for long-term, monetary value through investing in skills and knowledge. This article suggests that by identifying professional managerial elites in listed companies' governance organs and paying attention to their importance as the contributors of company value, male dominance in economic decision-making can be explained. The argumentation is based on the data collected from thirty-six Finnish listed companies. The findings support the presumption of governance organs as groups of competence.

1. Introduction

1.1. *Living in the Box of Equality*

Debate around *gender disparities* in society do not leave us alone. The low number of female board members is on the current agenda. Companies were spurred initially into action with voluntary measures.² Progress has been made³ but the European Union institutions are not satisfied. In late autumn 2012, the European Commission passed a proposal for a directive that will enhance the position of minority gender; i.e., women among *non-executive directors* of companies listed on stock exchanges and related measures with the help of *quotas*. Commission's proposal concerns the achievement with up to a 40 percent representation of both genders.⁴ The Parliament

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² Council Recommendation 84/635/EEC on the Promotion of Positive Action for Women, OJ L 331, 13.12.1984; Council Recommendation 96/694/EC on the Balanced Participation of Women and Men in the Decision-making Process, OJ L 319, 2.12.1996.

³ Press Release (EC), Cracking Europe's Glass Ceiling: European Parliament Backs Commission's Women on Boards Proposal (hereinafter IP/13/1118), 20.11.2013, 4; Report on Women and Men in Leadership Positions and Gender Equality Strategy Mid-term Review European Commission (MEMO/13/882), 14.10.2013, 1–4.

⁴ European Commission, *Proposal for a Directive of the European Parliament and of the Council on Improving the Gender Balance Among Non-executive Directors of Companies Listed on Stock*

voted for the proposal in November 2013. In order to become a part of the EU legislation, Member States in the Council have to reach agreement on the draft law amongst themselves and with the Parliament.⁵ If directive comes into effect, the EU will follow the path of, for example, Norway and France where legislative actions have promoted gender balance within companies' boards.⁶

Companies are criticised for ignoring the *potential* that women offer.⁷ Commission's proposal therefore calls for paying attention to the benefits of diversity in boards.⁸ To be able to convince the sceptics, the Commission refers to studies indicating female directors' positive impact on company value.⁹ However, the pool of evidence is diffuse without implying any clear conclusions.¹⁰ Interestingly, for example David Matsa and Amalia Miller suggest that instead of promoting particular economic

Exchanges and Related Measures, COM(2012) 614 final, 14.11.2012. Member States may also stipulate that the objective laid down in the directive "should be considered to be met where listed companies can show that members of the under-represented sex hold at least one third of all director positions, irrespective of whether they are executive or non-executive." See p 21 of the proposal.

⁵ IP/13/1118, *supra* n 3.

⁶ See e.g., European Parliament Resolution on Equality Between Women and Men in the European Union (2011/2244(INI)), 13.3.2012, ss 29 and 32; COM(2012) 614 final, *supra* n 4, at 2. Norwegian quota law was unique. The 40% quotas for public limited liability companies were passed in 2006 and included in the Public Limited Liability Companies Act Art. 6(11a). About Norwegian quotas see Hedvig Bugge Reiersen & Beate Sjøfjell, *Report from Norway: Gender Equality in the Boardroom*, (2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1139604 (accessed 16 July 2014); Knut Nygaard, *Forced Board Changes: Evidence from Norway*, (2011), available at <http://www.nhh.no/Files/Filer/institutter/sam/Discussion%20papers/2011/05.pdf> (accessed 17 July 2014); Mari Teigen, *Exchange of Good Practices on Gender Equality: Women in Decision-making*, (2012), available at http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practice_no/no_discussion_paper_no_2012_en.pdf (accessed 7 July 2014). About quotas within the EU see Working Paper on The Quota Instrument: Different Approaches Across Europe, 12 (2011), available at http://ec.europa.eu/justice/gender-equality/files/quota-working_paper_en.pdf12 (accessed 7 July 2014).

⁷ COM(2012) 614 final, *supra* n 4, at 3.

⁸ COM(2012) 614 final, *supra* n 4, at 4. See also Richard L Hoffman & Norman RF Maier, *Quality and Acceptance of Problem Solutions by Members of Homogeneous and Heterogeneous Groups* 62 *Journal of Abnormal and Social Psychology* 401 (1961); David A Carter, Betty J Simkins & Gary W Simpson, *Corporate Governance, Board Diversity, and Firm Value* 38 *Financial Review* 33 (2003), who found a positive relationship between diversity and performance.

⁹ See studies referred in COM(2012) 614, *supra* n 4, at 3 footnote 6.

¹⁰ See e.g., Bernard M Bass & Bruce J Avolio, *Shatter the Glass Ceiling: Women May Make Better Manager* 33 *Human Resource Management* 549 (1994); Carter et al., *supra* n 8; Catalyst, *The Bottom Line: Connecting Corporate Performance and Gender Diversity*, (2004), available at <http://www.catalyst.org/knowledge/bottom-line-connecting-corporate-performance-and-gender-diversity> (accessed 8 July 2014); Renée B Adams & Daniel Ferreira, *Women in the Boardroom and Their Impact on Governance and Performance* 94 *Journal of Financial Economics* 291 (2009); Mijntje Lückerath-Rovers, *Women on Boards and Firm Performance* 17 *Journal of Management & Governance* 491 (2010); Kenneth R Ahern & Amy K Dittmar, *The Changing of the Boards: The Impact on Firm Valuation of Mandated Female Board Representation* 127 *Quarterly Journal of Economics* 137 (2012); Nygaard, *supra* n 6; Credit Suisse, *Gender Diversity and Company Performance*, (2012), available at http://www.fortefoundation.org/site/DocServer/cs_women_in_leading_positions_FINAL.pdf?docID=17902 (accessed 8 July 2014); Cristian L Dezső & David Gaddis Ross, *Does Female Representation in Top Management Improve Firm Performance?: A Panel Data Investigation* 33 *Strategic Management Journal* 1072 (2012); Mara Faccio, Maria-Teresa Marchica & Roberto Mura, *CEO Gender and Corporate*

outcome, Norwegian policymakers *de facto* aimed at increasing *equality*.¹¹ Accordingly, we do not discuss the positive outcome resulting from particularly gender diversity but something more fundamental. If the Commission's proposal is read through, the suggestion above can be verified. Economic reasoning is secondary.

As a human right¹² and CSR (Corporate Social Responsibility)¹³ issue, the mantra of gender equality has overridden the scrutiny of the *purpose* of limited liability companies.¹⁴ The discussion should be therefore changed and ask *what* are the corporations created for. The argumentation of this paper does not lie on traditional shareholder primacy¹⁵ but rather other *contributors of long-term value*. Serious reconsideration of the reasonableness of quotas has to be made if the scrutiny of companies' purpose collides with legislators' persistent sticking into equality. In this relation, attention must be paid to the quality of companies' decision-making to which quotas may set great challenges.¹⁶ Margaret Blair argues that modern corporations' *wealth-generating capacity* relates to the *skills and knowledge* of their employees and companies' ability to *profitably* utilize them.¹⁷ Accordingly, the presumption should be that companies invest in expertise in order to fulfil their purpose.

1.2. Focus and Structure of the Paper

To understand the proposal, this paper discusses gender equality and its contribution to human resources. However, corporate powers are based on delegated management.¹⁸

Risk-Taking, (2014), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2021136 (accessed 14 July 2014).

¹¹ David A Matsa & Amalia R Miller, *A Female Style in Corporate Leadership? Evidence from Quotas* 5 American Economic Journal: Applied Economics 136 (2013).

¹² Charter of the Fundamental Rights of the European Union, OJ C 364, 18.12.2000, Arts 21 and 23.

¹³ About EU's CSR policy see e.g., Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A renewed EU Strategy 2011–14 for Corporate Social Responsibility, COM(2011) 681 final, 25.10.2011.

¹⁴ See also interview by Jakob Stenberg with Petra Hedengran, (22 January 2014), available at http://www.svensktnaringsliv.se/english/quotas-a-blunt-instrument_211516.html (accessed 8 July 2014).

¹⁵ Henry Hansmann & Reinier Kraakman argue in their seminal paper *The End of History for Corporate Law* 89 Georgetown Law Journal 439 (2000–2001) that other models are utopia. See also Jan Bertil Andersson & Frida Segenmark, *Mapping Paper on the Company Law Barriers and Possibilities for Sustainable Companies*, 11–12 (2013), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2248584 (accessed 8 July 2014), who argue that environmental attributes are secondary to shareholder primacy. Cf. Klaus J Hopt, *Comparative Corporate Governance: The State of the Art and International Regulation*, in Andreas M Fleckner & Klaus J Hopt (eds), *Comparative Corporate Governance: A Functional and International Analysis* 43 (Cambridge: Cambridge University Press, 2013). See also John L Campbell, *Why Would Corporations Behave in Socially Responsible Ways?: An Institutional Theory of Corporate Social Responsibility* 32 Academy of Management Review 946, 952 (2007), who argues that the imperative of value maximization may be the root cause that prevents corporations from acting in socially responsible ways.

¹⁶ Cf. Reiersen & Sjøfjell, *supra* n 6, at 7.

¹⁷ Margaret M Blair, *Ownership and Control: Rethinking Corporate Governance for the Twenty-first Century*, in Thomas Clarke (ed.), *Theories of Corporate Governance: The Philosophical Foundations of Corporate Governance* 184 (London: Routledge, 2004).

¹⁸ Hansmann & Kraakman, *supra* n 15, at 440.

Certain people owning particular attributes are selected to make the fundamental decisions in the corporation. Thus this paper utilizes the premises of *elitist theory of democracy* to understand why these people have been selected to management.

The problem of quota discussion is that *external* actors to companies try to comprise a 'better wisdom' about a preferable governance model without giving emphasis on the contributors of success from the company point of view. An inside perspective therefore is necessary to understand what kind of diversity companies aspire to keep their businesses running. This paper discusses whether management structures are constructed to serve value creation. Accordingly, directors' characters have to be empirically found out. Data is based on the corporate governance statements of Finnish listed companies who have succeeded in improving gender equality with self-regulation based measures.¹⁹ Data exceeds the purview of Commission's proposal by taking into account not only large listed companies but also small and medium size enterprises (SMEs). The definition of what is a large company or SME vary²⁰ but the point is to scrutinize companies, comprehensively. Discussion is also widened to the scrutiny of all layers of decision-making, including management teams, to better understand companies' governance structures.²¹

After creating a notion about power elites, a corporate law analysis has to be made to understand the importance of competence and knowledge²² in relation to corporate profit. Though the purpose of companies is currently understood through a shareholder primacy model,²³ this paper utilizes a different company law theory that stems

¹⁹ See European Commission, *Gender Balance on Corporate Boards > Europe is Cracking the Glass Ceiling*, (2014), available at http://ec.europa.eu/justice/gender-equality/files/documents/140303_factsheet_wob_en.pdf (accessed 8 July 2014). The success bases on *Finnish Corporate Governance Code 2010*, available at <http://cgfinland.fi/files/2012/01/finnish-cg-code-2010.pdf> (accessed 8 July 2014). According to Campbell, *supra* n 15, at 956: 'Corporations will be more likely to act in socially responsible ways if there is a system of well-organized and effective industrial self-regulation in place to ensure such behaviour.'

²⁰ Within EU context SME means a company which employs less than 250 persons and has an annual turnover not exceeding EUR 50 million or an annual balance sheet total not exceeding EUR 43 million. European Commission, *The New SME definition: User Guide and Model Declaration*, (2005), available at http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf (accessed 8 July 2014). Companies listed on NASDAQ OMX Nordic Exchanges are divided into different market cap segments as follows: companies with market value that exceeds EUR one billion are in the group of 'large-cap', while companies with market value smaller than EUR 150 million belong to 'small-cap'. Companies with a market value between EUR 150 billion and EUR one billion belong to the 'mid-cap' segment. Market cap segment review at NASDAQ OMX Nordic Exchanges, (2011), available at <http://ir.nasdaqomx.com/releasedetail.cfm?releaseid=635035> (accessed 8 July 2014).

²¹ This paper uses the term board of directors (or board) to mean the one-tier board model where supervisory members are represented in the same organ. This is in line with the Finnish board structure. Management teams or management boards are understood as the organs of operational management.

²² These function as a significant resource of the firm. See more about resource theories e.g., Morten Huse, *Boards, Governance and Value Creation: The Human Side of Corporate Governance* 61–64 and 74 (Cambridge: Cambridge University Press, 2007).

²³ See e.g., Bernard Black & Reinier Kraakman, *A Self-enforcing Model of Corporate Law* 109 Harvard Law Review 1911 (1996); Hansmann & Kraakman, *supra* n 15.

from a firm specific approach.²⁴ Accordingly, shareholders are not the principals but the company whose agent management is. Thus the purpose of the company; i.e., its management, is to promote the interest of the *firm*. The approach gives better tools than shareholder primacy for scrutinizing the significance of director and manager characters to the contribution of long-term value. In relation to this, the premises of law and economics are also utilized.

This article consists of five main chapters and a number of subchapters. The second chapter develops the hypothesis of the factors behind companies' decision-making structures. It starts with the short discussion of equality and quotas. After that, the premises of corporate decision-making are scrutinized from the elitist theory point of view. The third chapter is the empirical part of the paper in which some preliminary conclusions about the findings on director and manager characters are made. The following chapter concentrates on the company law theoretic analysis from the value creation perspective and the attributes important to decision-making in this sense. The fifth chapter is a short conclusion.

2. Opening the Lid Slightly

2.1. *The Core of the Quota*

Women and men are equal by their value.²⁵ Gender-based discrimination cannot be therefore justified²⁶ either in public or private intercourse.²⁷ This is the basis of the principle of *equal treatment*.²⁸ Discrimination can be understood to encompass two

²⁴ See Petri Mäntysaari's theory on the purpose of the company in Ch. 4 below.

²⁵ See Universal Declaration of Human Rights (10 December 1948), U.N.G.A. Res. 217 A (III) (1948), Art. 1; Convention on the Elimination of All Forms of Discrimination against Women (New York, 18 December 1979) 1249 U.N.T.S. 13, 19 I.L.M. 33 (1980), entered into force 3 September 1981, (hereinafter CEDAW), Art. 3; Communication from the Commission on Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities, COM(96) 67 final, 21.2.1996, 2; Catherine Barnard, *The Principle of Equality in the Community Context: P, Grant, Kalanke and Marschall: Four Uneasy Bedfellows?* 57 Cambridge Law Journal 352 (1998); Charter of Fundamental Rights of the European Union, *supra* n 12, at Art. 1; Sandra Fredman, *Discrimination Law* 28–30 (2nd ed., New York: Oxford University Press, 2011).

²⁶ The Universal Declaration of Human Rights, *supra* n 25, at Art. 2; CEDAW, *supra* n 25, Art. 1; Charter of Fundamental Rights of the European Union, *supra* n 12, at Art. 21(1); European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950), 312 E.T.S. 5, (hereinafter ECHR), Art. 14 and Protocol No. 12.

²⁷ About public and private in feminist context see e.g., Carole Pateman, *The Disorder of Women: Democracy, Feminism and Political Theory* 119–140 (Cambridge: Polity Press, 1989).

²⁸ Council Directive 76/207/EEC on the Implementation of the Principle of Equal Treatment for Men and Women as Regards Access to Employment, Vocational Training and Promotion, and Working Conditions, OJ L 39, 9.2.1976, Art. 2; Charter of Fundamental Rights of the European Union, *supra* n 12, at Art. 23(1). See also Cathryn Costello & Gareth Davies, *The Case Law of the Court of Justice in the Field of Sex Equality Since 2000*, 43 Common Market Law Review 1567 (2006). EU case law see e.g., Case C-149/77 *Gabrielle Defrenne v. Société Anonyme Belge de Navigation Aérienne Sabena*

different forms. According to the directive 2006/54/EC article 2.1, *direct discrimination* is defined as discrimination ‘where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation’.²⁹ It is a common concern that directors are selected among an ‘old boys’ network’; i.e., a narrow pool of people usually containing men of certain age.³⁰ This relates to *indirect discrimination*. Accordingly, ‘an *apparently neutral* (italics added) provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex ...’.³¹ If selection criteria lack transparency,³² indirect discrimination may realize. Companies usually inform that expertise matters but in reality they may have been engaged in selecting directors among male networks.³³ Thus women are in a different position not directly because of their gender but because they do not belong to this network.

There is no indirect discrimination if ‘*provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary* (italics added)’.³⁴ The European Court of Human Rights has required ‘very weighty reason’ for the difference in treatment based on sex.³⁵ Quotas have been considered as indiscriminative because of their nature as *positive actions*³⁶ that have been argued to function as *inevitable tools* of elimination of discriminative structures

[1978] ECR 1365; Case C-152/84 *M H Marshall v. Southampton and South-West Hampshire Area Health Authority* [1986] ECR 00723, s. 36; Case C-151/84 *Joan Roberts v. Tate & Lyle Industries Limited* [1986] ECR 00703, s. 35; Case C-25/02 *Katharina Rinke v. Ärztekammer Hamburg* [2003] ECR I-8349, s. 25.

²⁹ Directive 2006/54/EC of the European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (recast), OJ L 204, 5.7.2006, Art. 2.1.

³⁰ See e.g., COM(2012) 614 final, *supra* n 4, at 4; European Commission, *Proposal for a Directive of the European Parliament and of the Council Amending Council Directives 78/660/EEC and 83/349/EEC as Regards Disclosure of Nonfinancial and Diversity Information by Certain Large Companies and Groups*, COM(2013) 207 final, 16.4.2013, 5. Similarly see also Joseph A McCahery & Erik PM Vermeulen, *Understanding the Board of Directors after the Financial Crisis: Some Lessons for Europe* 41 *Journal of Law and Society* 121, 137 (2014).

³¹ Directive 2006/54/EC, *supra* n 29, at Art. 2.1.

³² The proposal aims at tackling with this (‘to introduce pre-established, clear, neutrally formulated and unambiguous criteria in selection procedures for those positions in order to attain that objective’). COM(2012) 614 final, *supra* n 4, at 5. See also Case C-109/88 *Handels- og Kontorfunktionærernes Forbund I Danmark v. Dansk Arbejdsgiverforening, acting on behalf of Danfoss* [1989] ECR I-3199, ss 4, 10, and 16.

³³ Morten Huse argues that selecting new board members from these networks includes that there usually is no assessment of the needs of the board. However he admits that selection processes have been changed to more rational because of corporate governance codes and attention has been paid to better board selections. Huse, *supra* n 22, at 71–72.

³⁴ Directive 2006/54/EC, *supra* n 29, at Art. 2.1.

³⁵ *Andrle v. The Czech Republic* (Fifth Section), no. 6268/08, 17.2.2011, s. 49; *Stec and Others v. the United Kingdom* [GC], no. 65731/01, 12.4.2006, ECHR 2006-VI, s. 52.

³⁶ About terminology see e.g., General Recommendation No. 25, on article 4, para. 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, 2004, s. 17.

in the society.³⁷ Article 3 of the Directive 2006/54/EC on equal opportunities includes that ‘Member States may maintain or adopt measures within the meaning of Art. 157(4) of the Treaty with a view to ensuring *full equality in practice* between men and women in working life (italics added).’³⁸ There is discussion whether positive actions either ensure this purpose; i.e., *de facto equality*³⁹ or are *departures from the principle of equality*.⁴⁰ Charlesworth and Chinkin state that women face barriers of *de facto* equality because they do not have real economic, social or political power either in public or private sector.⁴¹ Therefore measures beyond *formal equality* have seen crucial to ensure women actual possibilities to take part in the economic decision-making.

On the other hand, the Commission requires that women should not be given priority in all cases.⁴² Quotas do not therefore aim at *equal outcome*⁴³ that could be problematic if considered the purpose of positive actions in ensuring *equal opportunities*.⁴⁴ However, to guarantee *de facto* equality, positive actions should be given enough wide interpretation.⁴⁵ In the light of *equality of opportunity, merits* shall have

³⁷ General Recommendation No. 25, *supra* n 36, at ss 14 and 18. See also CEDAW, *supra* n 25, at Art. 4(1); *Andrle v. The Czech Republic*, *supra* n 35, at s. 48.

³⁸ About positive actions within the EU see e.g., Barnard, *supra* n 25; Dagmar Schiek, *Sex Equality Law After Kalanke and Marshall* 4 European Law Journal 148 (1998); Lisa Waddington & Mark Bell, *Exploring the Boundaries of Positive Action under EU Law: A Search for Conceptual Clarity* 48 Common Market Law Review 1503 (2011); Evelyn Ellis & Philippa Watson, *EU Anti-Discrimination Law* (2nd ed., Oxford: Oxford University Press, 2013).

³⁹ Accordingly, *different* groups may be treated *differently*. See *Stec and Others v. The United Kingdom*, *supra* n 35, at s. 51. Thus it is not sufficient to stick with formal equality according to which like should be treated alike. About the critique in this sense see Peter Westen, *The Empty Idea of Equality* 95 Harvard Law Review 537 (1982).

⁴⁰ About the discussion see Fredman, *supra* n 25, at 28; Waddington & Bell, *supra* n 38; Ellis & Watson, *supra* n 38.

⁴¹ Hilary Charlesworth & Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* 229 (Manchester; New York: Manchester University Press, 2000). See also *Andrle v. The Czech Republic*, *supra* n 35; McKinsey & Company, *Women Matter 2012: Making the Breakthrough*, 8 (2013), available at http://www.mckinsey.com/client_service/organization/latest_thinking/women_matter (accessed 8 July 2014).

⁴² COM(2012) 614 final, *supra* n 4, at 6 and 20. See also Case C-409–95 *Hellmut Marshall v. Land Nordrhein-Westfalen* [1997] ECR I-6363.

⁴³ About *equality of results* see Fredman, *supra* n 25, at 14–17.

⁴⁴ For example Norwegian quotas were built on this principle. The Royal Ministry of Children and Family Affairs of Norway, *Follow-up to the Package Meeting of 9 to 10 November 2005 Regarding Representation of Both Sexes on Company Boards, 200504378-/HNO*, 1 (2005), available at http://www.regjeringen.no/upload/BLD/Engelsk/Balanced%20gender%20representation%20on%20company%20boards/Svarbrev_til_ESA_19122005.pdf (accessed July 18 2014). See also Case C-450/93 *Eckhard Kalanke v. Freie Hansestadt Bremen* [1995] ECR I-3051, s. 22.

⁴⁵ The tendency is more and more towards this aim. See *Kalanke* C-450/93, *supra* n 44, cf. *Marschall* C-409–95, *supra* n 42, cf. Case C-158/97 *Georg Badeck and Others* 2000 [2000] ECR I-1875. See also Case C-319/03 *Serge Briheche v. Ministre de l’Intérieur, Ministre de l’Éducation nationale and Ministre de la Justice* [2004] I-08807, s. 25.

most importance.⁴⁶ Thus, the possibility to dismiss a male candidate only exists if candidates are equally qualified⁴⁷ but giving priority to women shall not be automatic and unconditional in these cases either.⁴⁸

Though emphasizing qualification criteria the proposal in reality aims at equal outcome. This can be identified through the tone of the proposal and the requirement for Member States to issue sanctions in the case of the breach of directive.⁴⁹ Thus companies have pressures to adapt to the directive's target.⁵⁰ It can be therefore argued that quotas may sacrifice merits in favour of the 'greater good'.⁵¹ To be able to argue on behalf of giving real emphasis on qualification, the logic behind companies' governance structures has to be opened.

2.2. *A Hypothesis about the Fundamental Reason behind the Locus of Power*

2.2.1. *Basis of Decision-making*

In modern liberal democracy tradition, parliaments are elected by the people.⁵² Similarly, shareholders as 'the citizens' of a corporation in theory elect the members of board. A representative body is an appropriate way to organize powers in the community because *straight democracy*⁵³ is utopia in the societies that consist of large amount of people.⁵⁴ Similarly, every representative of company's interest groups cannot participate in decision-making in corporations. Particular people are therefore elected to have powers over fundamental decisions.⁵⁵ This is the basic idea of the *elitist theory of democracy*.⁵⁶ According to Gaetano Mosca, there can be defined two

⁴⁶ It is argued that true equality demands that individuals begin from similar starting points. However, equality of results cannot be striven at any cost. Once equality of opportunity has been achieved, individuals shall be treated on the basis of their qualities, without regard to sex or race. Accordingly, quotas are rejected. Instead, once equal opportunities are guaranteed, individuals should be judged on merits. Fredman, *supra* n 25, at 18–19.

⁴⁷ COM(2012) 614 final, *supra* n 4, at 6.

⁴⁸ This is a so-called saving clause. COM(2012) 614 final, *supra* n 4, at 6. See also *Badeck C-158/97*, *supra* n 45, at s. 23; *Briheche C-319/03*, *supra* n 45, at s. 23.

⁴⁹ COM(2012) 614 final, *supra* n 4, at 25.

⁵⁰ See also Campbell, *supra* n 15, at 955–956.

⁵¹ Ellis & Watson, *supra* n 38, at 426.

⁵² William H Riker, *Liberalism against Populism: A Confrontation Between the Theory of Democracy and the Theory of Social Choice* 9 (Reissued, Long Grove, Ill.: Waveland, 1988).

⁵³ Jean-Jacques Rousseau defends straight democracy in his book *Du Contrat Social ou Principes du droit Politique* (1762). See Jean-Jacques Rousseau, *The Social Contract* (Frankel Charles ed., New York: Hafner, 1947).

⁵⁴ Similarly see TB Bottomore, *Elites and Society* 6 (London: Watts, 1964); Peter Bachrach, *The Theory of Democratic Elitism: A Critique* 1 and 6 (Washington D.C.: University Press of America, Inc., cop. 1980); Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits*, 105–105 (2008), available at <http://www.oxfordscholarship.com/> (accessed 9 July 2014).

⁵⁵ Similarly Bachrach, *supra* n 54, at 1 and 6; Christiano, *supra* n 54, at 104–105.

⁵⁶ See also Jack L Walker, *A Critique of the Elitist Theory of Democracy* 60 *The American Political Science Review* 285, 286 (1966).

groups of people, ‘a class that is ruled and a class that rules’⁵⁷ – *masses* and *elite*. Vilfredo Pareto has defined the concept slightly differently. Accordingly, there are two strata: ‘1) a lower stratum, the non-elite and 2) a higher stratum, the elite, which is divided into two: a) a governing elite; b) a non-governing elite’.⁵⁸ Despite of a highly aristocratic nuance of these descriptions, in modern egalitarian democracies, everybody should have the possibility to participate in the actions of the society both as a voter and as a member of the decision-making elite.⁵⁹

The Commission finds problems in the fulfilment of women’s democratic rights in relation to the last mentioned. While candidates for the parliament have to compete for the votes of the mass,⁶⁰ director candidates usually do not. Despite of their statutory rights to select the members of board,⁶¹ shareholders usually remain passive,⁶² which leaves the actual selection of director candidates to some particular company organ, usually nomination committee, and the AGM only confirms the decision that has already been made in this organ. There necessarily is no genuine competition for the seats of corporate power. Thus companies are spurred to utilize all available human resources to tackle with *democracy issues*.⁶³ In other words, women are regarded to belong to elites relevant to economic decision-making wider than companies’ director selections give reason to understand.⁶⁴ However, the Union may in reality succumb to populist egalitarian sentiments that obscure its understanding of the inner logic of director selections.

2.2.2. *Leaders of Best Quality*

According to the justification of elitist democracy, the health of the system depends on the fact that normal people, incompetent masses are not involved in decision-making in greater detail than regular democratic actions demand.⁶⁵ Giovanni Sartori

⁵⁷ Gaetano Mosca, *The Ruling Class (Elementi di Scienza Politica)* 50 (Arthur Livingston ed., Kahn Hannah D. trans., New York: McGraw-Hill, 1939). See also Walker 1966, *supra* n 56, at 286.

⁵⁸ Vilfredo Pareto, *The Mind and Society: A Treatise on General Sociology. Vol. 3–4, Theory of Derivations; General Form of Society* 1424 (Arthur Livingston ed., Andrew Bongiorno trans., Arthur Livingston trans., New York: Dover Publications, 1963).

⁵⁹ Bachrach, *supra* n 54, at 8. Mosca, *supra* n 57, at 474.

⁶⁰ Bottomore, *supra* n 54, at 4.

⁶¹ See for example 624/2006 Osakeyhtiölaki [Finnish Limited Liability Companies Act], Chapter 6 Section 9.

⁶² According to elitist theory, masses are considered as passive followers who do not have much knowledge or interest towards public affairs. Walker, *supra* n 56, at 286 and 289–291. See also Robert Dahl, *Who Governs?: Democracy and Power in an American City* 225 (7th pr., New Haven: Yale University Press, 1965), according to whom ‘Homo Civicus is not, by nature, a political animal’.

⁶³ COM(2012) 614 final, *supra* n 4, at 3. Commission has stated in its communication on incorporating equal opportunities for women and men into all community policies and activities that ‘while *democracy requires equal rights for women, this in turn guarantees democracy* (italics here)’. COM(96) 67 final, *supra* n 25, at 2. Indirectly see also CEDAW, *supra* n 25, at Arts 2, 7, and 11; General Recommendation No. 25, *supra* n 36, at s. 23. See also Bachrach, *supra* n 54, at 3.

⁶⁴ Commission mainly refers to graduation numbers. COM(2012) 614 final, *supra* n 4, at 3 footnote 7.

⁶⁵ See e.g., Walker, *supra* n 56, at 286 and 292; Bachrach, *supra* n 54, at 2–3, and 8.

has argued that in elections, democratic values are secondary to their purpose to select the leaders of *best quality*.⁶⁶ The democratic system has to rely on the *wisdom, skill* and *loyalty* of leaders.⁶⁷ Therefore, certain intellectual and moral qualities are required from the person to be able to rise to the member of the elite – firstly as a member of non-governing elite⁶⁸ and then governing elite.

Adolf Berle does not rely on the ability of large groups, including shareholders that he calls ritualistic, to manage economic life. Therefore ‘the government of best minds’ is needed.⁶⁹ This sets high requirements for corporate management. There is evidence that in the selection process of director candidates, prestige and title are highly valued.⁷⁰ Accordingly, education is not the only attribute that has value. Instead it can be argued that experience also matters. Arguably, for example people with top-level experience are highly valued.⁷¹ To be able to find out the structure of Finnish listed companies’ governing elites, the empirical evidence is scrutinised below.

3. Features of Corporate Elites

3.1. General

The members of Berle’s government have to be equipped with certain attributes relevant to successful management. The fourth chapter focuses on the analysis about *why* the managing elite should consist of best minds. Prior to corporate law scrutiny, characteristics common to members of board, top management and CEOs are studied in this chapter and whether they can act as indicators of power elites. The chapter scrutinizes which kinds of attributes (gender, age, education and experience) make these persons superior to masses and non-governing elites. The results may indicate some kind of cohesion,⁷² through which companies aspire value.

Data has been collected from randomly selected Finnish listed companies which include twelve large-cap, twelve mid-cap and twelve small-cap companies.⁷³ They

⁶⁶ Giovanni Sartori, *Democratic Theory/Democrazia e definizione* 104 (2nd ed., Detroit: Wayne State University Press, 1962). See also Bachrach, *supra* n 54, at 41.

⁶⁷ Walker, *supra* n 56, at 286.

⁶⁸ The non-governing elite can be also understood as ‘sub-elite’ that supplies recruits to the elite. This middle class includes e.g., managers, scientists, scholars and intellectuals. Bottomore, *supra* n 54, at 5.

⁶⁹ Adolf A Berle Jr., *Power Without Property: A New Development in American Political Economy* 109 (New York: Harcourt, Brace, cop. 1959).

⁷⁰ Companies may for example engage in recruiting chairs and presidents of other companies or senior partners of leading financial or legal firms. Myles L Mace, *Directors: Myth and Reality* 103 (Boston, MA: Harvard Business School Press, 1986).

⁷¹ Similarly Ahern & Dittmar, *supra* n 10, at 174.

⁷² See also Bottomore, *supra* n 54, at 30–32.

⁷³ Totally five large-cap, seven mid-cap and four small-cap companies represented *basic industry* and *industrial products and services*; four large-cap, one mid-cap and two small-cap companies repre-

represent approximately one-third of all companies listed on the Helsinki stock exchange. The study focuses on the years' 2012–2013 corporate governance statements.⁷⁴ The results concerning particularly experience are suggestive due to the method of interpretation and variation in the way companies have published relevant information. However, conclusions can be made because of certain conformities.

3.2. *Where are you the Young, Technically-oriented Women?*

Though male dominance was evident, the amount of women increased both in management teams and in small companies' boards. The size of the company otherwise correlated with the concrete amount of women.⁷⁵ Significantly, there was no clear peak in the youngest age groups of women but they mostly were of the age 46 to 60. Male managers were on average younger compared to their board colleagues. Additionally, the smaller the company, the younger the men were. Generally, they were on average older than their female colleagues.⁷⁶ If considered CEOs, they mostly were of the age 51 to 55.⁷⁷

The structure of the labour force may indicate the reasons for male dominance. If education is concerned, a master's degree was some kind of formal qualification criterion.⁷⁸ Women mostly possessed degrees in economic sciences and business administration⁷⁹ whereas men were engaged in technical, economic and business administration-related fields. Within CEOs also law degrees were popular in large-cap companies in 2012.⁸⁰ The findings are in line with common educational preferences among the Finnish population.⁸¹

sented *consumables* and *consumable services* (here referred by consumables); one large-cap, two mid-cap and three small-cap companies represented *finance*; one large-cap, one mid-cap and two small-cap companies represented *technology*; one large-cap, one mid-cap and one small-cap companies represented *health care*; one large-cap company represented *communication services*.

⁷⁴ A piece of information has been collected before the announcement of 2013 corporate governance statements. This has been informed in the footnotes of Tables.

⁷⁵ See Tables 1 and 2. In addition, all companies had male CEOs. See also findings of Carter et al., *supra* n 8, at 49; Credit Suisse 2012, *supra* n 10, at 10; McCahery & Vermeulen, *supra* n 30, at 137.

⁷⁶ It is usually assumed that female directors are younger than male. See e.g., Ahern & Dittmar, *supra* n 10; Matsa & Miller, *supra* n 11.

⁷⁷ See Tables 3–9.

⁷⁸ Also, the bigger the company the higher the importance licentiate or doctoral degree had both among women and men. In addition, bachelor degrees were rather common. See Tables 10–16; See also Huse, *supra* n 22, at 77.

⁷⁹ Degrees in business administration were rather high in every corporate group within every group of scrutiny. See Tables 17–23.

⁸⁰ See Tables 17–23.

⁸¹ Official Statistics of Finland (OSF): *Educational Structure of Population* [e-publication]. ISSN=1799-4586. 2012, Appendix table 4. Population with upper education than basic education after field of education, level of education and gender 2012. Helsinki: Statistics Finland, available at http://www.tilastokeskus.fi/til/vkour/2012/vkour_2012_2013-12-04_tau_004_fi.html (accessed 9 July 2014).

3.3. *Experience Matters?*

3.3.1. *Know-how through Boards*

In boards of directors, board experience played a big role while in management teams it had lesser significance.⁸² Expectedly, men were more experienced in the board work compared to their female colleagues.⁸³ They also were or had been chairs more often.⁸⁴ Significantly, board memberships have not piled to a few women in Finland.⁸⁵

Board experience mostly concerned industry, consumables, finance and technology, which significantly corresponded to the fields of businesses of companies in question. Men evidently had more experience in relevant fields.⁸⁶ Interestingly, female board members mostly were in response for the audit and compensation in the board committee working while men engaged themselves in compensation and nomination duties.⁸⁷

3.3.2. *Work Experience*

There were less women possessing CEO experience compared to their male colleagues.⁸⁸ Interestingly, board members had more experience in CEO duties than their manager colleagues. In addition, there was no significant amount of CEO experience among managing directors.⁸⁹ Finance, industry and consumables were the most common fields of businesses in relation to CEO experience.⁹⁰

⁸² Corporate size did not significantly correlate with the amount of board memberships in either of the groups though within CEOs, the importance of board and chair experience seemed to increase the smaller the company. See Table 30.

⁸³ See also other positions of trust presented in Tables 38–40 and 50–52. The tendency was that women had more experience in small caps. See also Table 56 that concerns CEOs.

⁸⁴ See Tables 24–29.

⁸⁵ Thus 'golden skirts' do not exist in Finland. Keskuskauppakamari, *Lasikatto Säröilee: Itsenäntely Päihittää Kiintiöt*, 8 (2012), available at <http://kauppakamari.fi/wp-content/uploads/2012/01/Lasikattosaroilee-Itsenaentely-paihittaa-kiintiot.pdf> (accessed 10 July 2014); Keskuskauppakamari, *Toimiiko Hyvä Hallinnointi ja Avoimuus Pörssi-yhtiöissä?*, 11 (2013), <http://kauppakamari.fi/wp-content/uploads/2013/05/Toimivatko-hyv%C3%A4-hallinnointi-ja-avoimuus-p%C3%B6rssi-yhti%C3%B6iss%C3%A4.pdf> (accessed 10 July 2014); *Corporate Governance Selvitys: Toimiiko Hyvä Hallinnointi ja Avoimuus Pörssi-yhtiöissä?*, 22 (2014), <http://kauppakamari.fi/wp-content/uploads/2014/05/cg-selvitys-2014.pdf> (accessed 10 July 2014). Cf. Norway: Teigen, *supra* n 6, at 11–12. The Union tries to tackle with this problem. See e.g., Green paper on Corporate Governance in Financial Institutions and Remuneration Policies, COM(2010) 284 final, 2.6.2010, 11; European Parliament Resolution on Women and Business Leadership (2010/2115(INI)), 6.7.2011, s. 8.

⁸⁶ See Tables 31–37. See also Tables 41–43 according to which finance, industry, technology and trade related organisations were highlighted in relation to board members' other positions of trust. If considered male managers they mostly had had other positions in the field of trade while women had engaged in finance. See Tables 53–55. In relation to CEOs of large- and mid-cap companies, finance and trade had importance while industry and technology were significant in small caps. See Table 57.

⁸⁷ See Tables 44–49.

⁸⁸ See also Ahern & Dittmar, *supra* n 10; Matsa & Miller, *supra* n 11.

⁸⁹ See Tables 58–64.

⁹⁰ See Tables 65–71.

Management experience played the greatest role in management teams and within CEOs. Interestingly, female board members possessed similar amount or even more management experience than men⁹¹ while the situation was other way round among managers with the exception of large cap companies in 2013.⁹² Corporations engaged in finance and industry were the greatest definers of management experience of board members while in management teams technology, industry and consumables were the biggest. The last two concerned particularly CEOs.⁹³ Men evidently had most responsibilities in certain business areas but also financial duties had importance. This also applies to female board members⁹⁴ but the smaller the company, the more HR, etc. duties got weight within female managers. CEOs mostly had experience from business areas in the biggest companies while in small caps R&D and sales and marketing had more weight.⁹⁵

Interestingly, women either had on average more other significant work experience than men or it was better reported.⁹⁶ Fields of businesses varied from industry, technology and finance to consumables and health care among male board members and in the management teams industry, consumables and finance defined male work experience. In relation to female board members, organisations engaged in trade, consumables, finance and other fields of businesses were in the central role while their manager colleagues had been acted in the fields of consumables, health care, technology and finance. In the case of CEOs, industry, finance, communication and consumables were the most evident fields of businesses in relation to other work experience.⁹⁷

4. They are There for Something

4.1. *The Purpose of the Company: Which Way to Go?*

4.1.1. *Drifting away from Shareholder Primacy*

To be able to argue on behalf of professional managerial elites, the purpose of modern corporations has to be outlined. Mainstream corporate governance theory approaches the question from *agency theory* perspective⁹⁸ characterised by *share-*

⁹¹ Women also had most experience from other director duties. See Tables 93–95.

⁹² See Tables 72–78.

⁹³ See Tables 79–85. Other director experience does not bring any clear answers to experience question if the fields of businesses are concerned. See Tables 96–98.

⁹⁴ On other director duties see Tables 99–100.

⁹⁵ See Tables 86–92.

⁹⁶ See Tables 101–106. See also Table 107 on other working experience of CEOs.

⁹⁷ See Tables 108–114.

⁹⁸ The discussion was started by Adolf Berle and Gardiner C Means in their book *Modern Corporation and Private Property* (1932). See also Armen A Alchian & Harold Demsetz, *Production, Information Costs, and Economic Organization* 62 *The American Economic Review* 777 (1972); Eugene F Fama, *Agency Problems and the Theory of the Firm* 88 *The Journal of Political Economy* 288 (1980); Eugene F Fama & Michael C Jensen, *Separation of Ownership and Control* 26 *Journal of Law & Eco-*

holder primacy.⁹⁹ Investors, traditionally understood as principals, are unable or unwilling to participate in companies' governance particularly in corporations of dispersed ownership wherefore they are represented by their agents; i.e., directors and managers.¹⁰⁰ The situation is absurd as such because shareholders are capital providers¹⁰¹ who expect returns for their investment.¹⁰² They have claims, though residual, over company assets. The division of ownership from control creates the risk of *information asymmetry*¹⁰³ between shareholders and management, which may culminate to moral hazard wherefore company assets are not utilized in the interest of shareholders, contrary to an opposite presumption.¹⁰⁴ To keep limited liability companies attractive in capital markets, corporate law functions as a safeguard towards detrimental acts of the management.¹⁰⁵

Shareholder primacy can be challenged by focusing on the *firm*.¹⁰⁶ Accordingly, the company is not a legal fiction serving as a nexus of contracts¹⁰⁷ but an *individual legal person, distinct from its shareholders*.¹⁰⁸ This concept does not perceive shareholders as the owners of the company.¹⁰⁹ Therefore, contrary to the mainstream

nomics 301 (1983). About critique see e.g., Margaret Blair & Lynn Stout, *A Team Production Theory of Corporate Law* 85 *Virginia Law Review* 247 (1999).

⁹⁹ About shareholder primacy see e.g., Black & Kraakman, *supra* n 23; Hansmann & Kraakman, *supra* n 15. See also *Dodge v. Ford Motor Co.*, 170 N.W. 668, 684 (Mich. 1919); Adant K Sundaram & Andrew C Inkpen, *The Corporate Objective Revisited* 15 *Organization Science* 350 (2004); Lucian Arye Bebchuk, *The Case for Increasing Shareholder Power* 118 *Harvard Law Review* 833 (2005).

¹⁰⁰ See the discussion on elitist theory above.

¹⁰¹ Cf. Adolf A Berle & Gardiner C Means, *The Modern Corporation and Private Property: A Preface to the Revised Edition* (New York: Harcourt, Brace & World, cop. 1968); Petri Mäntysaari, *Organising the Firm: Theories of Commercial Law, Corporate Governance and Corporate Law* 95 (New York: Springer, 2012).

¹⁰² Andrei Shleifer & Robert W Vishny, *A Survey of Corporate Governance* 52 *The Journal of Finance* 737, 737 (1997).

¹⁰³ This causes agency costs. See e.g., Michael C Jensen & William H Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure* 3 *Journal of Financial Economics* 305 (1976).

¹⁰⁴ See also Shleifer & Vishny, *supra* n 102; Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer & Robert W Vishny, *Investor Protection and Corporate Governance* 58 *Journal of Financial Economics* 3 (2000). Petri Mäntysaari argues that shareholders' position as main risk bearers can also be challenged with taking into account the other interest groups of the company, i.e. creditors, employees and business partners etc., whose risks mainstream discussion tends to forget. Mäntysaari, *supra* n 101, at 96.

¹⁰⁵ Similarly Rafael La Porta, Florencio Lopez-de-Silanes & Andrei Shleifer, *Law and Finance* 106 *Journal of Political Economy* 1113 (1998); La Porta et al., *supra* n 104, at 5.

¹⁰⁶ Inter alia Petri Mäntysaari is the proponent of this viewpoint. See e.g., Mäntysaari, *supra* n 101.

¹⁰⁷ Cf. Jensen & Meckling, *supra* n 103, at 310–311.

¹⁰⁸ This was already confirmed in the case *Salomon v. A Salomon & Co. Ltd* [1897] AC 22 (HL (E)). Shareholders' contribution to corporate funding is not held that significant either. This concerns the exchange of stocks already existing in the markets. Berle & Means, *supra* n 101, at the preface to the revised edition; Mäntysaari, *supra* n 101, at 95.

¹⁰⁹ As Morten Huse argues, shareholders specifically own the shares, not the company. Huse, *supra* n 22, at 14. Cf. Berle & Means, *supra* n 101, at Book Four, Ch. I.

agency theory, shareholders are not the principals of the company but the firm¹¹⁰ and their interests are not paralleled by the ones of the company.¹¹¹ The company's legal personality and shareholders' limited liability of company's obligations enable the separation of ownership from management.¹¹² Shareholders' existence is explained with their task to provide the company different ancillary services, which they are compensated for.¹¹³ If company's purpose is defined as: to *pursue profits for shareholders*, it functions as a tool to compensate shareholders' experience on risk. The rule however is the application of the principle according to which *management shall promote the interest of the company*. This contributes to the firm's emergence in the competition over the *long run*.¹¹⁴ And if the firm is able to realize positive (not maximum) profits, its survival is more probable.¹¹⁵

4.1.2. Long-term Value, Wrong Remedies

As corporations inevitably are profit seeking enterprises,¹¹⁶ the proponents of quotas try to satisfy sceptics by connecting 'fairness' aspect to the question of best performance by arguing that competitiveness can be reinforced with more women on boards.¹¹⁷ Discussion is different than in relation to traditional CSR context¹¹⁸ if thought for example pollution or labour conditions in third countries. However, corporations are expected to do their part in contributing gender equality in the society.¹¹⁹ The argumentation in quota discussion follows the logic of the principle of *enlightened value maximization*. By taking into account the interests of also other *stakeholders* in the firm than those with financial claims, management can promote the

¹¹⁰ See e.g., Mäntysaari, *supra* n 101.

¹¹¹ Petri Mäntysaari, *The Law of Corporate Finance: General Principles and EU Law Cash Flow, Risk, Agency Information Volume I 4* (1st ed., New York: Springer, 2010).

¹¹² Timo Kaisanlahti, *Extended Liability of Shareholders?* 6 *Journal of Corporate Law Studies* 139 (2006); Mäntysaari, *supra* n 111, at 73.

¹¹³ See e.g., Mäntysaari, *supra* n 101, at 110–113.

¹¹⁴ Petri Mäntysaari, *Mitä Etua Yhtiön Johdon on Edistettävä?* *Defensor Legis* 592 (4/2013).

¹¹⁵ Armen A Alchian, *Uncertainty, Evolution, and Economic Theory* 58 *The Journal of Political Economy* 211, 213 (1950); Mäntysaari, *supra* n 114, at 592.

¹¹⁶ Melvin Aron Eisenberg, Ralph K Winter & Fred S McChesney, *The Structure of Corporation Law* 89 *Columbia Law Review* 1461 (1989).

¹¹⁷ See e.g., Adams & Ferreira, *supra* n 10.

¹¹⁸ About CSR see e.g., Campbell, *supra* n 15. About the critique see e.g., Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, *New York Times Magazine* (13 September 1970), available at <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html> (accessed 10 July 2014). He holds CSR as 'unadulterated socialism' and emphasizes companies' function as money makers. According to Campbell, *supra* n 15, at 953, competition environment matters in the willingness of companies to engage in socially responsible business actions. If there is either too much or too little competition, companies are less likely to perform socially responsible.

¹¹⁹ Organisations are expected to conform to certain prevailing values in the society. Paul J DiMaggio & Walter W Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields* 48 *American Sociological Review* 147 (1983). Of the positive reputational effects of gender diversity on company from CSR perspective see Stephen Bear, Noushi Rahman & Corinne Post, *The Impact of Board Diversity and Gender Composition on Corporate Social Responsibility and Firm Reputation* 97 *Journal of Business Ethics* 207 (2010).

generally preferable goal of corporation, i.e., *long-term value*.¹²⁰ However, for example in the Norwegian context, it is not clear whether a greater amount of women on boards will lead to more sustainable companies or not.¹²¹ In addition, the studies referred to earlier do not indicate any unanimous impact of greater gender diversity on long-term value.¹²²

Altogether, quotas' approach to value creation cannot be held believable. Instead, they fundamentally aim at introducing a rule that promotes socially loaded public interest.¹²³ Though investors and others interested in the financial success of the company and the members of management may surely esteem also values than purely monetary,¹²⁴ attention has to be directed to the definition of *the interest of the firm* to be able to take a stand on the contributors necessary to long-term value.

4.1.3. *Focus in the Interest of the Firm*

The interest of the firm can be hard to identify with the shareholders' because of their divergent interests.¹²⁵ The same analogy could be utilised in the discussion of the interests of other stakeholders of the company.¹²⁶ Therefore it is rationalistic to presume that the highest objective, interest or benefit of a firm is its *own (long-term) survival*. To succeed in this, companies have to best others in a competition.¹²⁷ This approach favours the interpretation of company law regulation from the firm-specific perspective.¹²⁸

In relation to quota discussion, the interest of the firm is best perceived by the model presented above. This is because of the point relating to shareholders and sec-

¹²⁰ Michael Jensen, *Value Maximisation, Stakeholder Theory, and the Corporate Objective Function* 7 *European Financial Management* 297 (2001). According to the preparatory works of Finnish Limited Liability Companies Act long-term value can be contributed through adapting socially accepted measures to which legislation does not obligate firms. Hallituksen esitys (HE) Eduskunnalle uudeksi osakeyhtiölainsäädännöksi 109/2005 vp. [Government bill 109/2005 on new limited company regulations], at 39. Women in the management and board is a typical stakeholder issue. See e.g., Max BE Clarkson, *A Stakeholder Framework for Analyzing and Evaluating Corporate Social Performance* 20 *The Academy of Management Review* 92, 101 (1995). Enlightened value maximization fundamentally bases on shareholder primacy. Huse, *supra* n 22, at 21.

¹²¹ Beate Sjøfjell, *Sustainable Companies: Possibilities and Barriers in Norwegian Company Law*, 23 (2013), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2311433&download=yes (accessed July 14, 2014).

¹²² About critique see also e.g., Adams & Ferreira, *supra* n 10; Hopt, *supra* n 15, at 34–35.

¹²³ See Teigen, *supra* n 6, at 9; Sjøfjell, *supra* n 121, at 23. See also Matsa & Miller, *supra* n 11, at 8.

¹²⁴ See e.g., Ian B Lee, *Corporate Law, Profit Maximization, and the "Responsible" Shareholder* 10 *Stanford Journal of Law, Business & Finance* 31 (2005).

¹²⁵ See e.g., Mäntysaari, *supra* n 111, at 185–188.

¹²⁶ Cf. The understanding of the benefit of the firm in the team production model where the interest of the firm could be regarded as the interests of the members of the team. See Blair & Stout, *supra* n 98. See also Alchian & Demsetz, *supra* n 98.

¹²⁷ See Mäntysaari, *supra* n 101, at 45; Mäntysaari, *supra* n 114, at 586. It has been also stated in the preparatory works of Finnish Limited Liability Companies Act that the corporation should aim at the continuity of its operation. HE 109/2005, *supra* n 120, at 39.

¹²⁸ See HE 109/2005, *supra* n 120, at 16.

only, because of the concern originating from a quota regulation's weak justification for the linkage between greater gender diversity and corporate result, which leads to suspect that the fundamental motives only are in the equality. Accordingly, if managers engage in the promotion of social values, these are not necessarily in line with the interest of the agent; i.e., company.¹²⁹ Therefore attention has to be paid to the question of the *field of business* of the corporation. The interest of the company has to be understood to cover the acts that are in accordance with this purpose.¹³⁰ The role of the management in fulfilling this purpose has to be scrutinized further.

4.2. *The Government of Best Minds*

4.2.1. *Company's Best with Appropriate Tools*

Even though firms are legal persons, individuals run them. One can argue that shareholders specifically hire directors to manage their investments.¹³¹ However, neither directors nor other managers indirectly, are liable to shareholders as such but they are expected to promote the interests of the company.¹³² This includes that management shall act with *due care*.¹³³ Management has to carry out measures within the framework of company's field of business that in an appropriately manner promotes the business.¹³⁴ However, duty of care has to be scrutinized through process, not result. Accordingly, management has no obligation to guarantee success *per se*.¹³⁵

In this process, strategic choices, operations, financial and risk management shall function as the ways to contribute survival.¹³⁶ The board, management team and CEO play their own roles in the fulfilment of these tasks. The board answers for the first while management team and CEO are in response for the rest. Success in the sectors above guarantees that corporation is run for the best of its interest. What is needed for this is scrutinized in the next chapter.

4.2.2. *Characters of Success*

Innovativeness dictates that companies engage in varied dimensions of diversity to avoid the risks of one-sidedness.¹³⁷ Thus to function as an effective entity, for exam-

¹²⁹ Similarly Friedman, *supra* n 118.

¹³⁰ This also holds though field of business was only generally defined to cover 'all legal business'. See for example HE 109/2005, *supra* n 120, at 44.

¹³¹ Similarly Friedman, *supra* n 118; Blair & Stout, *supra* n 98, at 248.

¹³² Similarly Mäntysaari, *supra* n 101, at 91.

¹³³ See for example Finnish Limited Liability Companies Act (624/2006) Chapter 1 Section 8. In the mainstream literature, due care has been understood as the protection of shareholders. See e.g., Eisenberg et al, *supra* n 116.

¹³⁴ Mäntysaari, *supra* n 114, at 582.

¹³⁵ Douglas M Branson, *Intracorporate Process and the Avoidance of Director Liability* 24 Wake Forest Law Review 97, 97 (1989). See also about business judgment rule e.g., Stephen M Bainbridge, *The Business Judgment Rule as Abstention Doctrine* 57 Vanderbilt Law Review 83 (2004).

¹³⁶ Mäntysaari, *supra* n 101, at 91.

¹³⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Action Plan: European Company

ple, the board has to consist of an ensemble of different backgrounds and experiences.¹³⁸ The Commission has expressed its concern that there is a risk of group-thinking if educational or professional backgrounds of board members are too similar.¹³⁹ Women may increase the diversity in expertise and experience.¹⁴⁰ However, emphasised diversity can negatively impact on the coherence of management organs¹⁴¹ and their ability to adapt to strategic challenges¹⁴² wherefore less diversity may better contribute to value. Data from Finnish listed companies demonstrates that companies rely on certain conformity, which arguably enforces rational decision-making therefore mitigating the risk of random behaviour.¹⁴³

As concluded, men dominated management in Finnish companies. However, gender shall not be the qualification criterion but age indirectly matters if thought from an experience point of view.¹⁴⁴ Available data creates a presumption that higher age is appreciated. On the other hand, lower age arguably positively correlates with the innovativeness, willingness to risk-taking and growth. Accordingly, the older the members of management the more conservative they probably are therefore sticking to customary manners.¹⁴⁵ Particularly in small and start-up companies, younger age could therefore benefit companies, which has been also noticed among Finnish listed companies in relation to male directors and managers.¹⁴⁶

If experience is concerned, the amount of management duties is highlighted. Boards select the members of top management including a CEO to whom directors

Law and Corporate Governance – A Modern Legal Framework for More Engaged Shareholders and Sustainable Companies, COM(2012) 740 final, 6.

¹³⁸ See e.g., Drerek Higgs (Higgs report), *Review of the Role and Effectiveness of Non-Executive Directors in the United Kingdom*, 39–40 (2003), available at <http://www.ecgi.org/codes/documents/higgsreport.pdf> (accessed 14 July 2014); Norwegian code of practice for corporate governance, 32 (2012), available at <http://www.nues.no/en/frontpage/slideshow/The+Norwegian+Code+of+Practice+for+Corporate+Governance.9UFRnUYk.ips> (accessed 14 July 2014). Stacy Blake and Taylor Cox argue that diversity does not mean only variety of skills and knowledge but also greater cultural diversity. Stacy Blake & Taylor H Cox, *Managing Cultural Diversity: Implications for Organizational Competitiveness* 5 *The Executive* 45 (1991). See also Kamalesh Kumar, Larry K Michaelsen & Warren E Watson, *Cultural Diversity's Impact on Interaction Process and Performance: Comparing Homogeneous and Diverse Task Groups* 36 *Academy of Management Journal* 590 (1993).

¹³⁹ COM(2013) 207 final, *supra* n 30, at 5.

¹⁴⁰ Brian Groom, *Females Add Diversity to Boards*, *Financial Times* (3 March 2013), available at <http://www.ft.com/cms/s/0/5a3467f6-82ac-11e2-a3e3-00144feabdc0.html#axzz37Vh4DbPI> (accessed July 15, 2014).

¹⁴¹ Similarly see Adams & Ferreira, *supra* n 10, at 23.

¹⁴² Jerry Goodstein, Kanak Gautam & Warren Boeker, *The Effects of Board Size and Diversity on Strategic Change* 15 *Strategic Management Journal* 241 (1994).

¹⁴³ See Mäntysaari, *supra* n 101, at 44.

¹⁴⁴ See e.g., Beverly B Tyler & H Kevin Steensma, *The Effects of Executives' Experiences and Perceptions on their Assessment of Potential Technological Alliances* 19 *Strategic Management Journal* 939, 943 (1998).

¹⁴⁵ See e.g., John Child, *Managerial and Organizational Factors Associated with Company Performance I* 11 *Journal of Management Studies* 175, 181–183 (1974); Tyler & Steensma, *supra* n 145, at 943.

¹⁴⁶ See also McCahery & Vermeulen, *supra* n 30, at 137.

serve as a source of advice and counsel.¹⁴⁷ Boards are important groups for the planning and evaluating of *strategic*, long-term decision-making in the company and whether managers are able to implement this strategy¹⁴⁸ in an efficient manner. These tasks emphasise boards' relevance to the success of corporation,¹⁴⁹ which also explains companies' appreciation of board experience both in the boards and management teams. Men clearly had more wisdom in this field. They also possessed more chairmanships than their female colleagues. Experience in this respect was less in management teams where knowledge of top management duties played a greater role. However, to be able to draw strategic lines and assess whether managers act in line with the corporate interest, board members shall also have operational knowledge. In 2013, female board members seemed to fare to men at this sector but in management teams the situation was opposite with the exception of large-cap companies. Profitability requires operational efficiency,¹⁵⁰ which emphasises the importance of able management in contributing better long-term performance.¹⁵¹ In providing management skills and understanding of the issues facing top management, for example CEO experience plays a considerable role.¹⁵² Women possessed less wisdom in this sense. Surprisingly, managers and managing directors did not shine through with their CEO experience.

In addition to experience in board and managerial duties, education as a presumption of certain level of intelligence¹⁵³ has to be given importance. It could be argued

¹⁴⁷ Mace, *supra* n 70, at 178; McCahery & Vermeulen, *supra* n 30, at 126.

¹⁴⁸ COM(2010) 284 final, *supra* n 85, signals that financial crisis was an embodiment of the deficiency in this kind of knowledge.

¹⁴⁹ Daniel P Forbes & Frances J Milliken, *Cognition and Corporate Governance: Understanding Boards of Directors as Strategic Decision-Making Groups* 24 *The Academy of Management Review* 489 (1999); Renée Adams, Benjamin E Hermlin & Michael S Weisbach, *The Role of Boards of Directors in Corporate Governance: A Conceptual Framework and Survey* 48 *Journal of Economic Literature* 58 (2010); COM(2012) 740 final, *supra* n 138, at 5–6; Deloitte, *Hot Topics. Improving Board Effectiveness: Oversight of Strategy*, (2012), available at http://www.corpgov.deloitte.com/binary/com.epicentric.comtentmanagement.servlet.ContentDeliveryServlet/USEng/Documents/Deloitte%20Periodicals/Hot%20Topics/Improving%20Board%20Effectiveness_Oversight%20of%20Strategy_Hot%20Topics_Deloitte_November%202012.pdf (accessed 15 July 2014). McCahery & Vermeulen suggest that boards' role is considerably more important in creation of growth and business value than initially thought. McCahery & Vermeulen, *supra* n 30, at 133.

¹⁵⁰ Mäntysaari, *supra* n 101, at 45.

¹⁵¹ See also Thomas J Chemmanur, Lei Kong & Karthik Krishnan, *Human Capital, Management Quality, and Firm Performance*, (2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2411231&download=yes (accessed 15 July 2014). They scrutinized the influence of management team size, MBA degrees, employment and education, prior working experience in the top management team, and the average number of prior board positions that each manager serves on.

¹⁵² Adams et al., *supra* n 150, at 85. According to Rüdiger Fahlenbrach, Angie Low & René M Stulz, *Why Do Firms Appoint CEOs as Outside Directors?*, (2008), available at http://papers.ssrn.com/sol3/papers.cfm?Abstract_id=1160276 (accessed 15 July 2014), CEO directors do not add considerable value.

¹⁵³ Similarly Sanjai Bhagat, Brian Bolton & Ajay Subramanian, *CEO Education, CEO Turnover, and Firm Performance*, 2 (2010), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1670219&download=yes (accessed 15 July 2014).

that higher education of CEOs and other top managers correlates with the innovativeness of the firm¹⁵⁴ and willingness to change corporate strategy.¹⁵⁵ The same analogy could be used in relation to board members. Thus, if hypothesized that the higher the education, the better company performance was.¹⁵⁶ In Finland, masters' degree seemed to be the criteria for both board and management working. However, it cannot be argued whether men were higher educated than women.¹⁵⁷ Degrees in business administration seemed to have importance both among men and women though men possessed them more. MBA degree could be expected to improve corporate success though it has been also suggested that MBA degree only leads to short-term improvements in operating performance.¹⁵⁸ There are studies that suggest that MBA does not necessarily correlate with firm performance *per se*.¹⁵⁹ Possessing a MBA degree may indicate of an ability in learned methods in relation to corporate management,¹⁶⁰ which necessarily is not the best contributor to value. Thus, other virtues are also needed for effective, profitable management.

Because the level of education or formal competence in business administration does not tell all from attributes necessary to firm performance, company-specific knowledge has to be given importance as the contributor of success.¹⁶¹ Educational background arguably influences on which information directors and managers focus on and how they utilise this information in relation to strategy.¹⁶² For example, Barker and Mueller suggest that firms with CEOs possessing degree in science-related education are more likely to invest in R&D,¹⁶³ which without dispute relates to long-term

¹⁵⁴ JR Kimberly & MJ Evanisk, *Organizational Innovation: The Influence of Individual, Organizational and Contextual Factors* 24 *Academy of Management Journal* 689 (1981); Karen A Bantel & Susan E Jackson, *Top Management and Innovations in Banking: Does the Composition of the Top Team Make a Difference?* 10 *Strategic Management Journal* 107 (1989).

¹⁵⁵ Margarethe F Wiersema & Karen A Bantel, *Top Management Team Demography and Corporate Strategic Change* 35 *Academy of Management Journal* 91 (1992).

¹⁵⁶ Cf. Bhagat et al., *supra* n 154, who suggest that CEO education has no influence on the long-term firm performance.

¹⁵⁷ According to Credit Suisse 2012 women account for example greater proportion of graduates than men and the number is likely to increase. Credit Suisse 2012, *supra* n 10, at 18. See also COM(2012) 614 final, *supra* n 4.

¹⁵⁸ Bhagat et al., *supra* n 154.

¹⁵⁹ Donald C Hambrick & Phyllis A Mason, *Upper Echelons: The Organization as a Reflection of Its Top Managers* 9 *The Academy of Management Review* 193, 201 (1984); Aron A Gottesman & Matthew R Morey, *Does a Better Education Make for Better Managers?: An Empirical Examination of CEO Educational Quality and Firm Performance*, (2006), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=564443 (accessed July 15, 2014).

¹⁶⁰ Similarly see e.g., John Graham & Campbell Harvey, *How do CEOs make Capital Budgeting and Capital Structure Decisions?* 15 *Journal of Applied Corporate Finance* 8 (2002).

¹⁶¹ Morten Huse defines firm-specific knowledge as a resource for the firm. Huse, *supra* n 22, at 74.

¹⁶² Similarly see Michael A Hitt & Beverly B Tyler, *Strategic Decision Models: Integrating Different Perspectives* 12 *Strategic Management Journal* 327 (1991).

¹⁶³ Vincent L Barker III & George C Mueller, *CEO Characteristics and Firm R&D Spending* 48 *Management Science* 782 (2002).

value.¹⁶⁴ If considered Finnish listed companies, degrees in economic sciences played a considerable role both among women and men. Boards make important financial decisions¹⁶⁵ and assess the quality of the financial information released by the company. Accounting and financial expertise is therefore needed.¹⁶⁶ Instead, theoretical wisdom in law seems to have little importance in company performance¹⁶⁷ and it did not have an emphasized status in Finnish listed companies either with the exception of CEOs. Though companies need expertise in economic and legal matters, in firms acting for example in the field of industry there is not much benefit of management possessing degrees in economic sciences or law if directors and managers with the wisdom in technical sciences are few.¹⁶⁸ In relation to Finnish companies, conclusions can be made in this sense: men possessed clearly more degrees in technical sciences than women, which correlate with the fields of businesses of companies in question. According to McCahery and Vermeulen, law, financial and governance experts are valued because they are viewed as best from the oversight and supervisory perspective. However, they are not the best to contribute to discussion around strategy.¹⁶⁹ Thus, industry-related wisdom is crucial.

As Gottesman and Morey argue, in contributing to firm performance, the significance of education may diminish when the amount of experience increases.¹⁷⁰ Therefore, above discussed board and management experience gets more relevance. As already noticed, men were more skilled in board experience. In relation to management duties, female directors seemed to possess a similar amount of experience. This is not the whole truth but the field of experience also is crucial. For example, in the case of Apple, to be able to contribute to firm success, board members were expected to possess a deep understanding of computer science and company's products.¹⁷¹ Finnish data confirms that fields of businesses of board and management experience approximately correlated with the companies' in question. However, men clearly exceeded women in possessing relevant experience. Additionally, male directors and managers evidently had most experience in taking care of certain business while female board members, though also having these kinds of responsibilities, had clear experience in finance. In small-caps and management teams women took care of HR, etc.

¹⁶⁴ Michael A Hitt and Beverly B Tyler argue in their article that other industries are more R&D sensitive (e.g., pharmaceuticals) while others are characterized by marketing skills (e.g., toys, processed foods). Hitt & Tyler, *supra* n 163, at 330.

¹⁶⁵ See e.g., Eliezer M Fich & Lawrence J White, *Why Do CEOs Reciprocally Sit on Each Other's Boards?* 11 *Journal of Corporate Finance* 175, 192 (2005).

¹⁶⁶ Thomas Jeanjean & Hervé Stolowy, *Determinants of Board Members' Financial Expertise: Empirical Evidence from France* 44 *International Journal of Accounting* 378 (2009).

¹⁶⁷ See e.g., Gottesman & Morey, *supra* n 160.

¹⁶⁸ Similarly see Tyler & Steensma, *supra* n 145, at 944.

¹⁶⁹ McCahery & Vermeulen, *supra* n 30, at 131.

¹⁷⁰ Gottesman & Morey, *supra* n 160, at 1.

¹⁷¹ McCahery & Vermeulen, *supra* n 30, at 124.

5. Should We Go Back into the Box or Widen our Understanding Instead?

Corporate elites of Finnish listed companies were selected among ‘sub-elites’¹⁷² of capable people which strengthens the presumption of the correlation between skills and company performance.¹⁷³ McCahery and Vermeulen have found that innovative and high-growth firms focus on valued industry expertise and firm knowledge.¹⁷⁴ Thus, industry-related knowledge but also sufficient amount of relevant board and management experience seemed to play importance. Men clearly were not chosen because of their gender but their comprehensive CVs. The data did not indicate particularly female incompetence but strengthens the hypothesis that capable women are few to perform as directors and managers.¹⁷⁵ Companies therefore utilise all available human resources.¹⁷⁶ One reason for female underrepresentation could be that women have traditionally ended up in public sector positions while men occupy private sector positions.¹⁷⁷ In addition, businesses viewed as male-dominated do not necessarily attract women,¹⁷⁸ which could explain why industry- and technology-oriented Finnish companies do not interest women.

Gender equality has been transformed into a political pawn also in the field of economy and the actions are directed to the scene, which has a great significance on society.¹⁷⁹ Though the importance of responsible elite cannot be denied,¹⁸⁰ the quality of corporate decision-making shall not be compromised. It is not therefore appropriate to interfere in power structures but to rather focus on holding directors and managers accountable whether they perform poorly or misuse their power.¹⁸¹ Financial costs of quotas may constitute an excessive burden to companies causing detrimental

¹⁷² About sub-elites see Bottomore, *supra* n 54, at 5.

¹⁷³ See also Chemmanur et al., *supra* n 152.

¹⁷⁴ McCahery & Vermeulen, *supra* n 30.

¹⁷⁵ See also the arguments of the chairman of Svenskt Näringsliv (i.e. the interest group of economic life in Sweden), *Jens Spendrup*, (2012), available at <http://www.thelocal.se/20140210/business-head-slammed-for-anti-feminism-interview> (accessed 16 July 2014).

¹⁷⁶ Cf. COM(2012)614 final, *supra* n 4, at 3.

¹⁷⁷ Confederation of Finnish Industries, *Naiset ja Miehet Työelämässä*, 7–9 (2013), available at http://ek.fi/wp-content/uploads/naisetmiehet_maaliskuu2013.pdf (accessed 16 July 2014); Official Statistics of Finland (OSF): Labour force survey [e-publication]. ISSN=1798–7857. Employment and unemployment 2013, Appendix table 10. Employed persons aged 15–74 by industry (TOL 2008) and sex in 2009 – 2013. Helsinki: Statistics Finland, available at http://www.stat.fi/til/tyti/2013/13/tyti_2013_13_2014-04-01_tau_010_en.html (accessed 16 June 2014). Similarly in Norway see Teigen, *supra* n 6, at 2.

¹⁷⁸ McKinsey & Company, *supra* n 41, at 8. About critique see Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Strategy for equality between women and men 2010–2015, COM(2010) 491 final, 10.

¹⁷⁹ It has been argued that greater success in equality is achieved if the regulation is directed towards listed companies having considerable impact on the markets as a whole. COM(2012) 614 final, *supra* n 4, at 18.

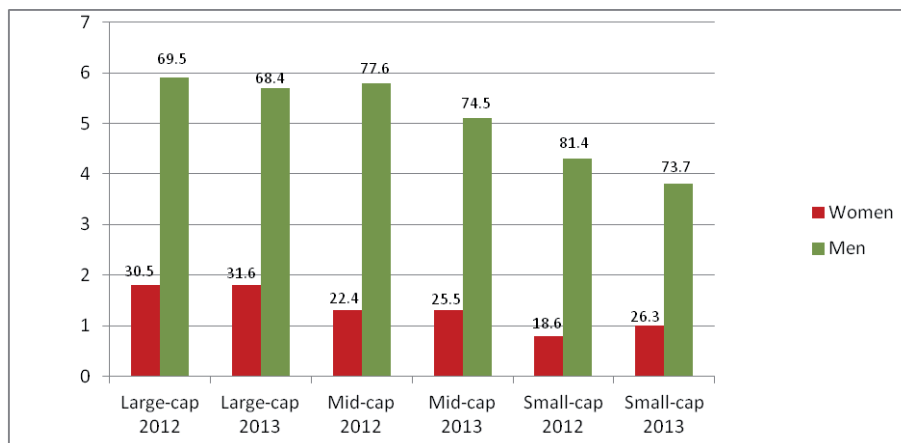
¹⁸⁰ Walker, *supra* n 56, at 295.

¹⁸¹ Similarly Berle, *supra* n 69, at 87.

effects on company value.¹⁸² In addition, a formal one-size-fits-all model could lead to inefficiency and short-termism.¹⁸³ Even though a competition environment would allow companies to engage in socially responsible business actions,¹⁸⁴ the hiring of a member of board or management team in the situation when there are better qualified candidates available may affect corporate profits.¹⁸⁵ Therefore a company's survival in long-term competition requires giving room for skills and knowledge instead of burying oneself in the box of equality.

Appendices

Table 1. The average amounts and percentage ratios of women and men in the boards of directors in 2012 and 2013.¹⁸⁶



¹⁸² Cf. The Commission has argued that the economic profits of quotas would exceed these costs. COM(2012) 614, *supra* n 4, at 8.

¹⁸³ McCahery & Vermeulen, *supra* n 30, at 148.

¹⁸⁴ Campbell, *supra* n 15, at 953.

¹⁸⁵ Similarly see Friedman, *supra* n 118.

¹⁸⁶ The information has been collected during 1.11.2013–4.12.2013. In 2012, totally five small-cap companies did not have women in their boards while the amount being two in 2013.

Table 2. The average amounts and percentage ratios of women and men in the top management teams in 2012 and 2013.¹⁸⁷

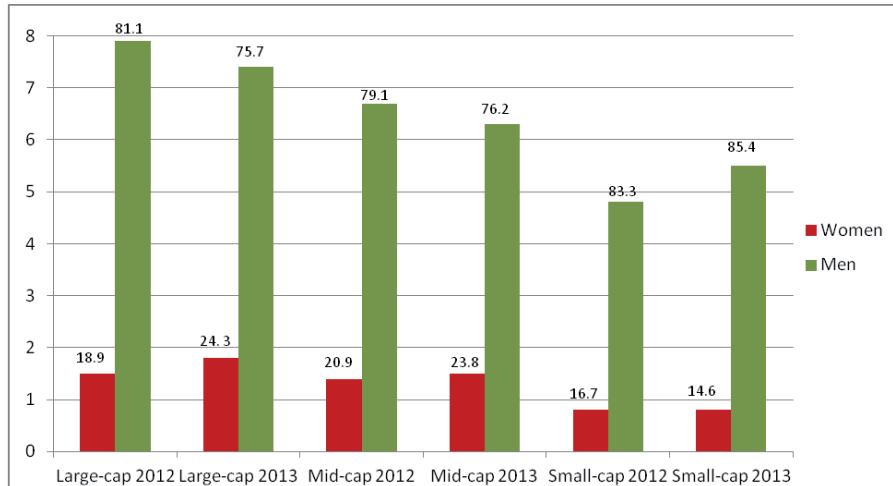
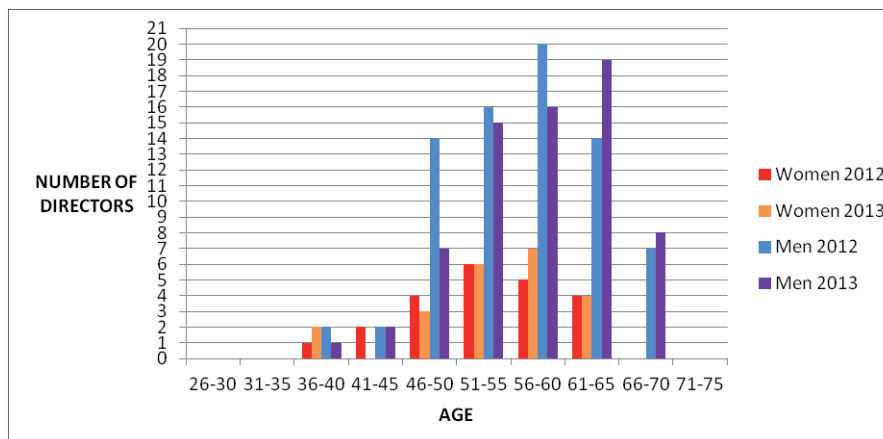


Table 3. The age range of women and men in the boards of large-cap companies.¹⁸⁸



¹⁸⁷ The information has been collected during 1.11.2013–4.12.2013. There was no information on the amount of men and women concerning the management board of 2012 of one mid-cap company. In addition, two small-cap companies did not have separate management boards in 2012–2013. In 2012, four small-cap companies and one mid-cap company did not have women in their management boards. The amount was five in regarding small-cap companies' management boards in 2013 and one in relation to mid-cap companies.

¹⁸⁸ The information has been collected during 4.11.2013–4.12.2013.

Table 4. The age range of women and men in the boards of mid-cap companies.¹⁸⁹

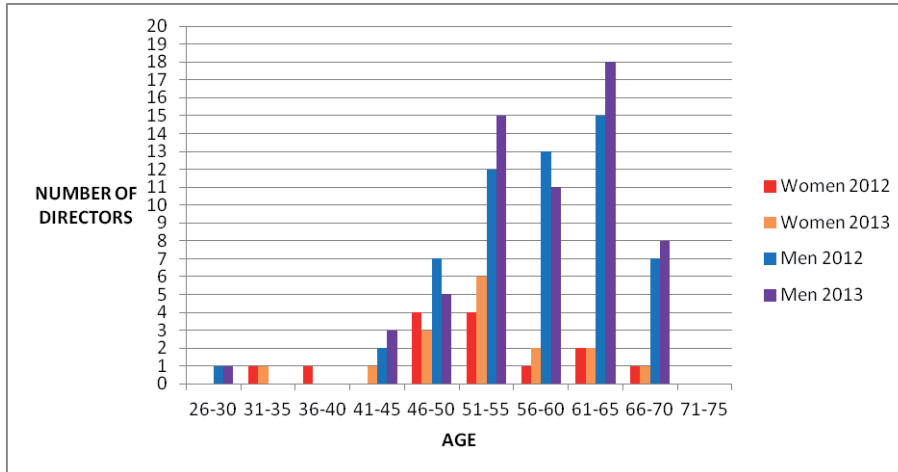
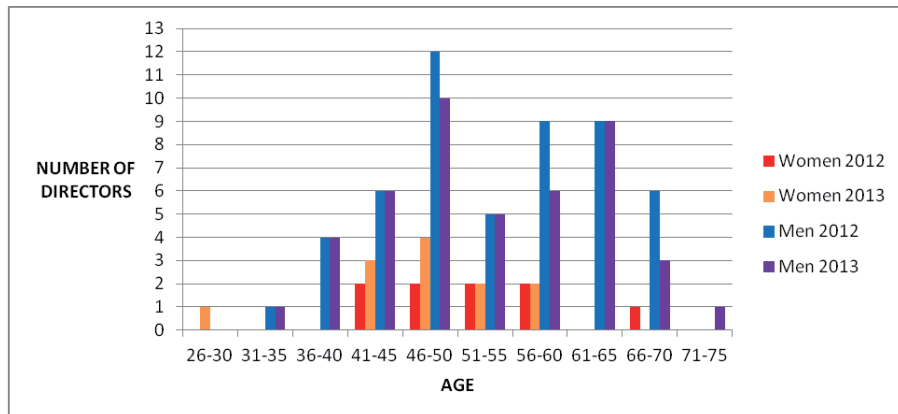


Table 5. The age range of women and men in the boards of small-cap companies.¹⁹⁰



¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

Table 6. The age range of women and men in the top management teams of large-cap companies.¹⁹¹

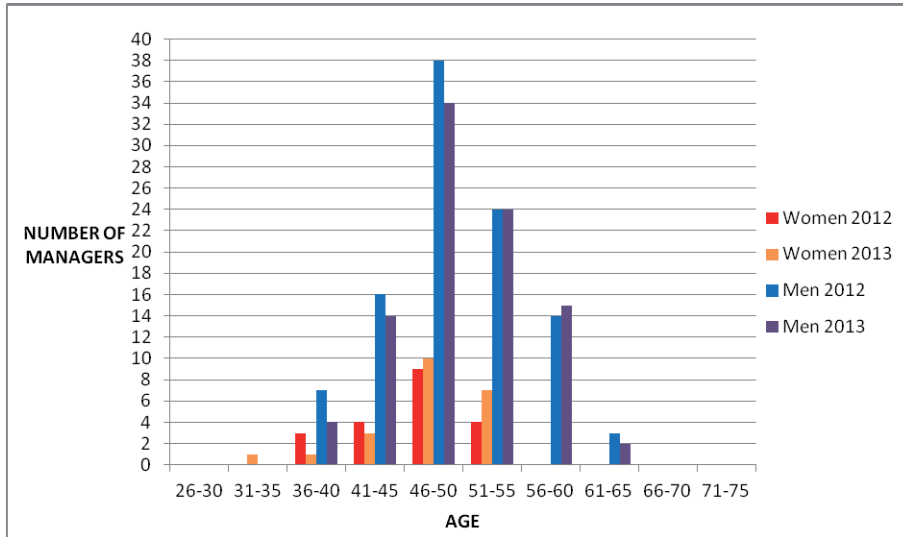
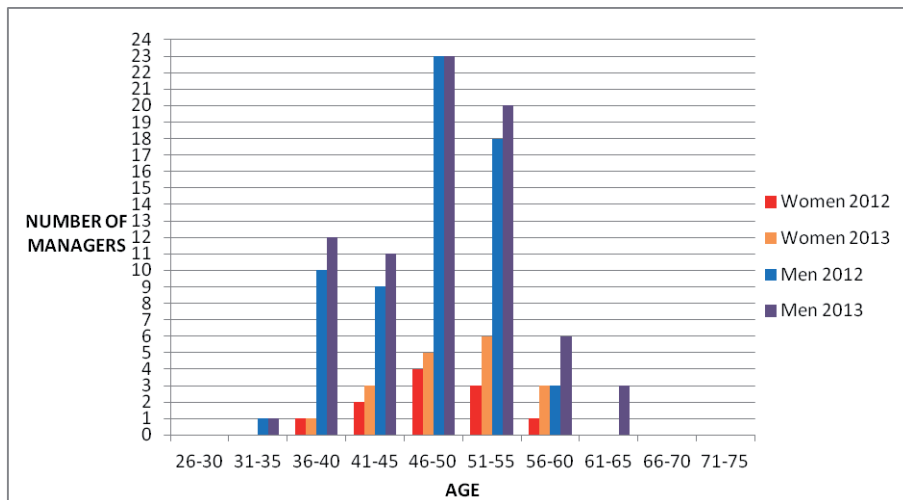


Table 7. The age range of women and men in the top management teams of mid-cap companies.¹⁹²



¹⁹¹ *Ibid.*

¹⁹² The information has been collected during 4.11.2013–4.12.2013. There was no information concerning the age of the members of management board of 2012 of two companies.

Table 8. The age range of women and men in the top management teams of small-cap companies.¹⁹³

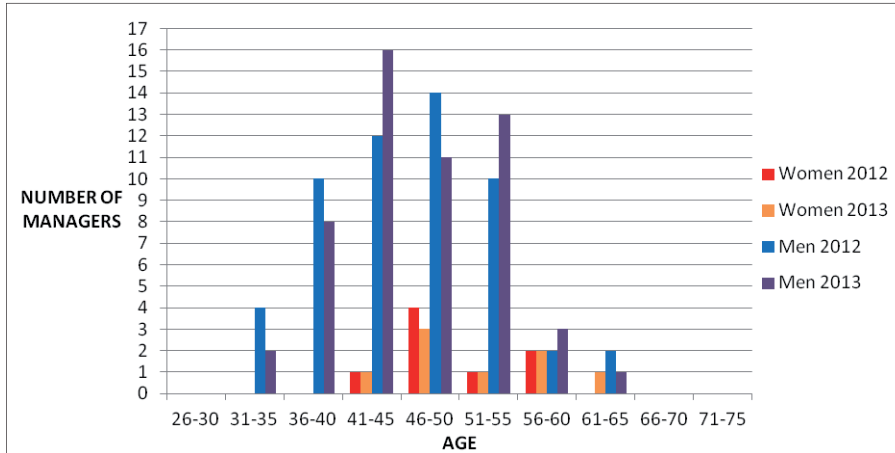
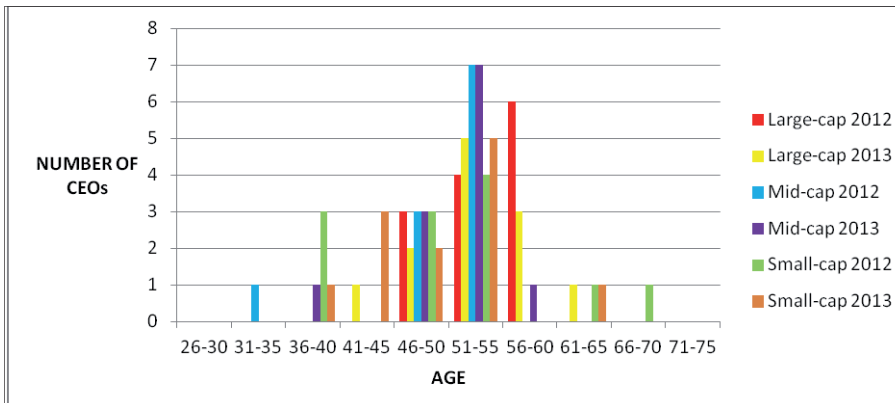


Table 9. The age range of male CEOs in all company groups in 2012–2013.¹⁹⁴



¹⁹³ The information has been collected during 4.11.2013–4.12.2013. Two companies did not have separate management boards in 2012–2013.

¹⁹⁴ The information has been collected during 4.11.2013–4.12.2013.

Table 10. Education degrees of members of boards of large-cap PLCs.

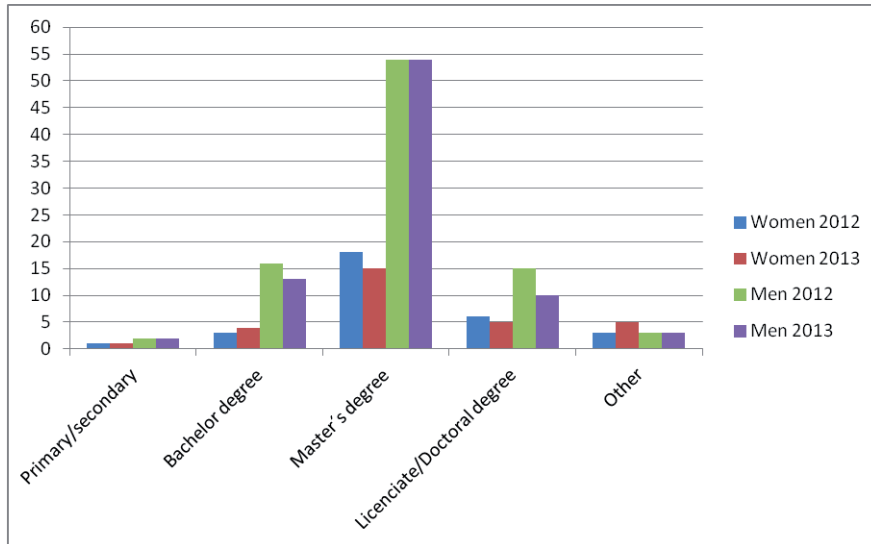


Table 11. Education degrees of members of boards of mid-cap PLCs.

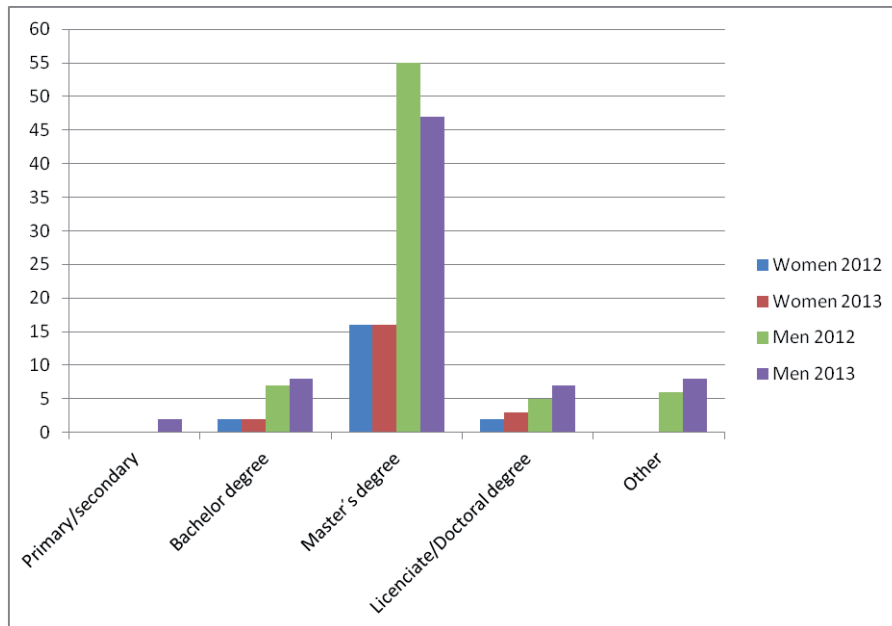


Table 12. Education degrees of members of boards of small-cap PLCs.

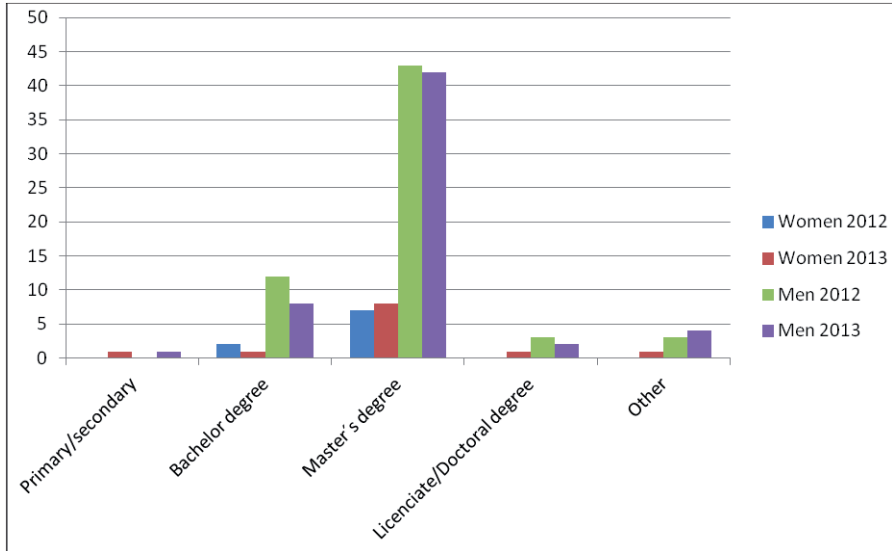


Table 13. Education degrees of members of top management teams of large-cap PLCs.

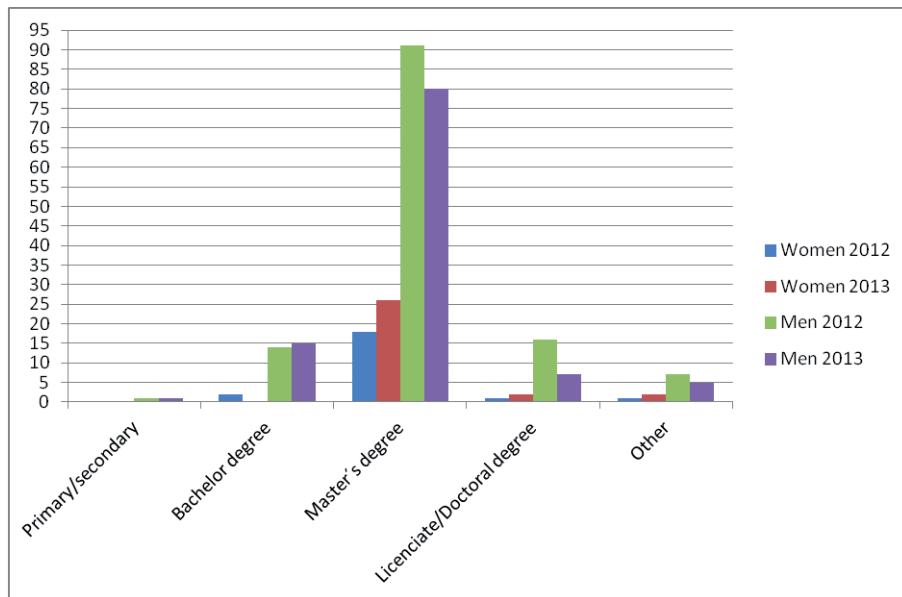


Table 14. Education degrees of members of top management teams of mid-cap PLCs.

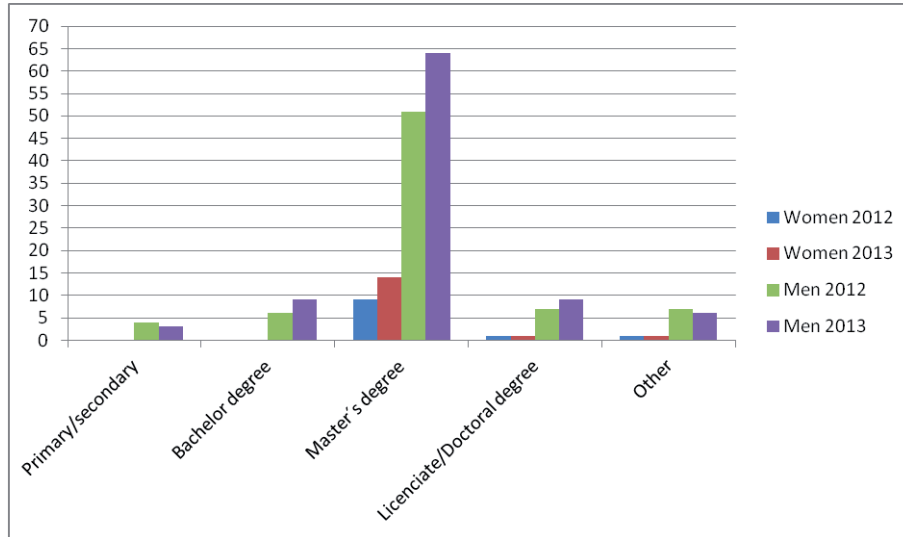


Table 15. Education degrees of members of top management teams of small-cap PLCs.

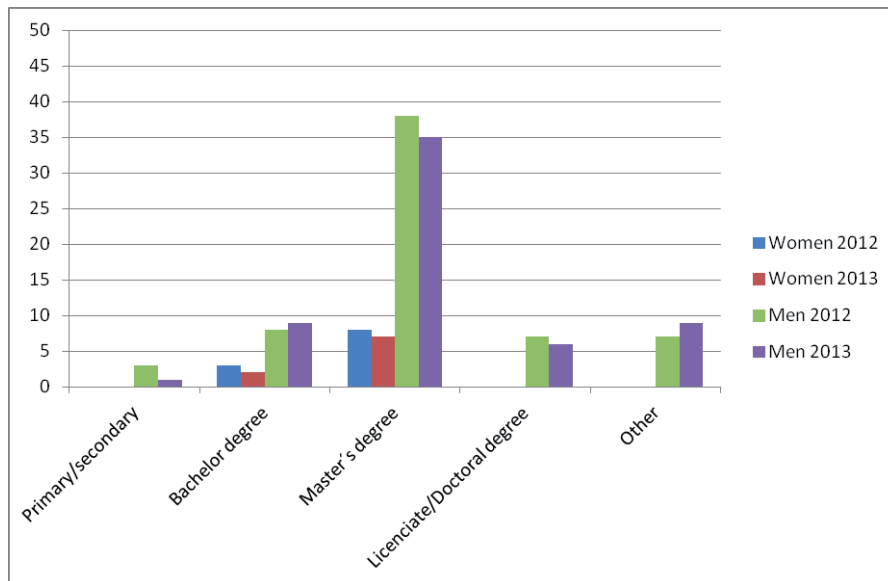


Table 16. Education degrees of male CEOs of all PLCs.

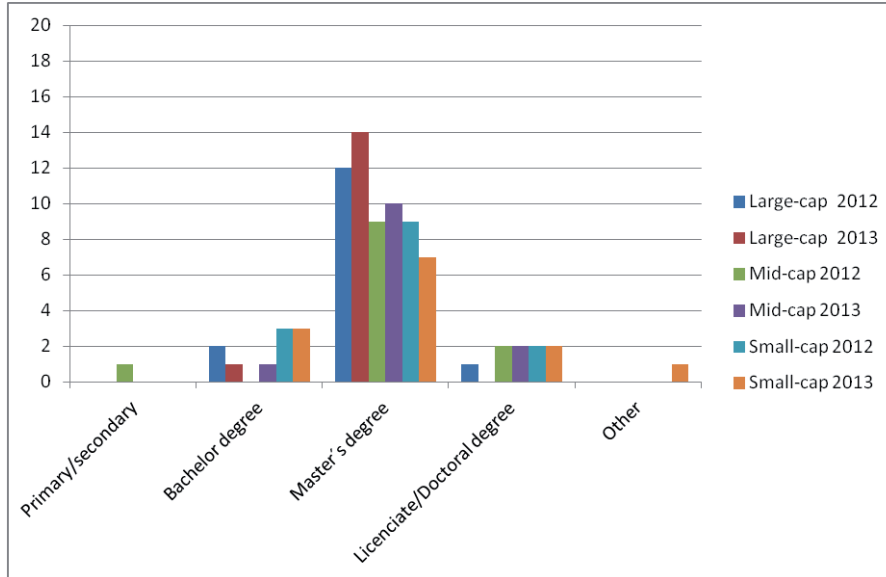


Table 17. Types of education of members of boards of large-cap PLCs.

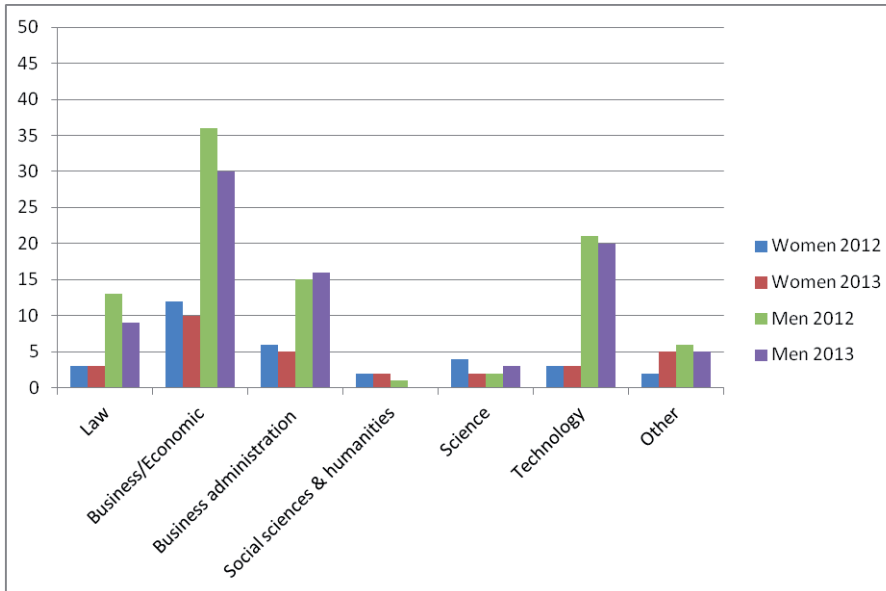


Table 18. Types of education of members of boards of mid-cap PLCs.

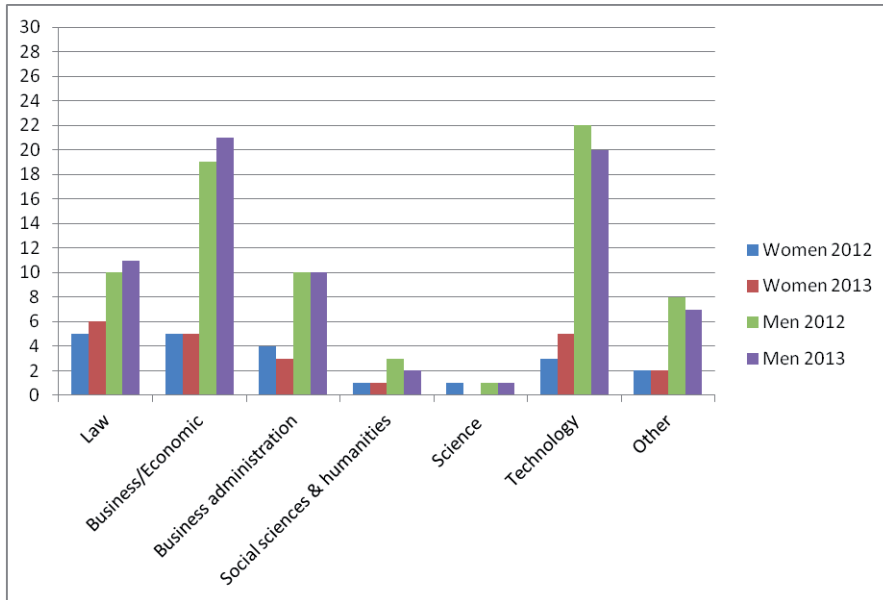


Table 19. Types of education of members of boards of small-cap PLCs.

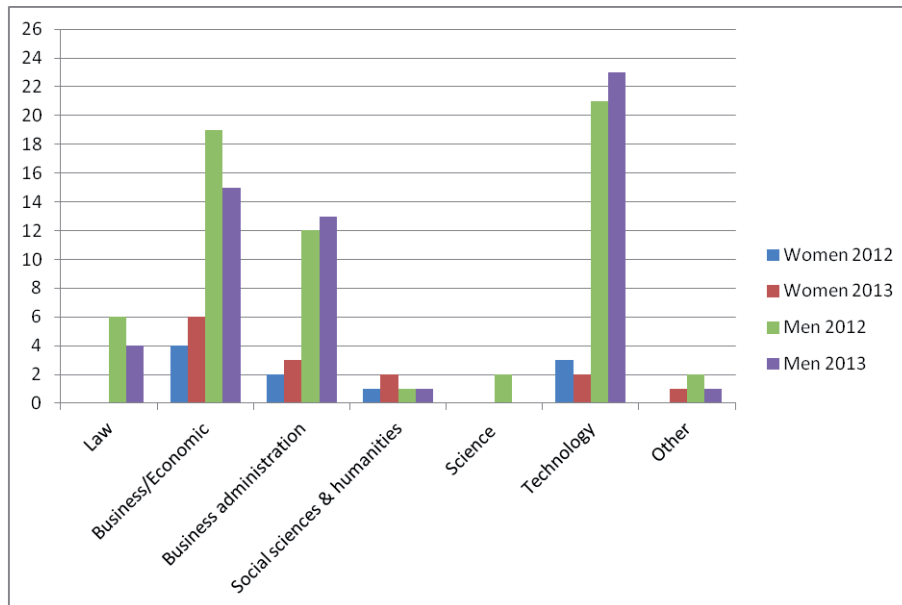


Table 20. Types of education of members of management teams of large-cap PLCs.

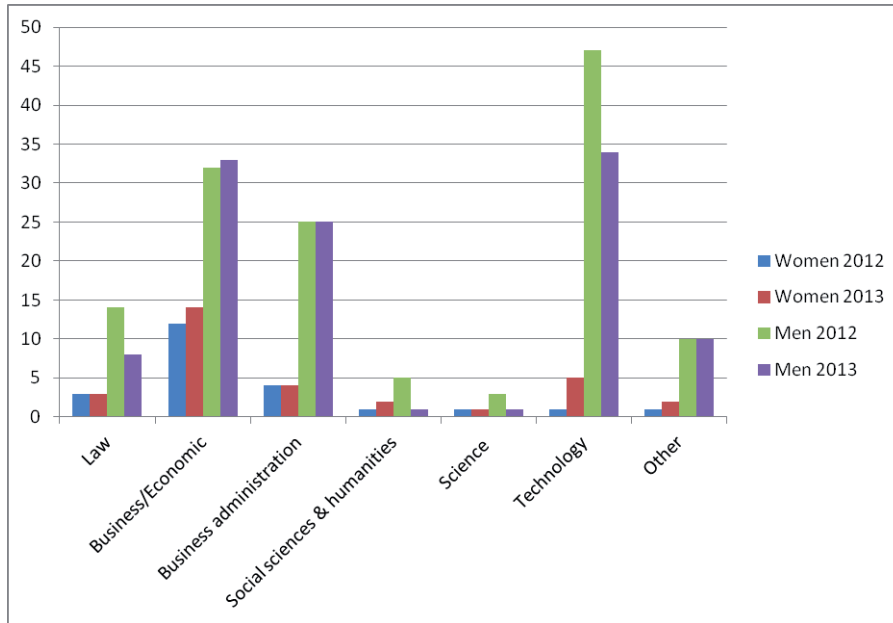


Table 21. Types of education of members of management teams of mid-cap PLCs.

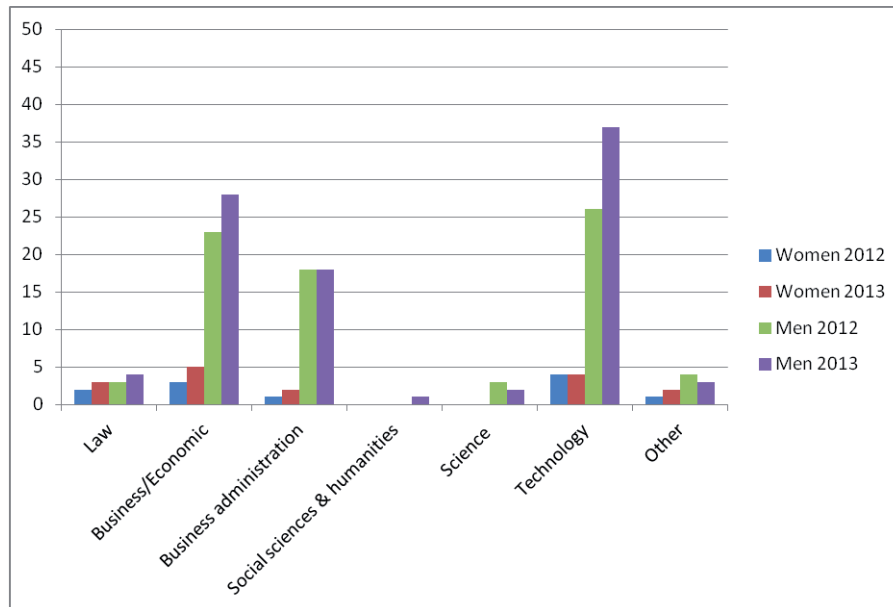


Table 22. Types of education of members of management teams of small-cap PLCs.

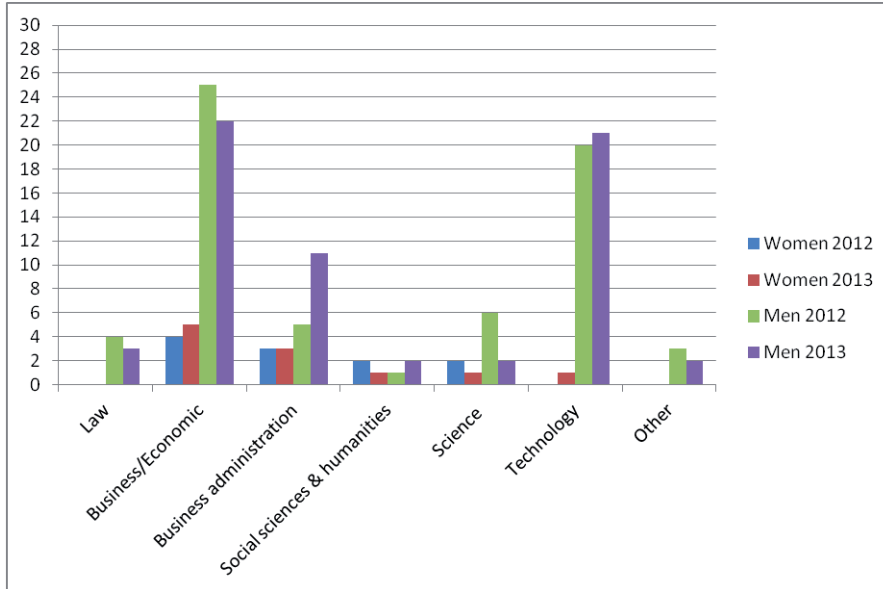


Table 23. Types of education of male CEOs of all PLCs.

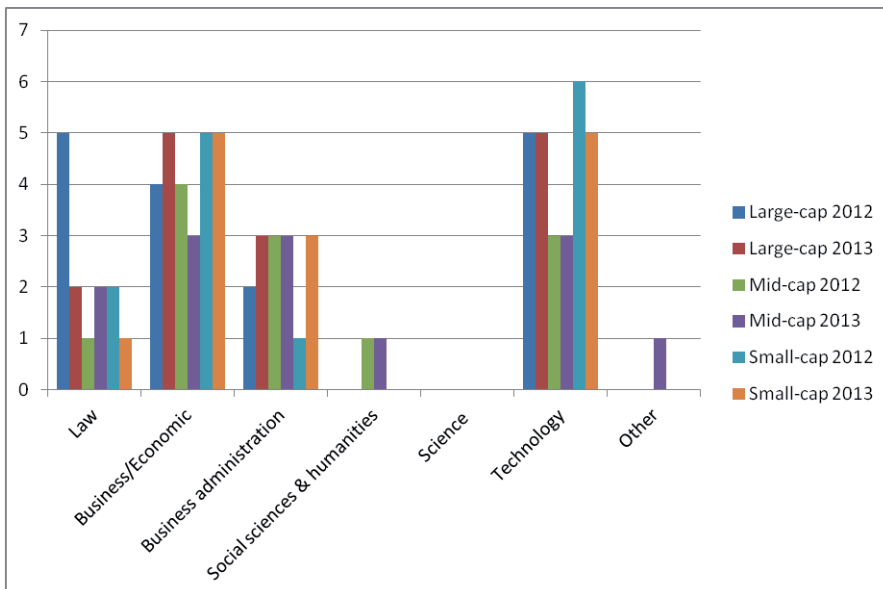


Table 24. Board (of directors) member and chairmanships in limited liability companies and other companies per board member of large-cap companies (women and men) in 2012–2013.

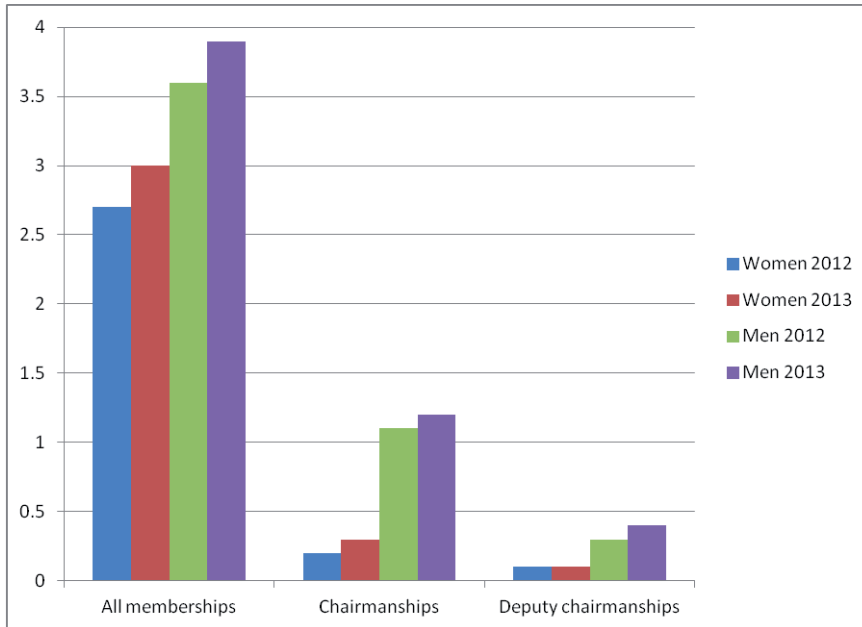


Table 25. Board (of directors) member and chairmanships in limited liability companies and other companies per board member of mid-cap companies (women and men) in 2012–2013.

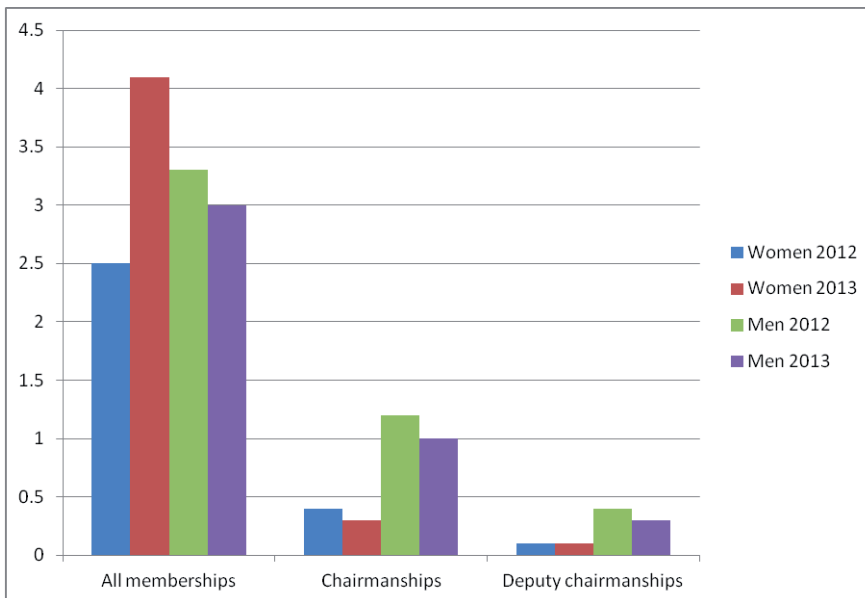


Table 26. Board (of directors) member and chairmanships in limited liability companies and other companies per board member of small-cap companies (women and men) in 2012–2013.

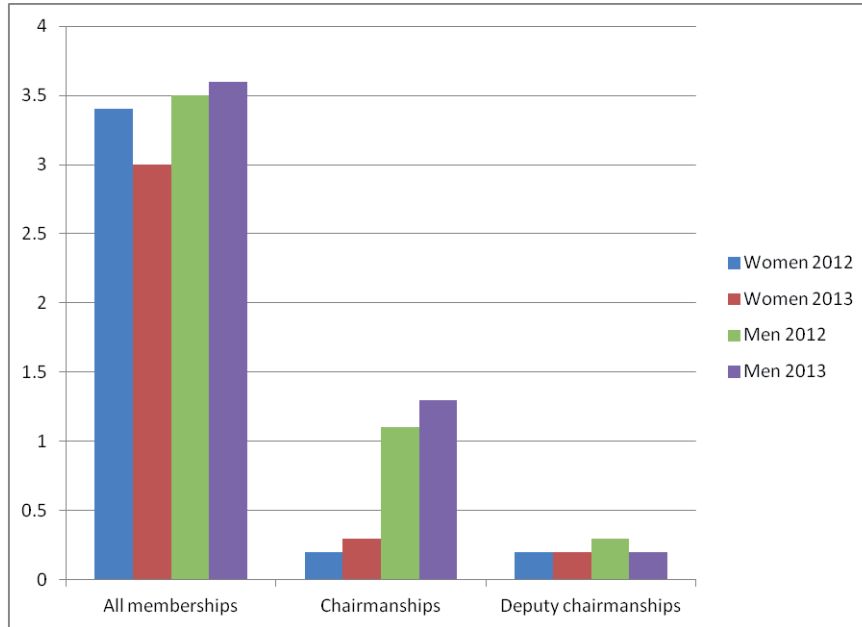


Table 27. Percentage rates of board (of directors) member and chairmanships in limited liability companies and other companies per members of top management teams of large-cap companies (women and men) in 2012–2013.

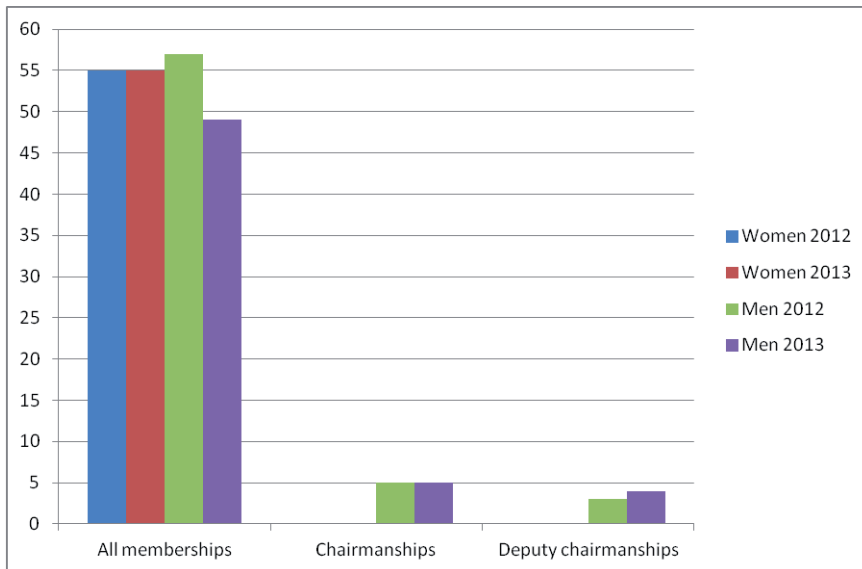


Table 28. Percentage rates of board (of directors) member and chairmanships in limited liability companies and other companies per members of top management teams of mid-cap companies (women and men) in 2012–2013.

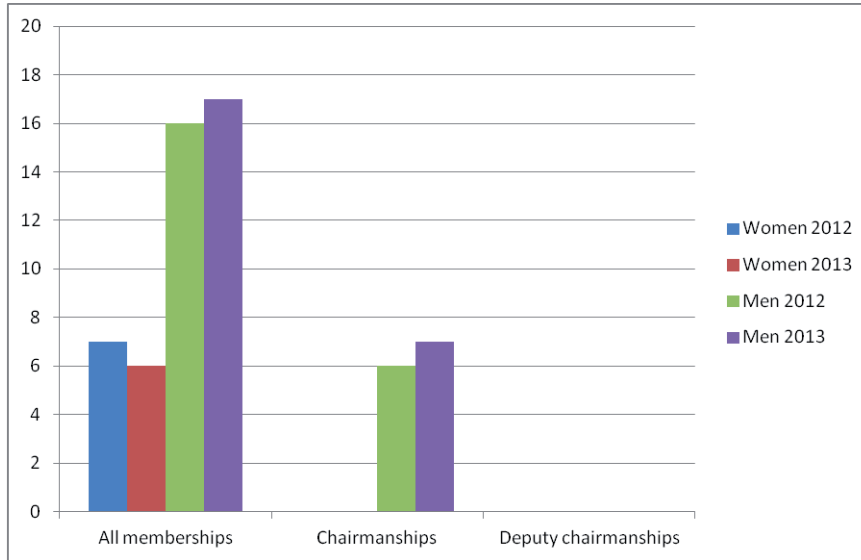


Table 29. Percentage rates of board (of directors) member and chairmanships in limited liability companies and other companies per members of top management teams of small-cap companies (women and men) in 2012–2013.

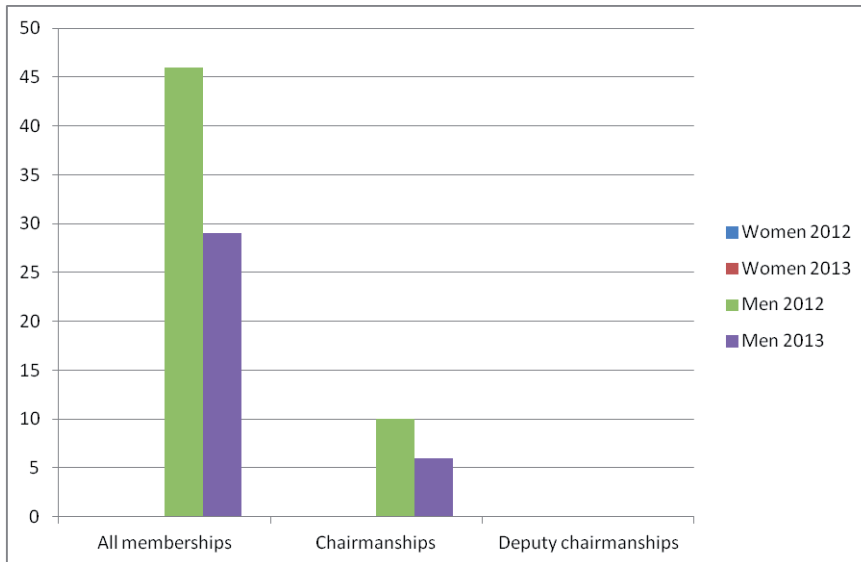


Table 30. Percentage rates of board member and chairmanships in relation to all companies' CEOs in limited liability companies and other companies in 2012–2013.

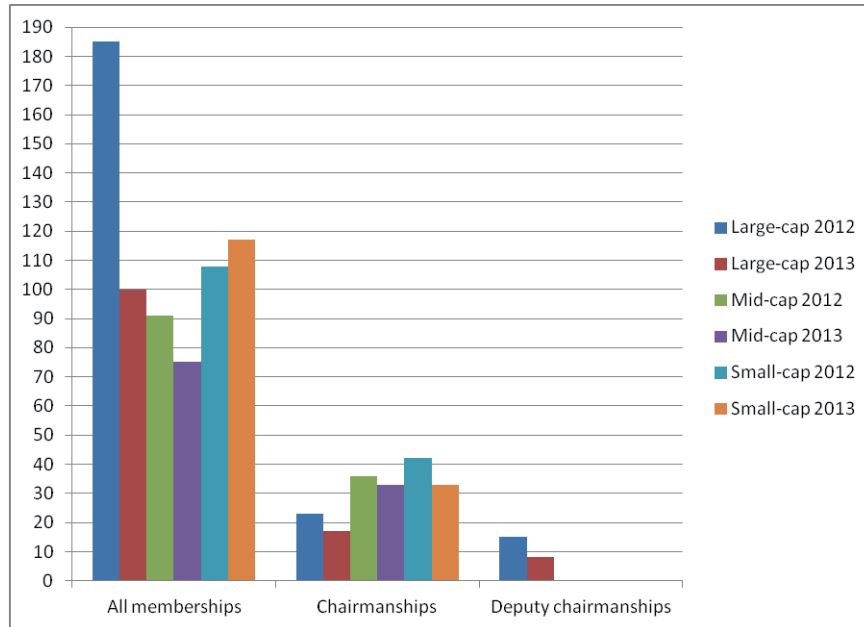


Table 31. Distribution of fields of businesses between board memberships of large-cap companies' (women and men) board members in limited liability companies and other companies in 2012–2013.

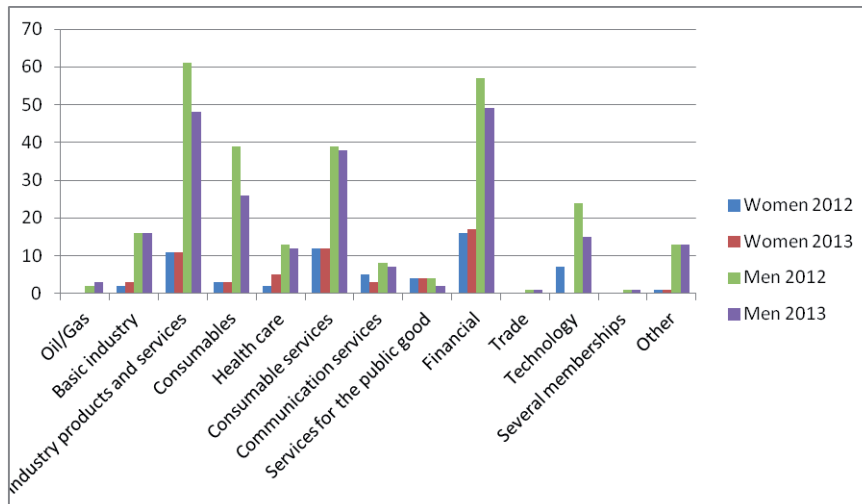


Table 32. Distribution of fields of businesses between board memberships of mid-cap companies' (women and men) board members in limited liability companies and other companies in 2012–2013.

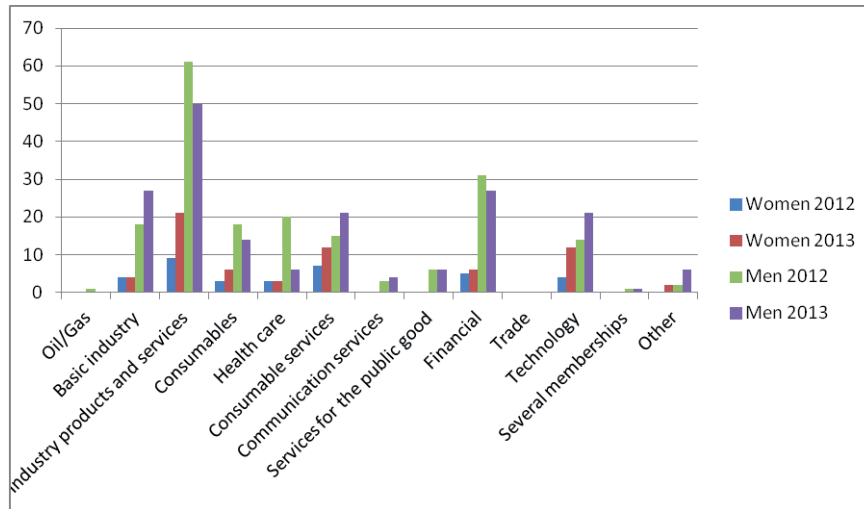


Table 33. Distribution of fields of businesses between board memberships of small-cap companies' (women and men) board members in limited liability companies and other companies in 2012–2013.

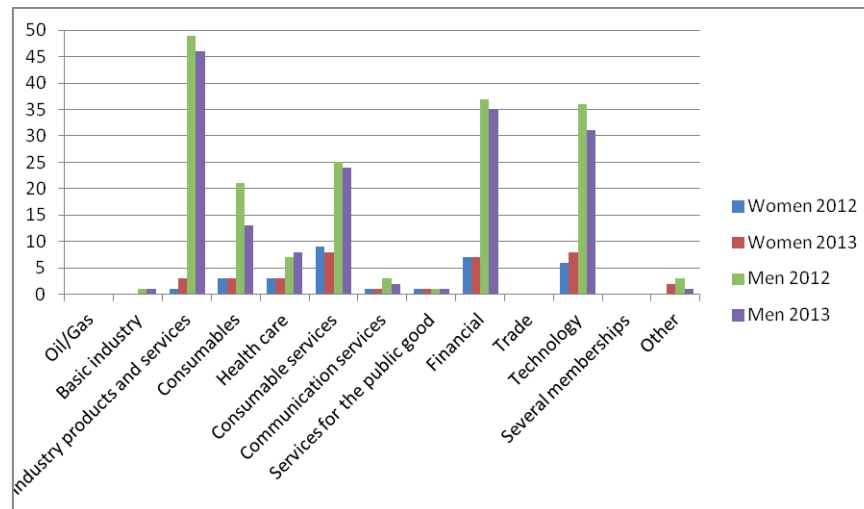


Table 34. Distribution of fields of businesses between board memberships of large-cap companies' (women and men) members of top management teams in limited liability companies and other companies in 2012–2013.

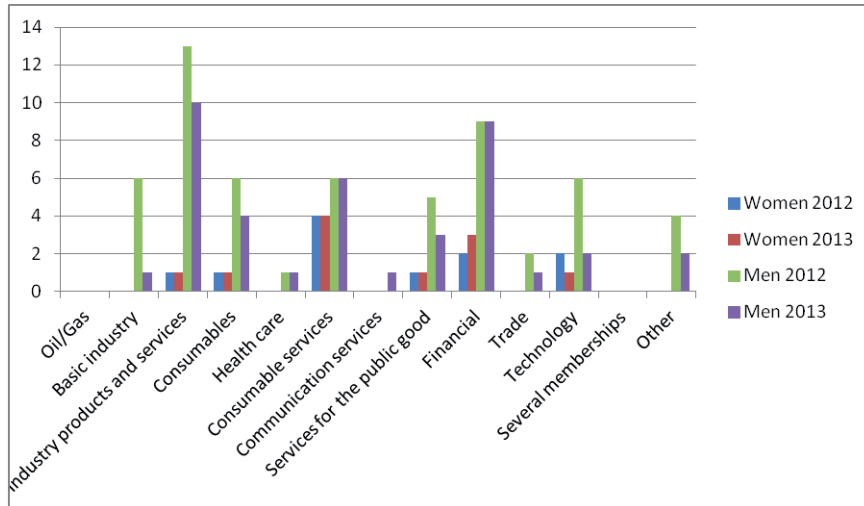


Table 35. Distribution of fields of businesses between board memberships of mid-cap companies' (women and men) members of top management teams in limited liability companies and other companies in 2012–2013.

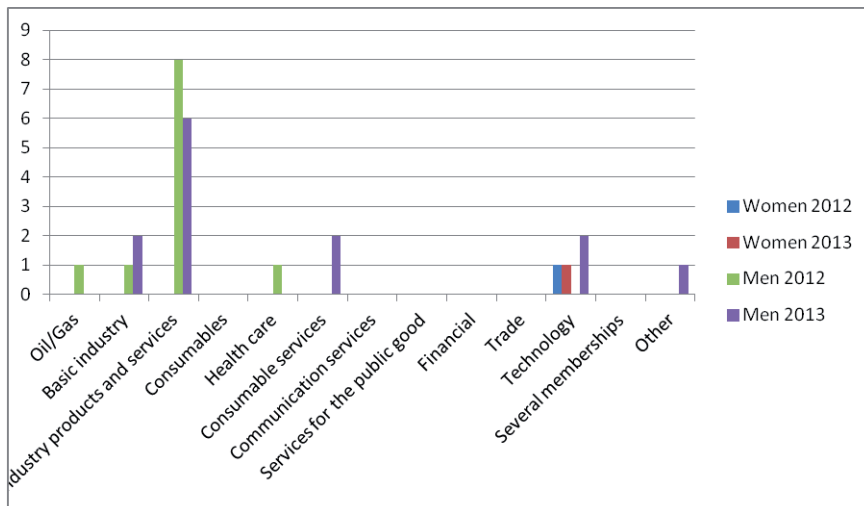


Table 36. Distribution of fields of businesses between board memberships of small-cap companies' (women and men) members of top management teams in limited liability companies and other companies in 2012–2013.

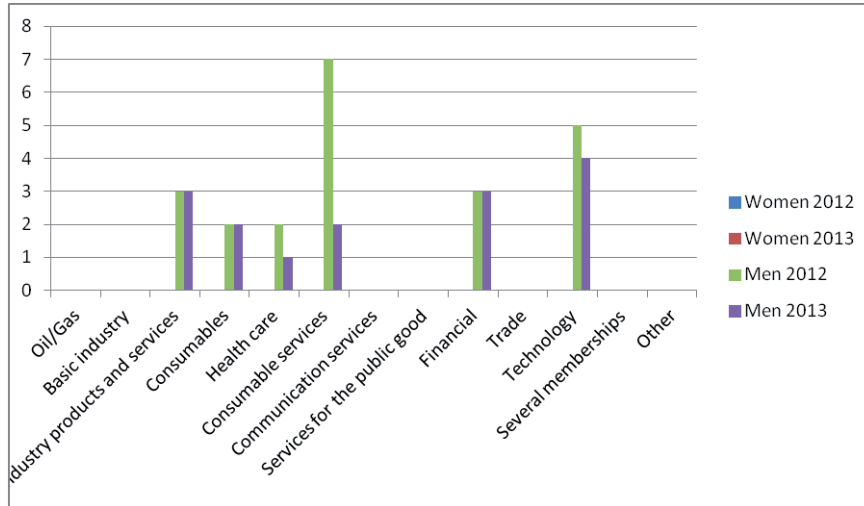


Table 37. Distribution of fields of businesses between board memberships of all companies (women and men) CEOs in limited liability companies and other companies in 2012–2013.

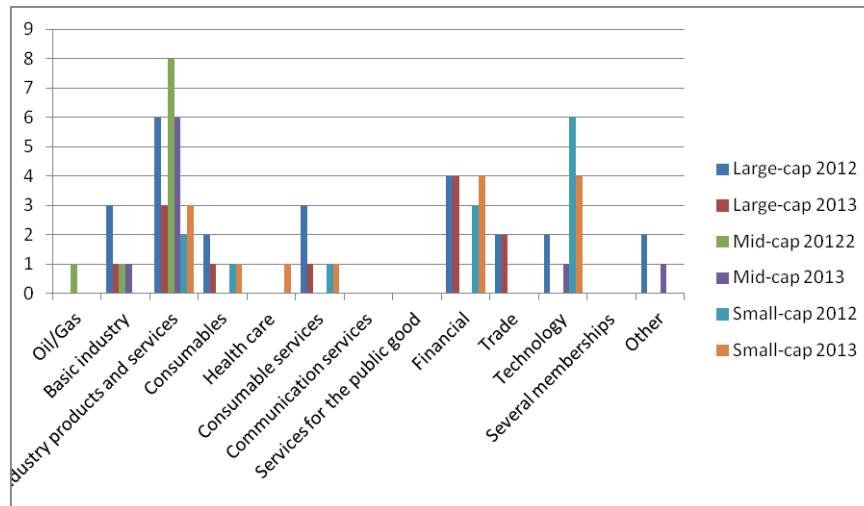


Table 38. Percentage rates of other positions of trust (excluding board committees) in relation to board members of large-cap companies (women and men) in 2012–2013.

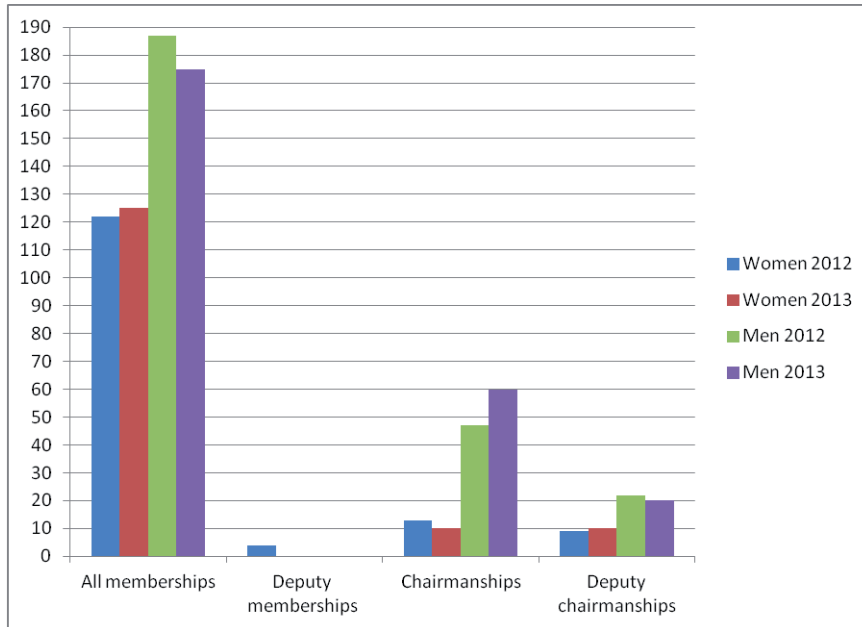


Table 39. Percentage rates of other positions of trust (excluding board committees) in relation to board members of mid-cap companies (women and men) in 2012–2013.

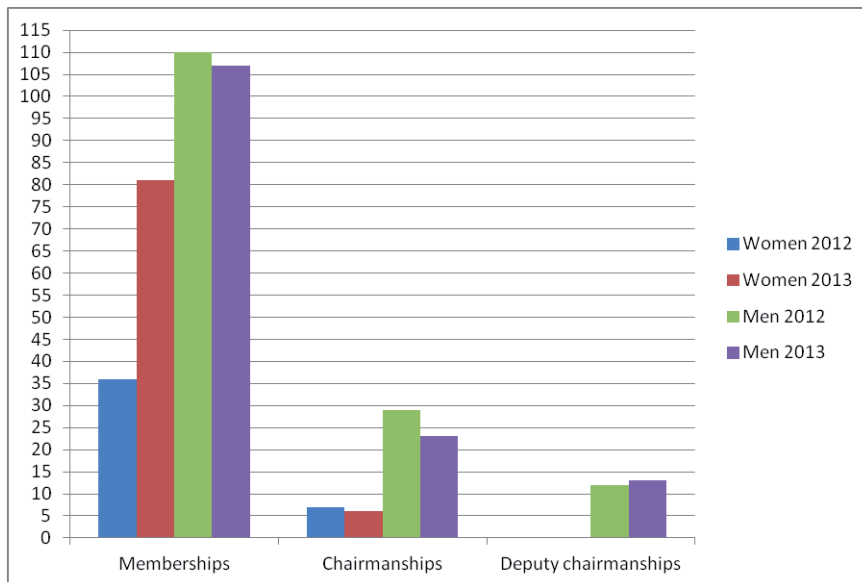


Table 40. Percentage rates of other positions of trust (excluding board committees) in relation to board members of small-cap companies (women and men) in 2012–2013.

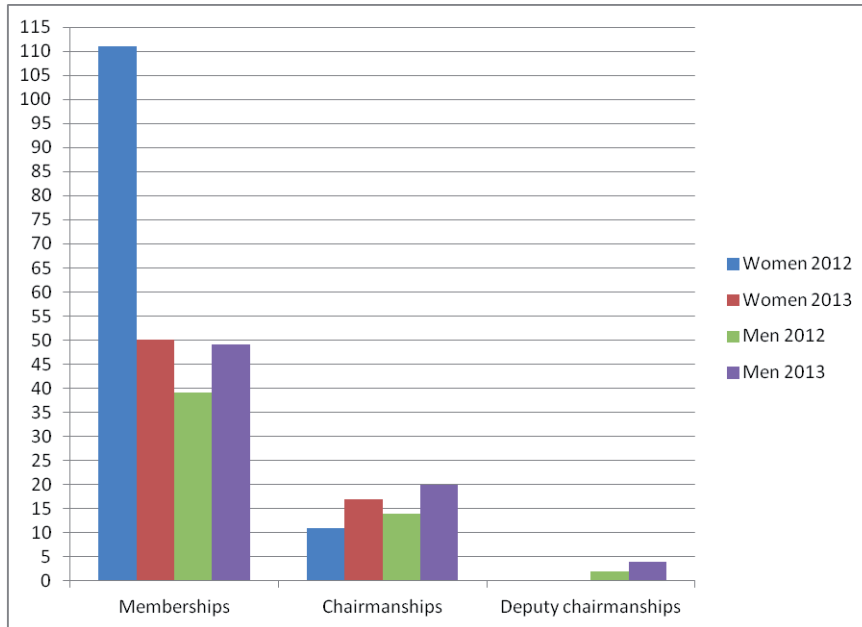


Table 41. Distribution of fields of businesses of other positions of trust (excluding board committees) between board members (women and men) of large-cap companies in 2012–2013.

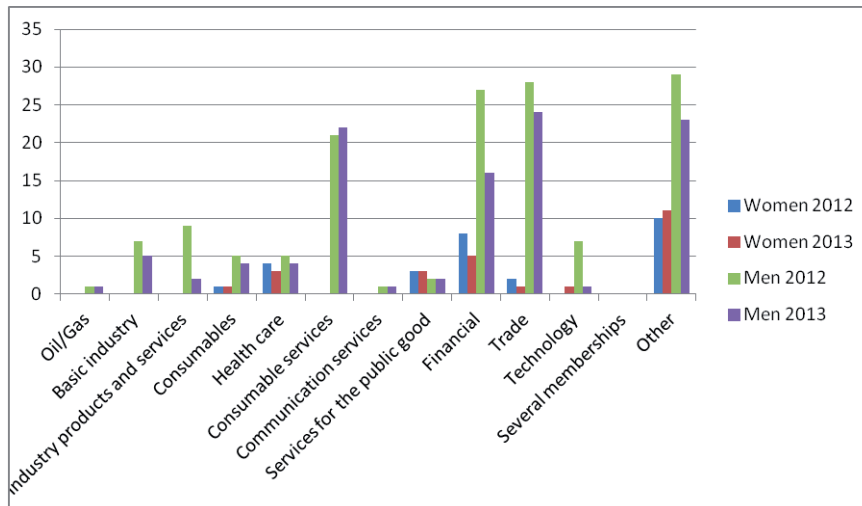


Table 42. Distribution of fields of businesses of other positions of trust (excluding board committees) between board members (women and men) of mid-cap companies in 2012–2013.

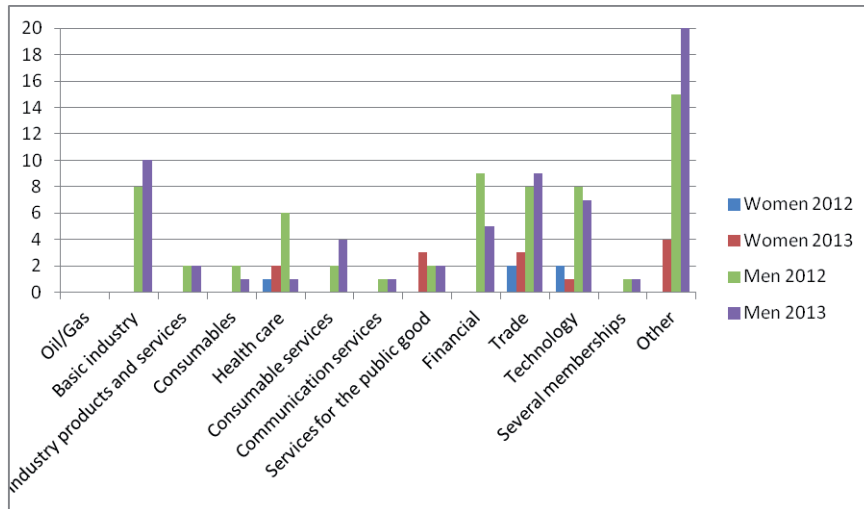


Table 43. Distribution of fields of businesses of other positions of trust (excluding board committees) between board members (women and men) of small-cap companies in 2012–2013.

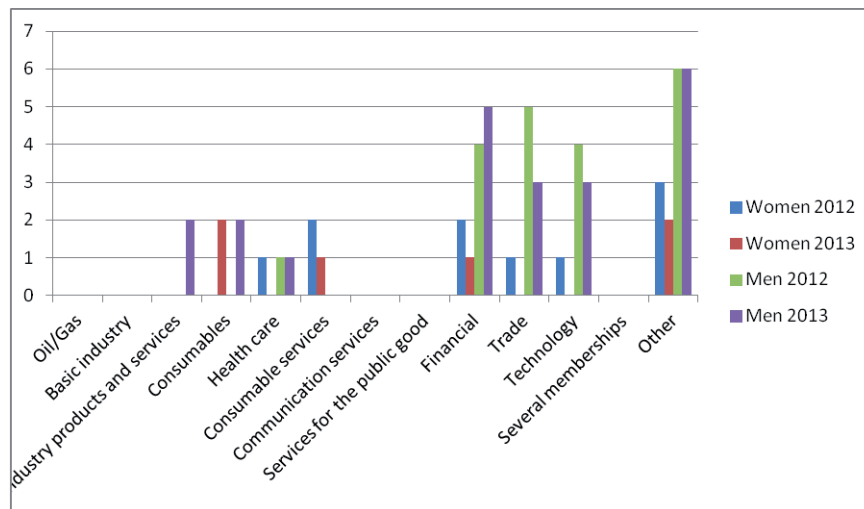


Table 44. Percentage rates of committee memberships in relation to board members of large-cap companies (women and men) in 2012–2013.

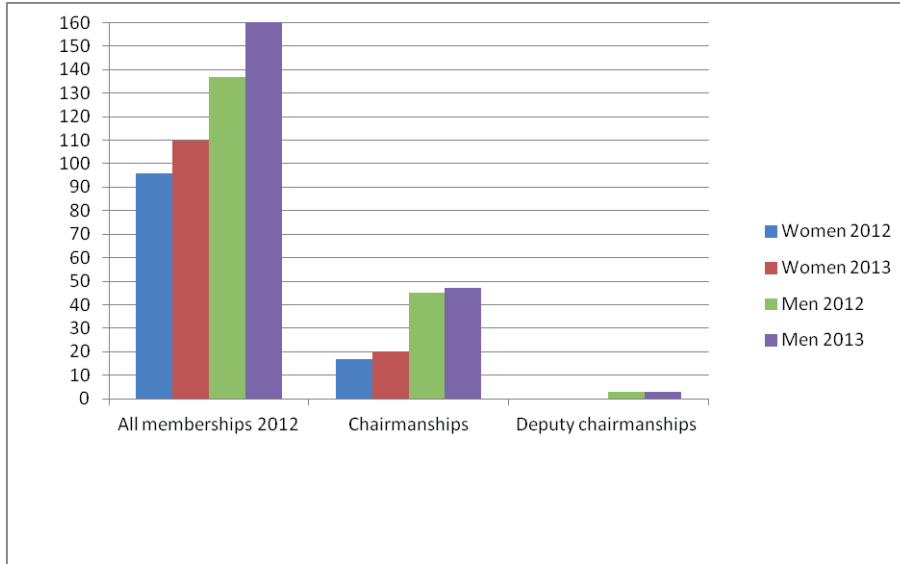


Table 45. Percentage rates of committee memberships in relation to board members of mid-cap companies (women and men) in 2012–2013.

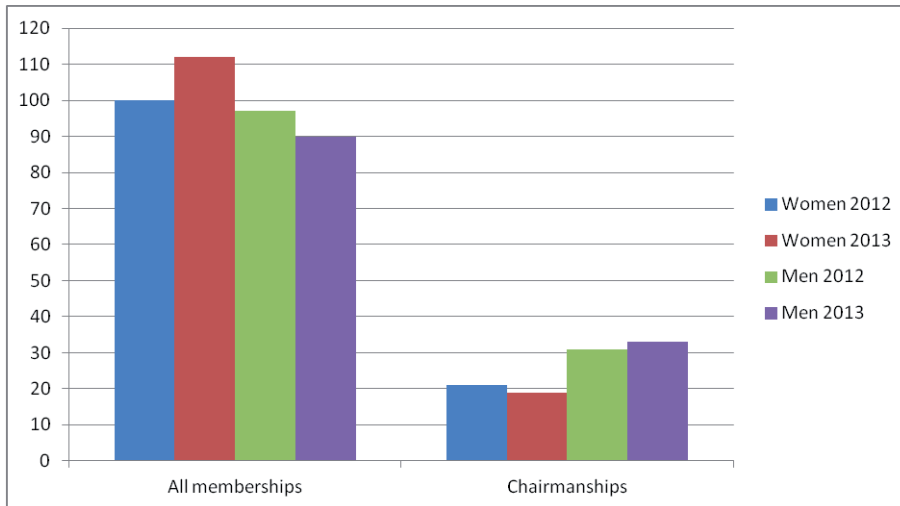


Table 48. Distribution and responsibility areas of committee memberships of board members of mid-cap companies (women and men) in 2012–2013. The number has been expressed in the form of percentage rate in relation to committee members.

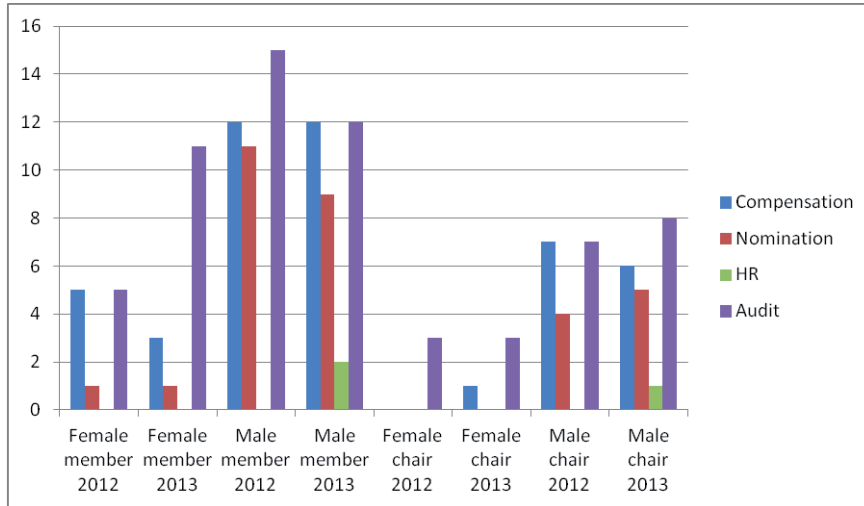


Table 49. Distribution and responsibility areas of committee memberships of board members of small-cap companies (women and men) in 2012–2013. The number has been expressed in the form of percentage rate in relation to committee members.

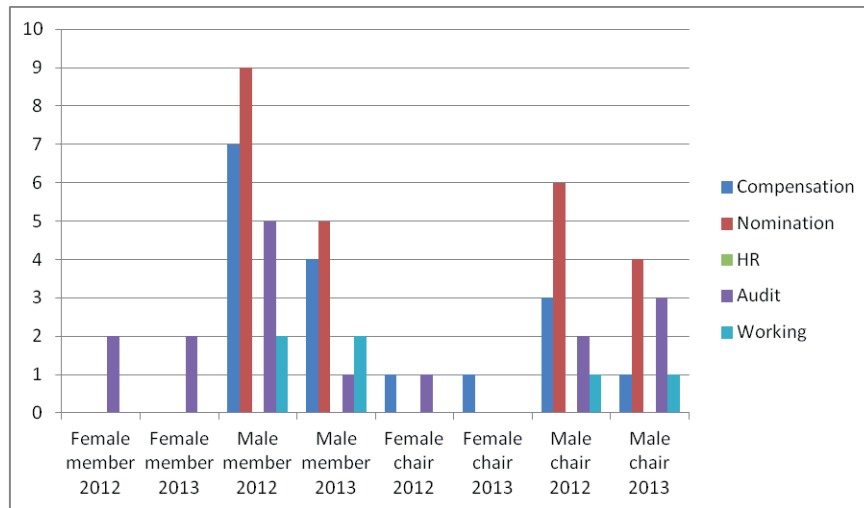


Table 50. Percentage rates of other positions of trust (including board committees) in relation to the members of top management teams of large-cap companies (women and men) in 2012–2013.

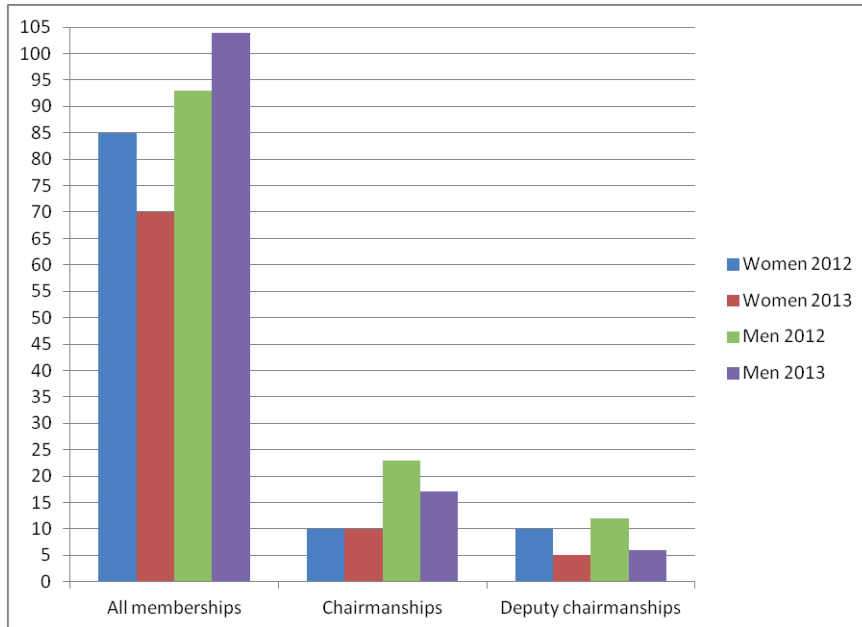


Table 51. Percentage rates of other positions of trust (including board committees) in relation to the members of top management teams of mid-cap companies (women and men) in 2012–2013.

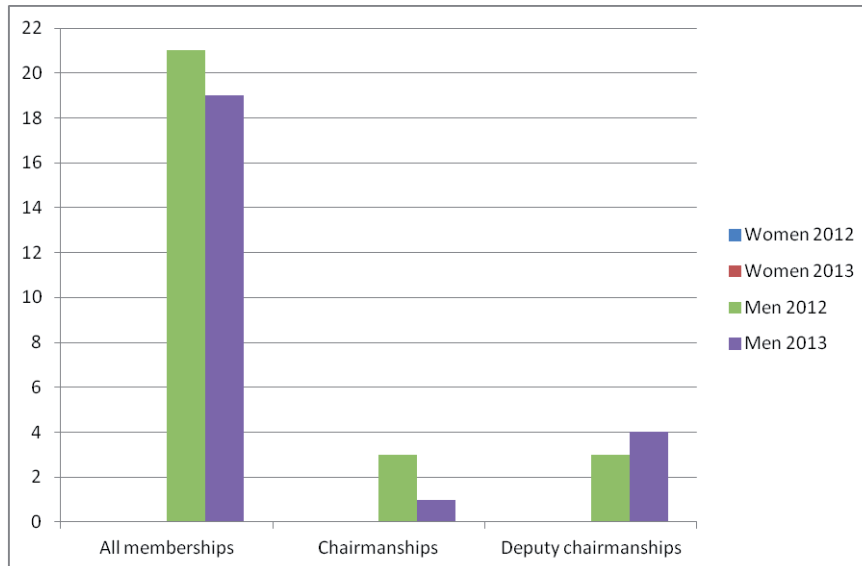


Table 52. Percentage rates of other positions of trust (including board committees) in relation to the members of top management teams of small-cap companies (women and men) in 2012–2013.

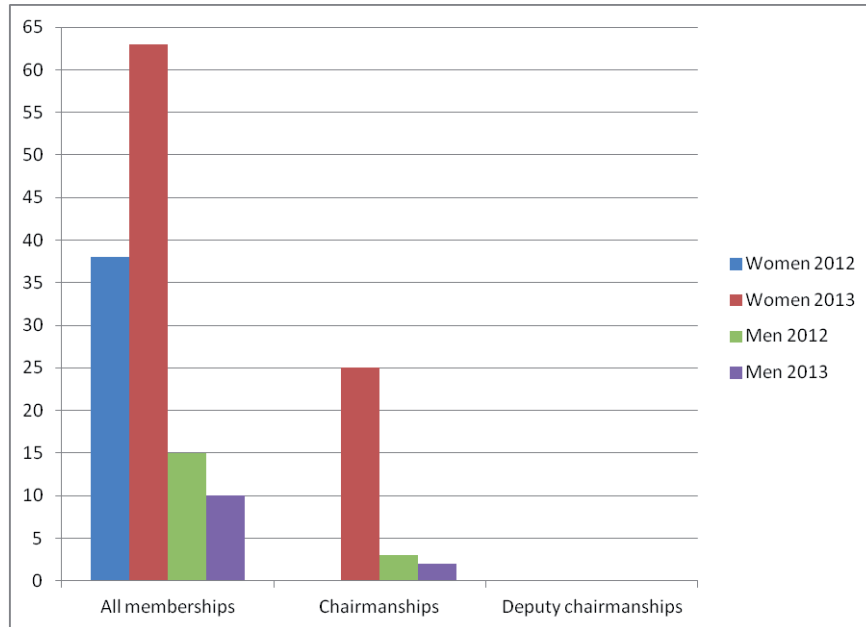


Table 53. Distribution of fields of businesses of other positions of trust (including board committees) between the members of top management teams (women and men) of large-cap companies in 2012–2013.

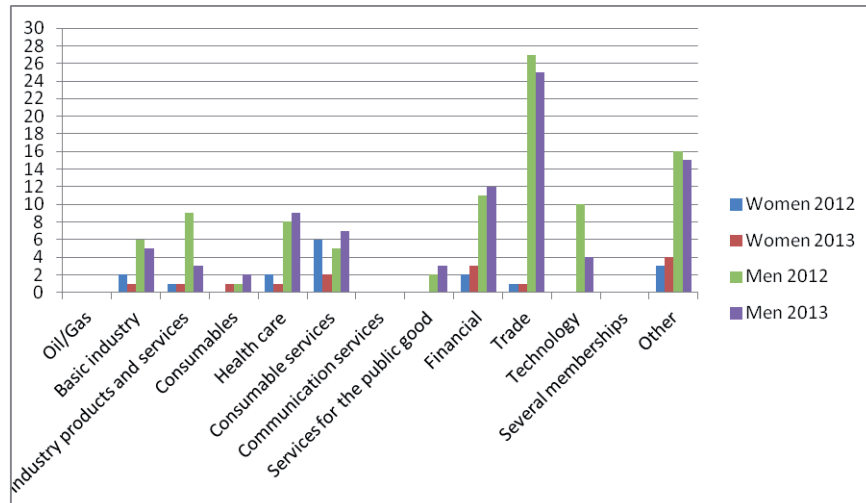


Table 54. Distribution of fields of businesses of other positions of trust (including board committees) between the members of top management teams (women and men) of mid-cap companies in 2012–2013.

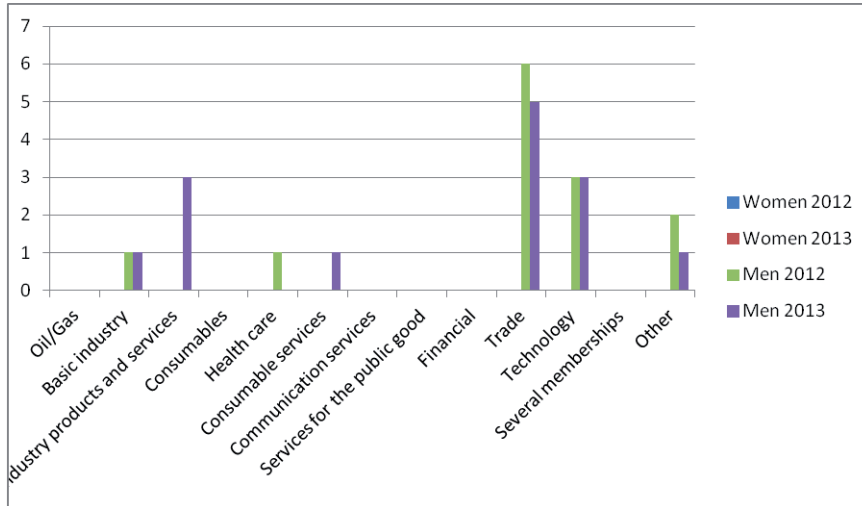


Table 55. Distribution of fields of businesses of other positions of trust (including board committees) between the members of top management teams (women and men) of small-cap companies in 2012–2013.

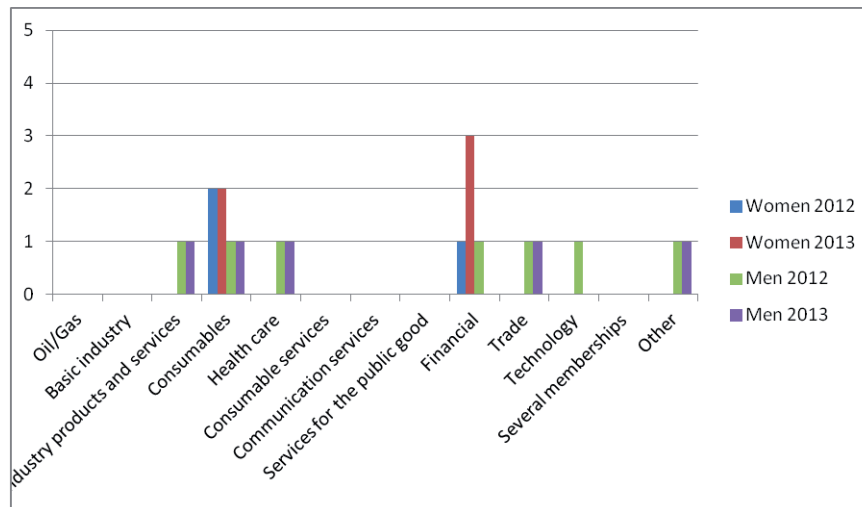


Table 56. Percentage rates of other positions of trust (including board committees) in relation to the CEOs of all companies in 2012–2013.

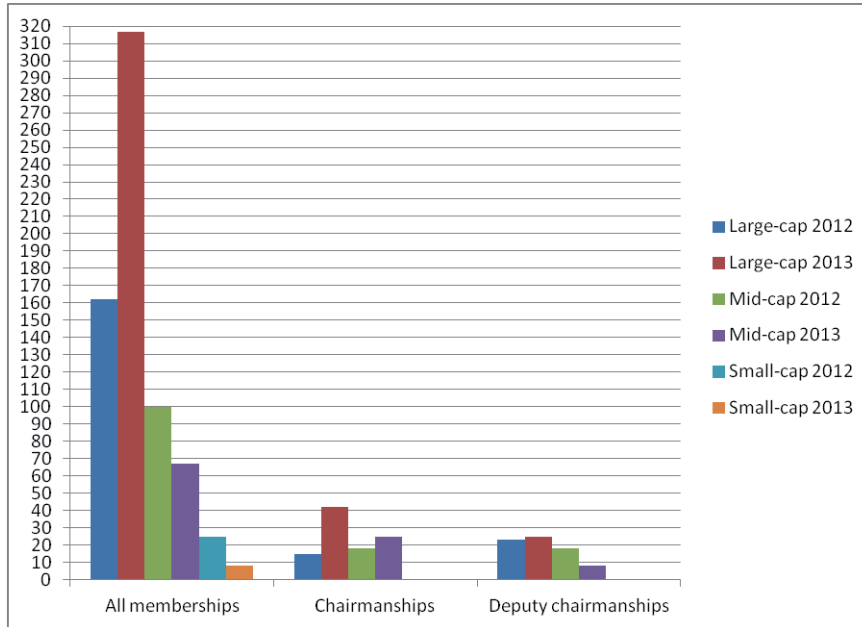


Table 57. Distribution of fields of businesses of other positions of trust (including board committees) between the CEOs of all companies in 2012–2013.

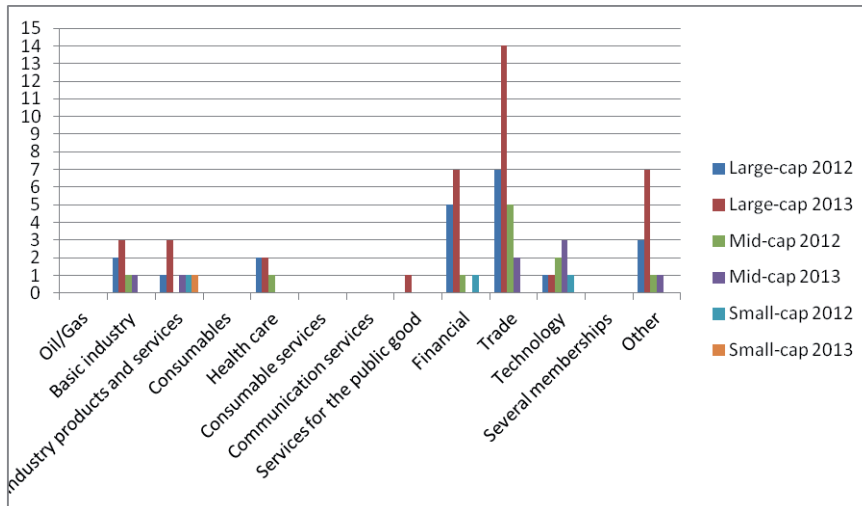


Table 58. Percentage rates of CEOs and their deputies per board members of large-cap companies (women and men) in 2012–2013.

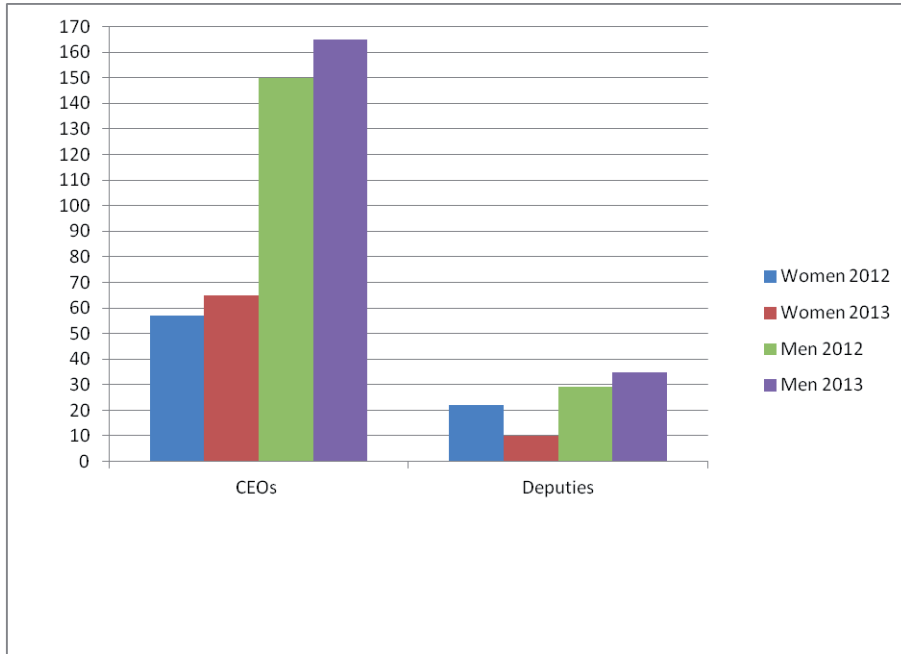


Table 59. Percentage rates of CEOs and their deputies per board members of mid-cap companies (women and men) in 2012–2013.

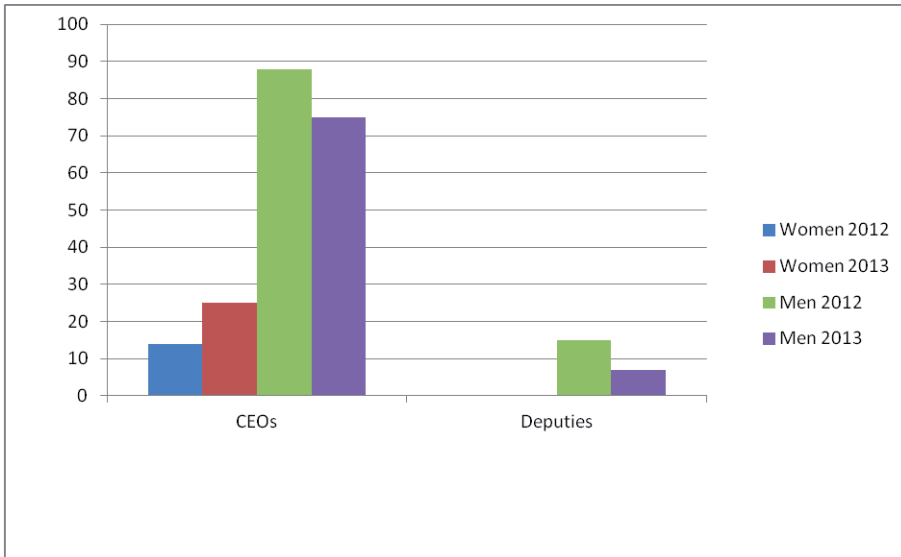


Table 60. Percentage rates of CEOs and their deputies per board members of small-cap companies (women and men) in 2012–2013.

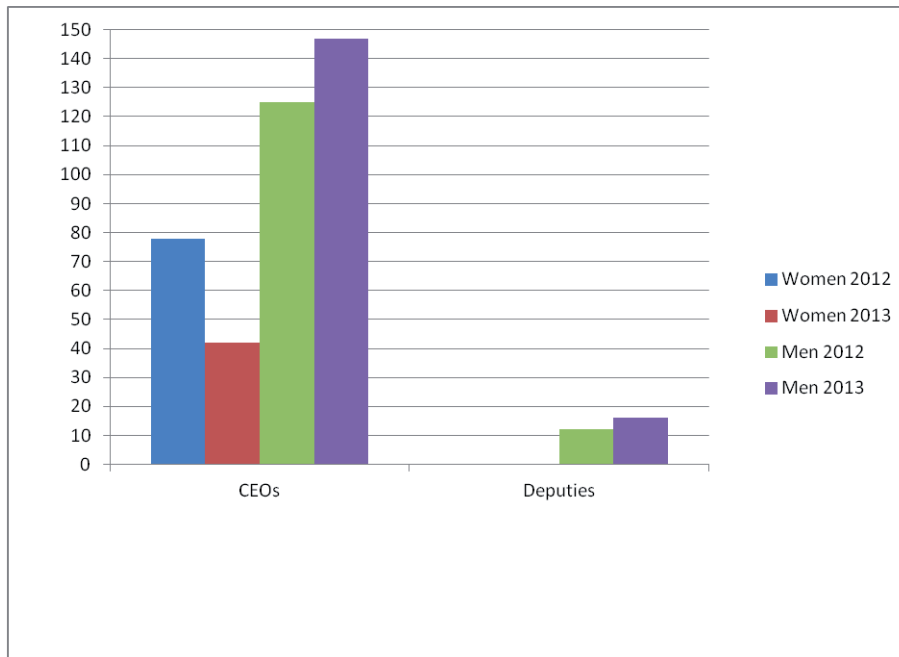


Table 61. Percentage rates of CEOs and their deputies per members of top management of large-cap companies (women and men) in 2012–2013.

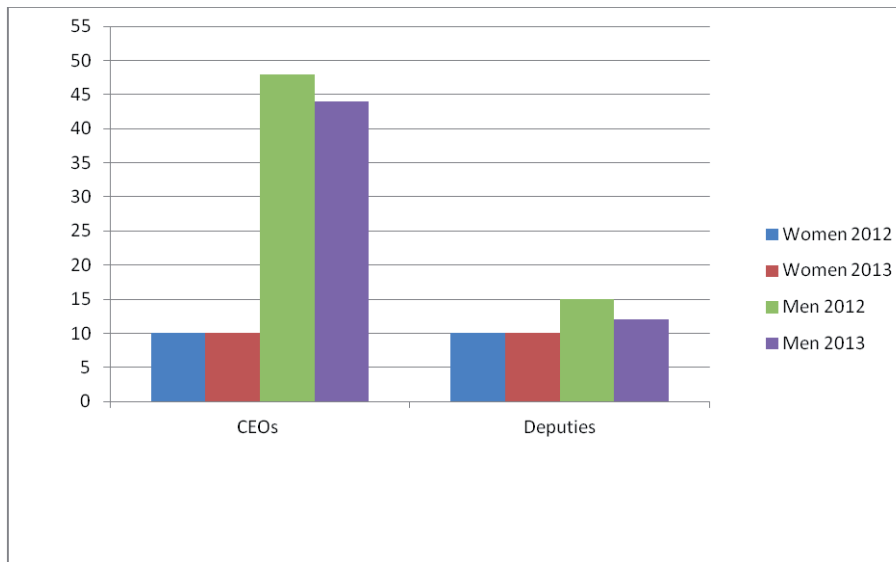


Table 62. Percentage rates of CEOs and their deputies per members of top management of mid-cap companies (women and men) in 2012–2013.

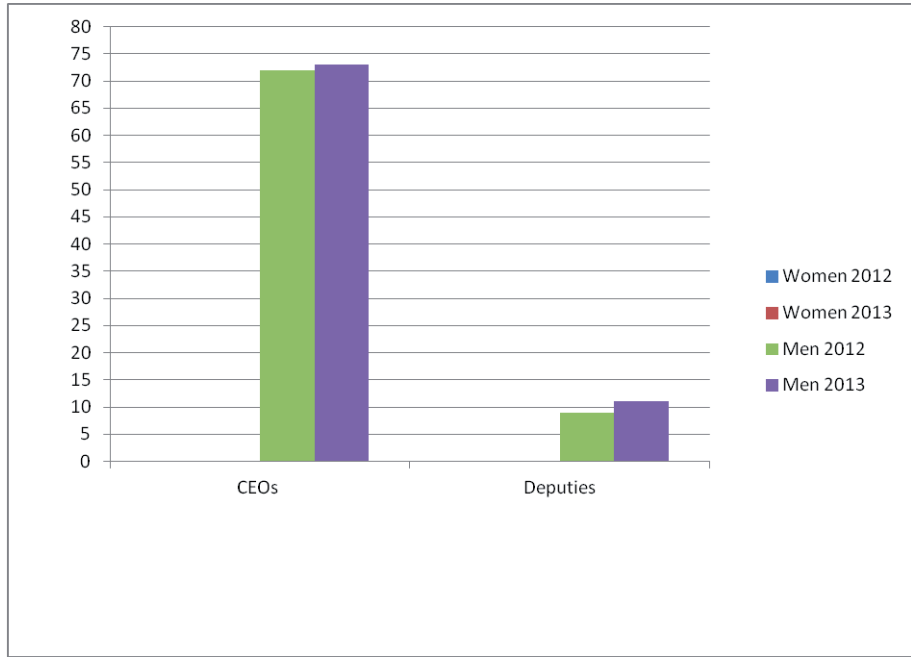


Table 63. Percentage rates of CEOs and their deputies per members of top management of small-cap companies (women and men) in 2012–2013.

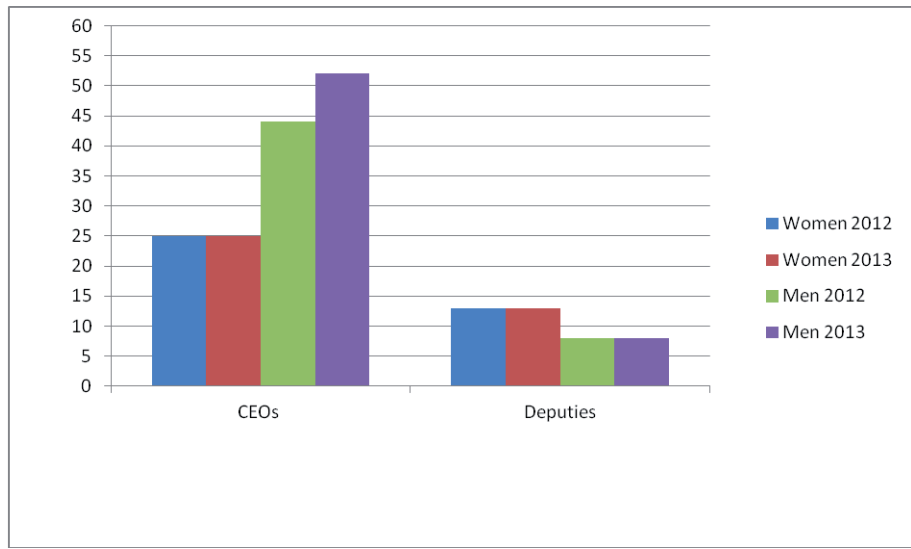


Table 64. Percentage rates of CEOs and their deputies in relation to the CEOs of all companies in 2012–2013.

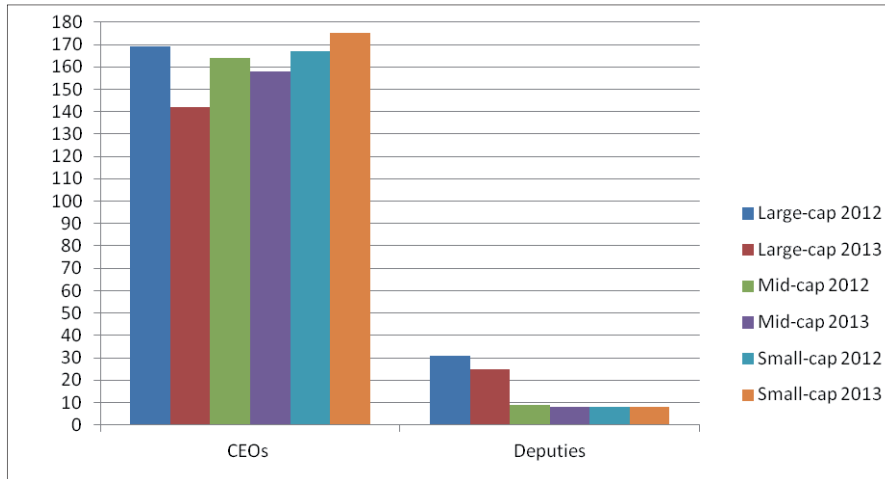


Table 65. Distribution of fields of businesses of CEO and deputy CEO statuses of large-cap companies' board members (women and men) in 2012–2013.

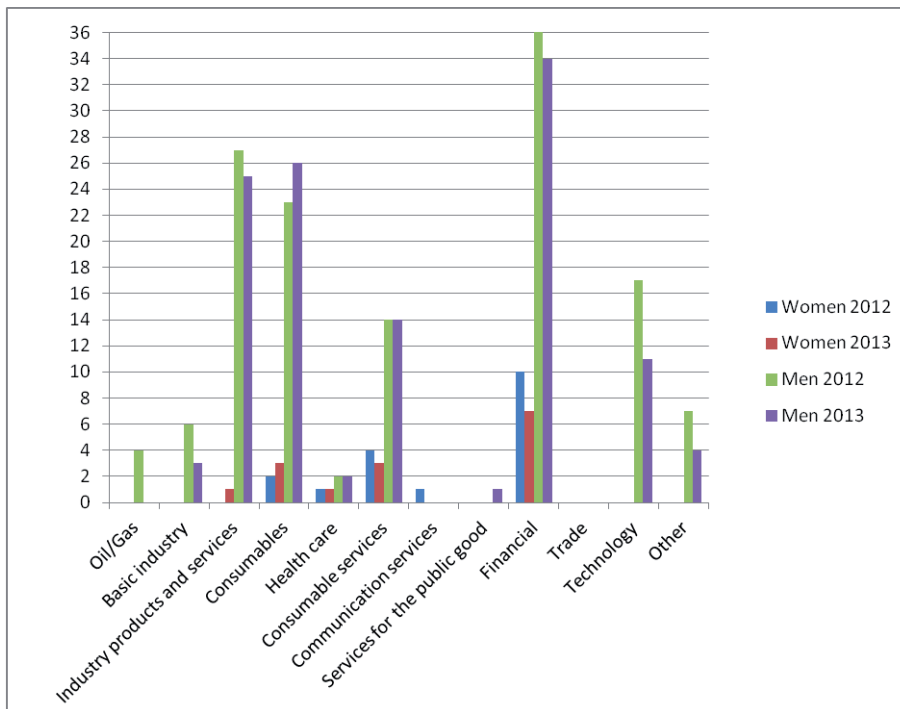


Table 66. Distribution of fields of businesses of CEO and deputy CEO statuses of mid-cap companies' board members (women and men) in 2012–2013.

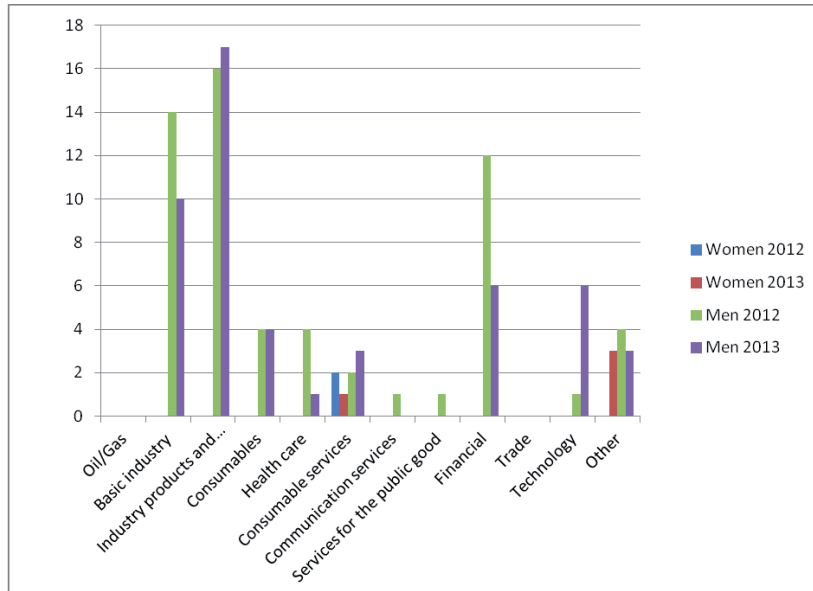


Table 67. Distribution of fields of businesses (percentage rates) of CEO and deputy CEO statuses of small-cap companies' board members (women and men) in 2012–2013.

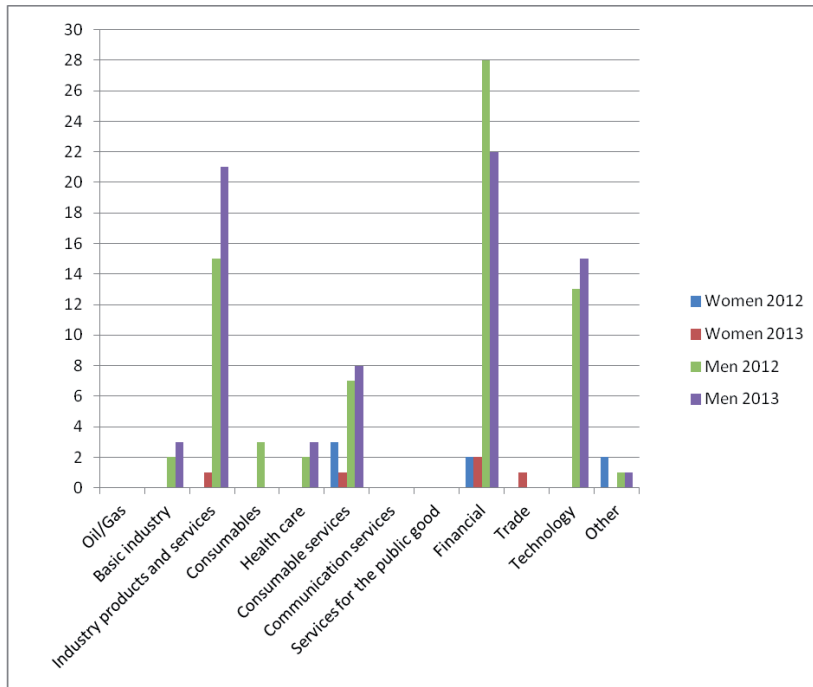


Table 68. Distribution of fields of businesses of CEO and deputy CEO statuses of large-cap companies' top management members (women and men) in 2012–2013.

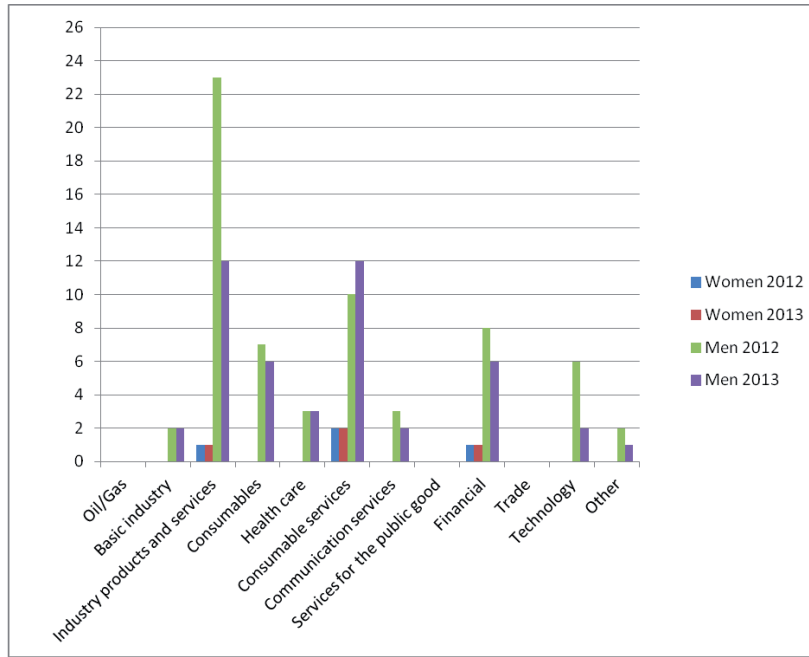


Table 69. Distribution of fields of businesses of CEO and deputy CEO statuses of mid-cap companies' top management members (women and men) in 2012–2013.

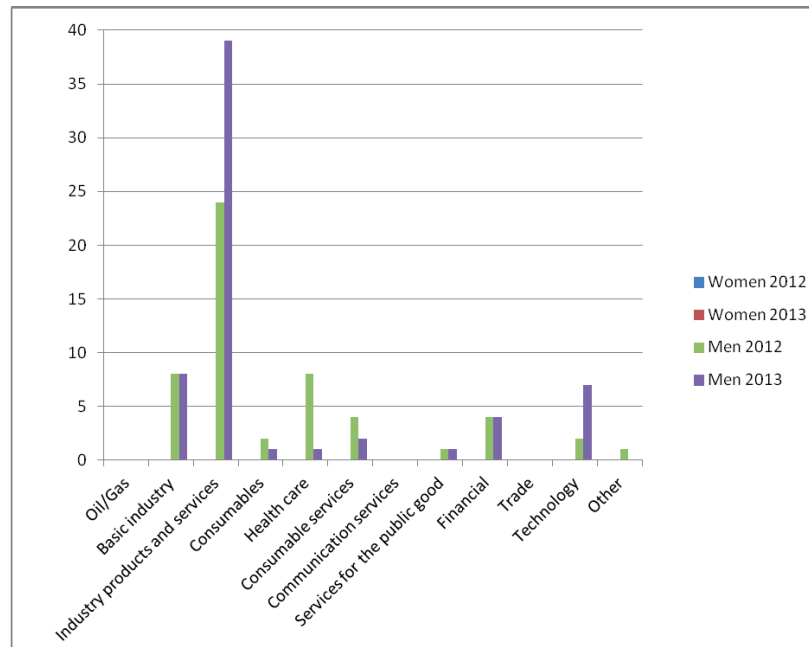


Table 70. Distribution of fields of businesses of CEO and deputy CEO statuses of small-cap companies' top management members (women and men) in 2012–2013.

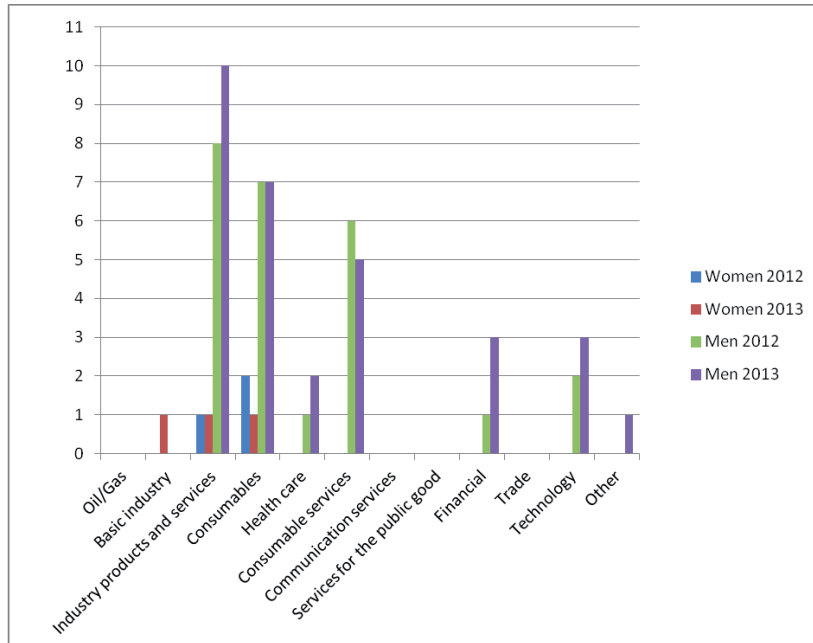


Table 71. Distribution of fields of businesses of CEO and deputy CEO statuses of CEOs of all companies in 2012–2013.

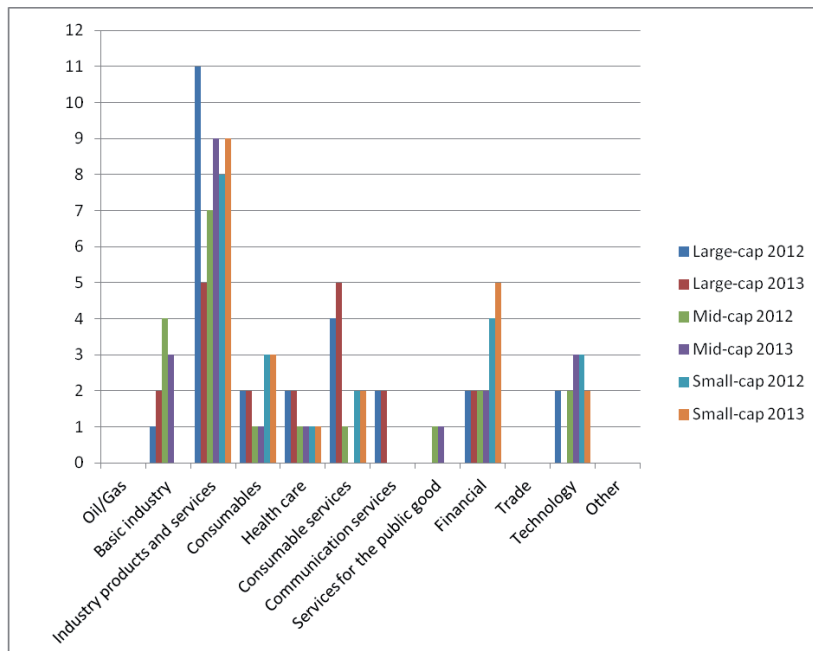


Table 72. Managementships in limited liability companies and other companies per board member of large-cap companies (women and men) in 2012–2013.



Table 73. Managementships in limited liability companies and other companies per board member of mid-cap companies (women and men) in 2012–2013.

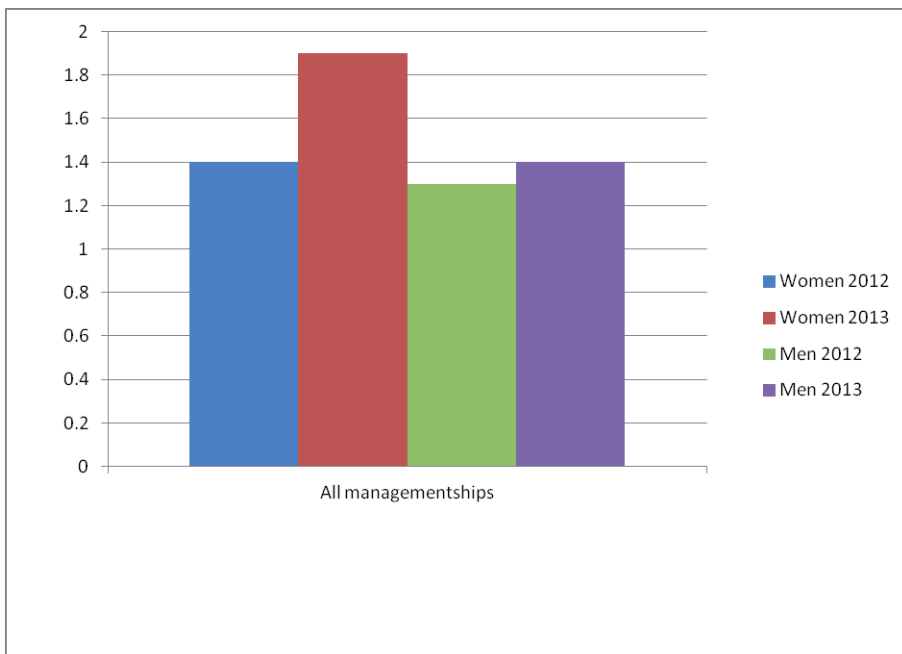


Table 74. Managementships in limited liability companies and other companies per board member of small-cap companies (women and men) in 2012–2013.

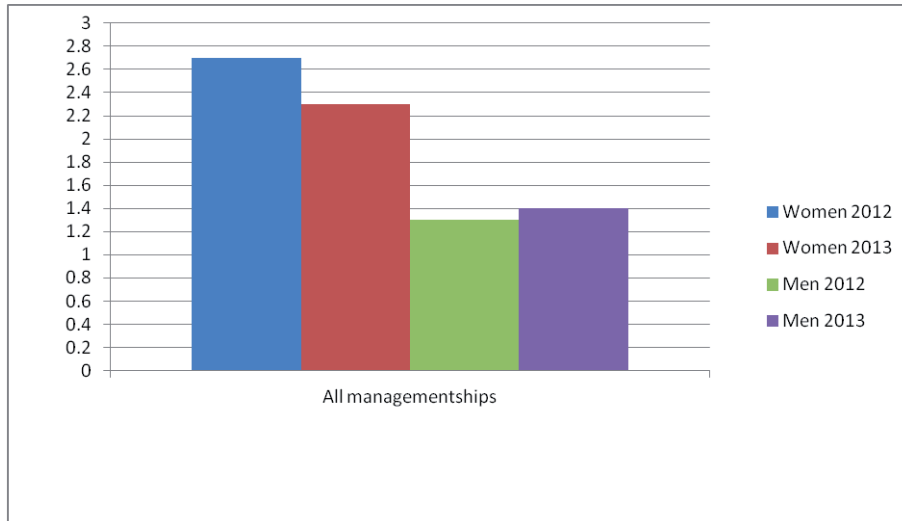


Table 75. Managementships in limited liability companies and other companies per the member of top management of large-cap companies (women and men) in 2012–2013.

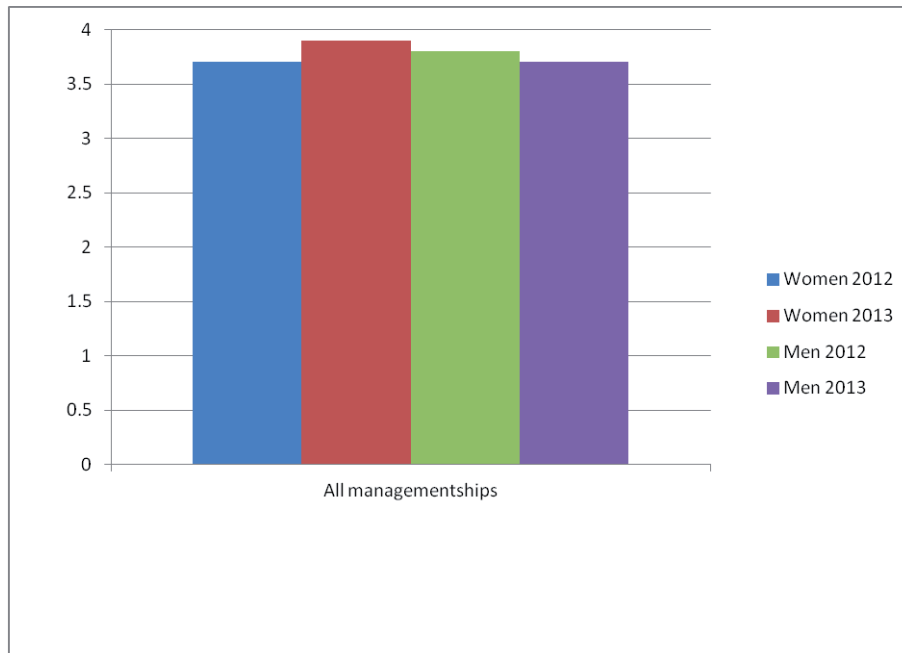


Table 76. Managementships in limited liability companies and other companies per the member of top management of mid-cap companies (women and men) in 2012–2013.

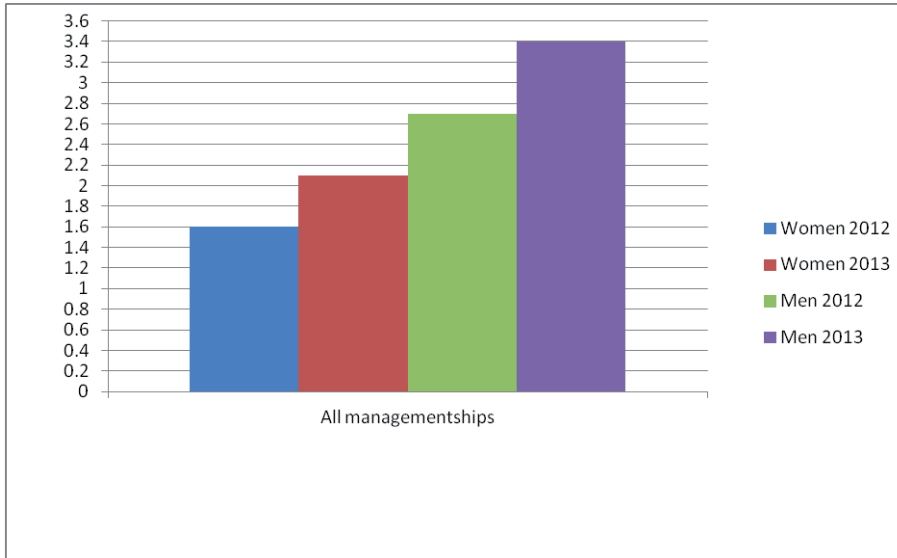


Table 77. Managementships in limited liability companies and other companies per the member of top management of small-cap companies (women and men) in 2012–2013.

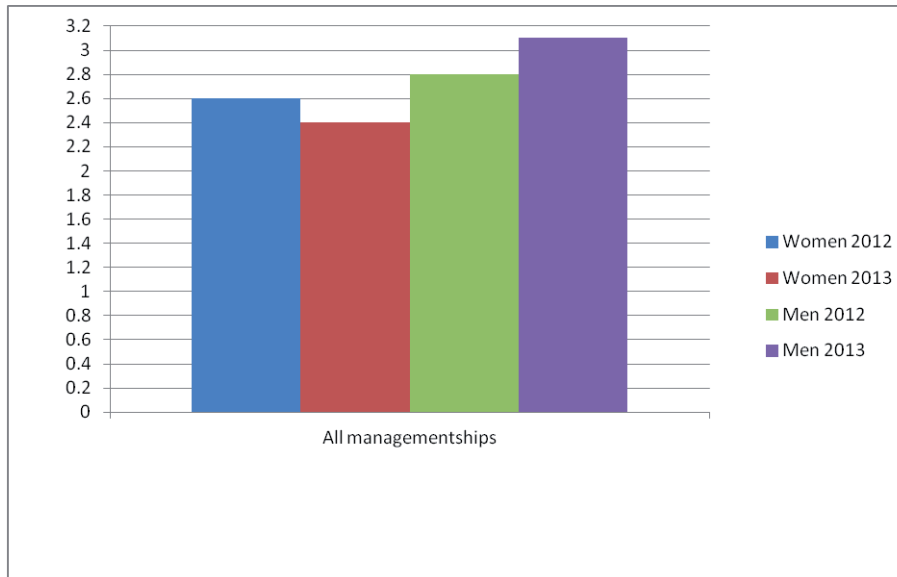


Table 78. Managementships in limited liability companies and other companies per CEO of all companies in 2012–2013.

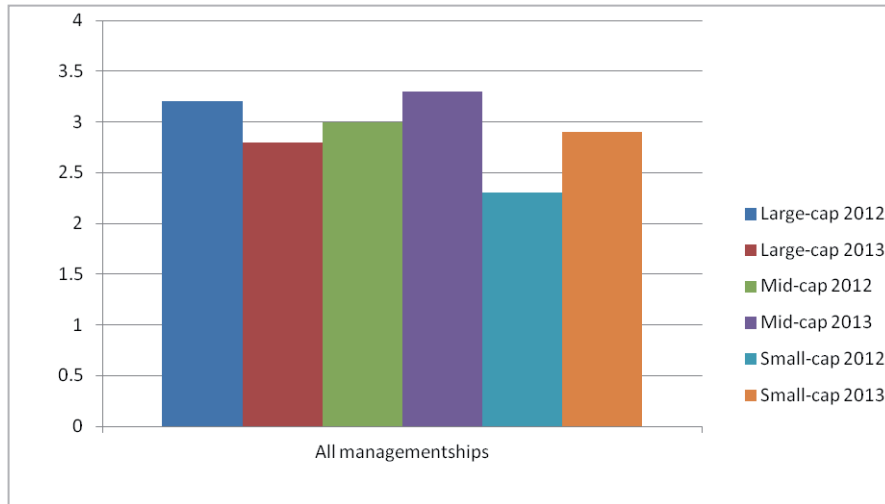


Table 79. Distribution of fields of businesses between managementships of large-cap companies' (women and men) board members in limited liability companies and other companies in 2012–2013.

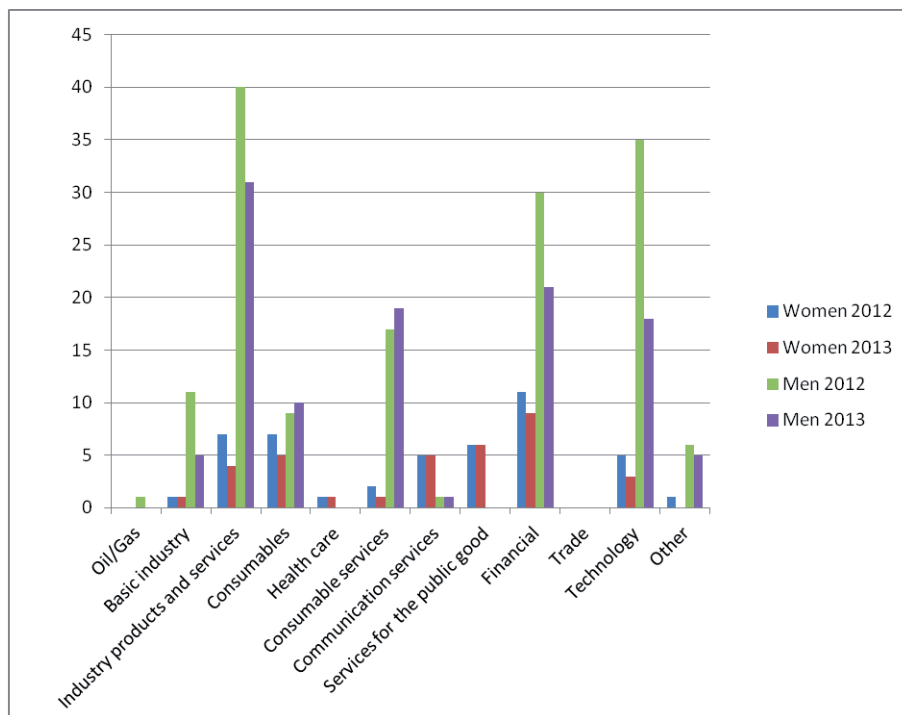


Table 80. Distribution of fields of businesses between managementships of mid-cap companies' (women and men) board members in limited liability companies and other companies in 2012–2013.

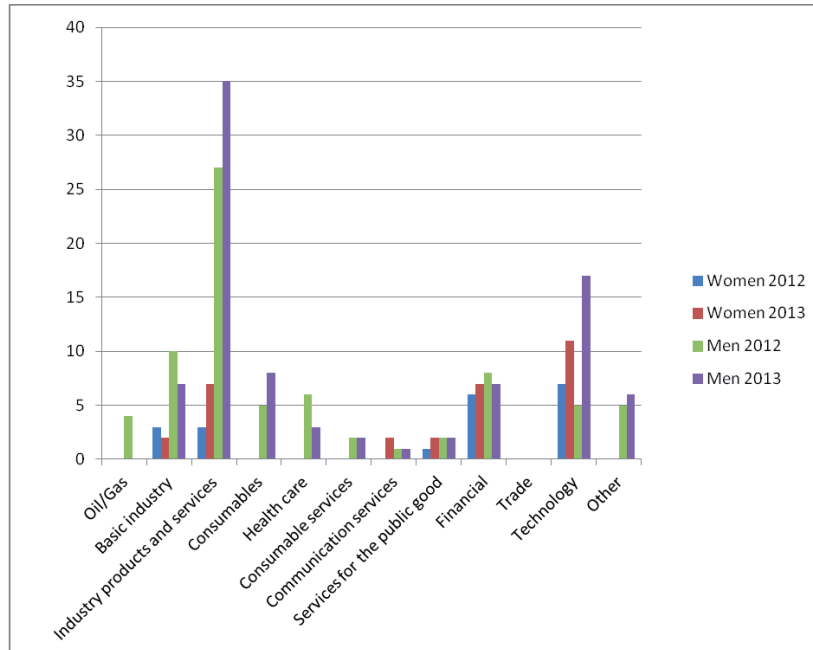


Table 81. Distribution of fields of businesses between managementships of small-cap companies' (women and men) board members in limited liability companies and other companies in 2012–2013.

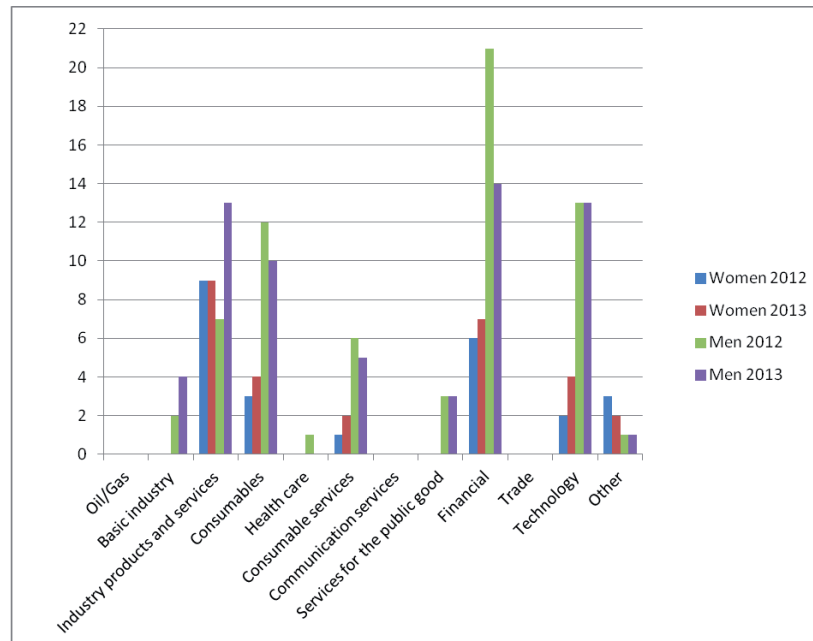


Table 82. Distribution of fields of businesses between managementships of large-cap companies' (women and men) members of top management in limited liability companies and other companies in 2012–2013.

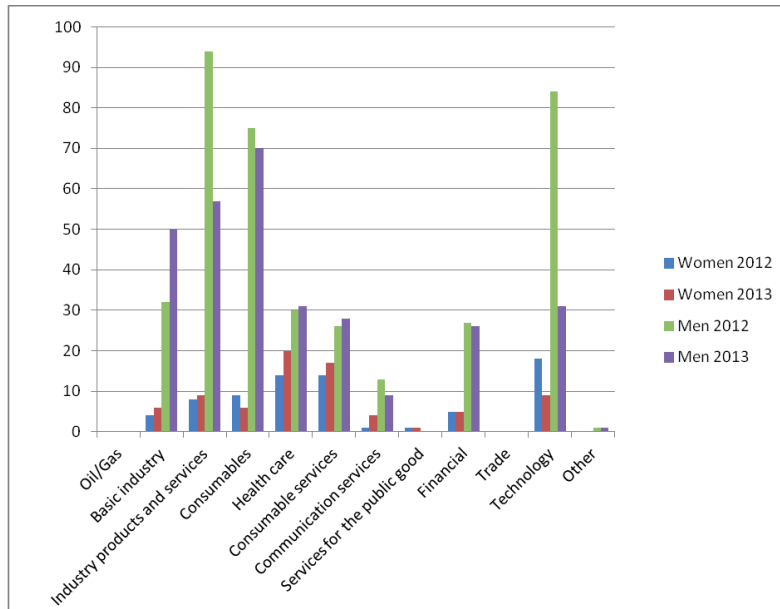


Table 83. Distribution of fields of businesses between managementships of mid-cap companies' (women and men) members of top management in limited liability companies and other companies in 2012–2013.

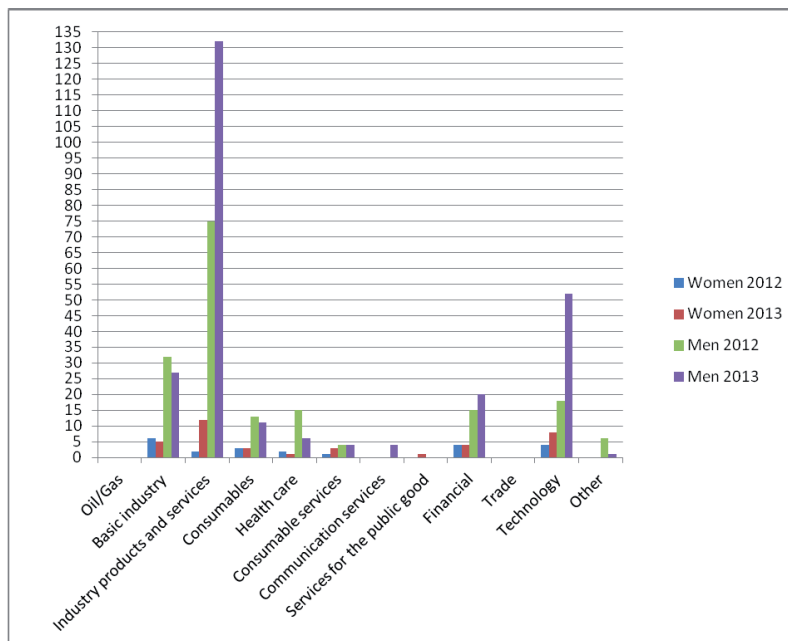


Table 84. Distribution of fields of businesses between managementships of small-cap companies' (women and men) members of top management in limited liability companies and other companies in 2012–2013.

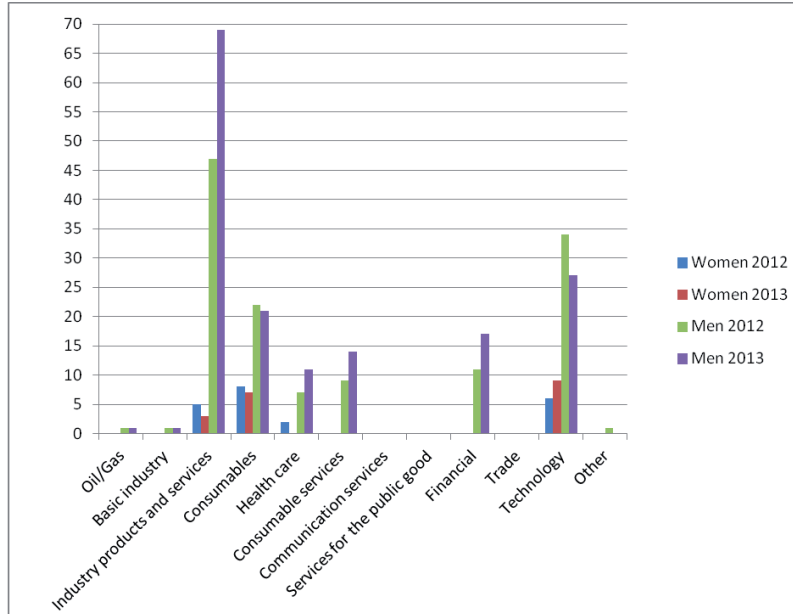


Table 85. Distribution of fields of businesses between managementships of all companies' CEOs in limited liability companies and other companies in 2012–2013.

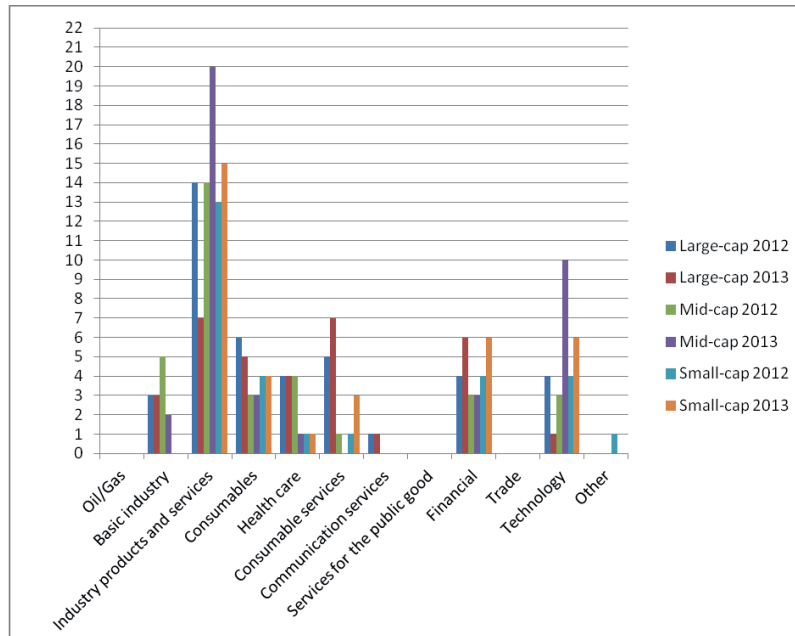


Table 86. Distribution of responsibility areas between large-cap companies' board members' (women and men) managementships in limited liability companies and other companies in 2012–2013.

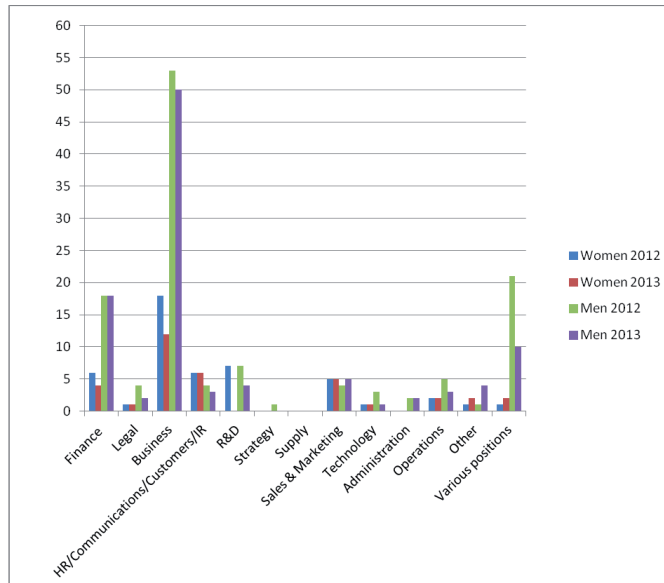


Table 87. Distribution of responsibility areas between mid-cap companies' board members' (women and men) managementships in limited liability companies and other companies in 2012–2013.

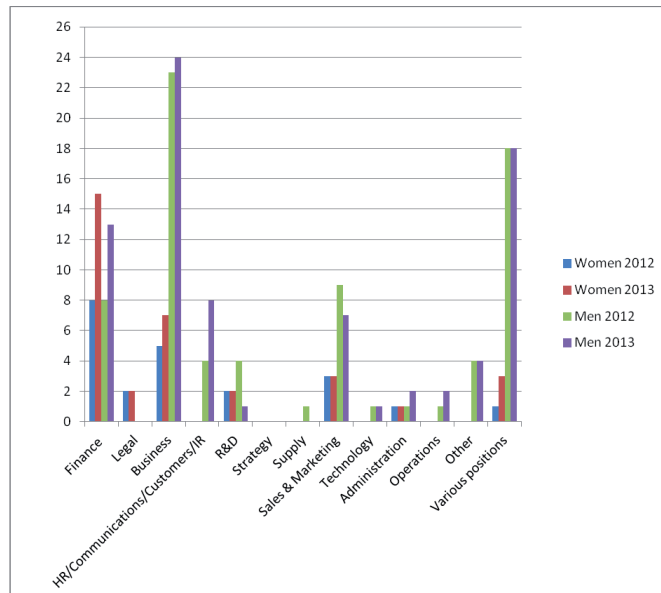


Table 88. Distribution of responsibility areas between small-cap companies' board members' (women and men) managementships in limited liability companies and other companies in 2012–2013.

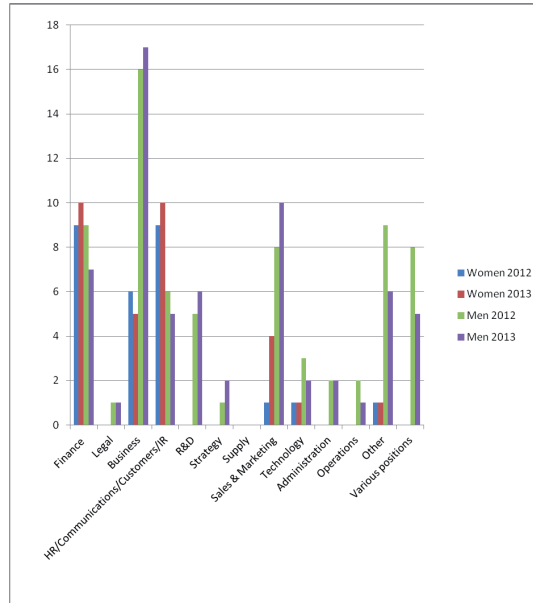


Table 89. Distribution of responsibility areas between managementships of large-cap companies' members of top management (women and men) in limited liability companies and other companies in 2012–2013.

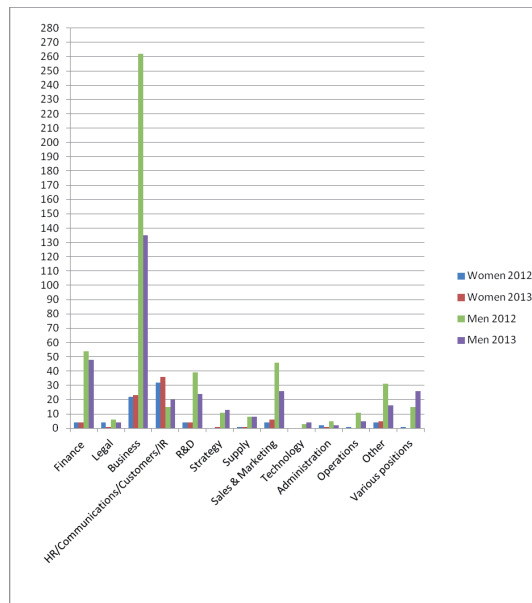


Table 90. Distribution of responsibility areas between managementships of mid-cap companies' members of top management (women and men) in limited liability companies and other companies in 2012–2013.

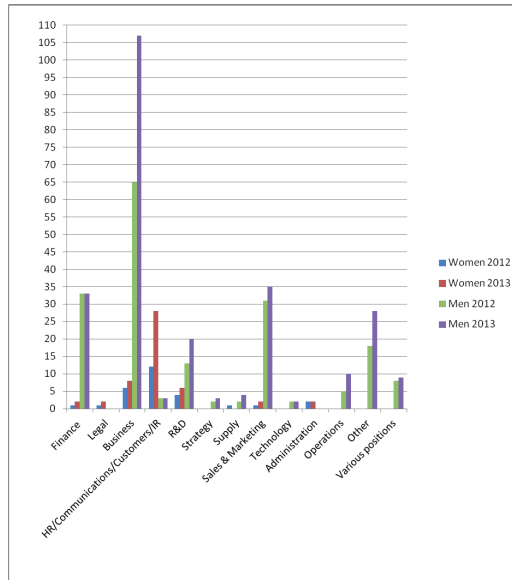


Table 91. Distribution of responsibility areas between managementships of small-cap companies' members of top management (women and men) in limited liability companies and other companies in 2012–2013.

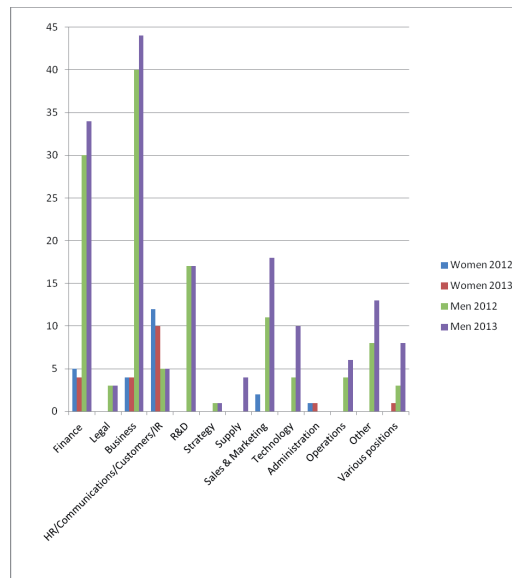


Table 92. Distribution of responsibility areas between managementships of all companies' CEOs in limited liability companies and other companies in 2012–2013.

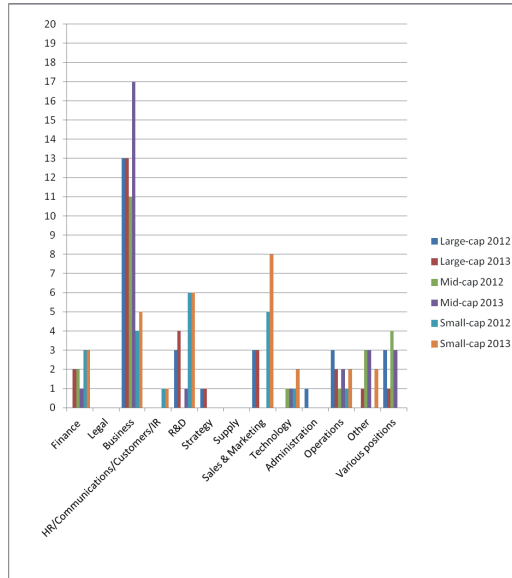
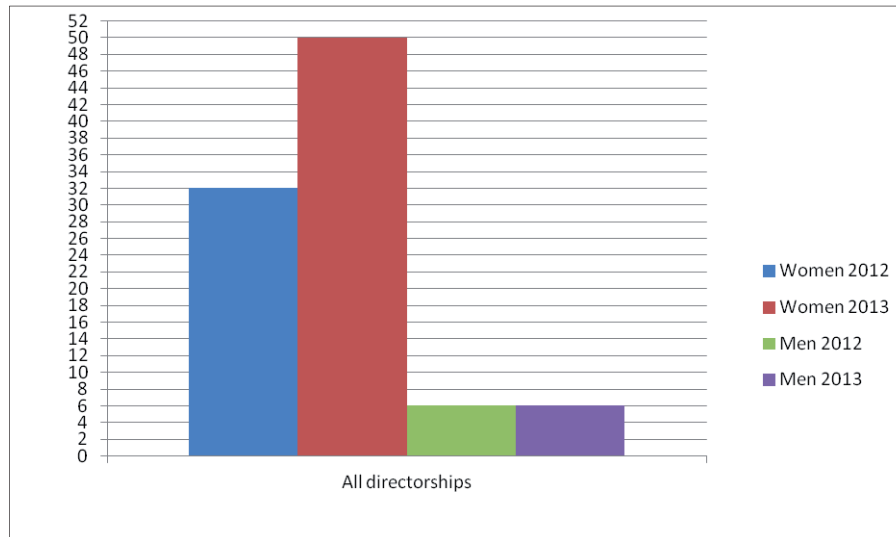


Table 93. Percentage rates of other directorships per board member (women and men) of large- and mid-cap companies in 2012–2013.¹⁹⁵



¹⁹⁵ There were no other directorships among small cap companies' board members in 2012–2013.

Table 94. Percentage rates of other directorships per members of top management teams (women and men) of all companies in 2012–2013.

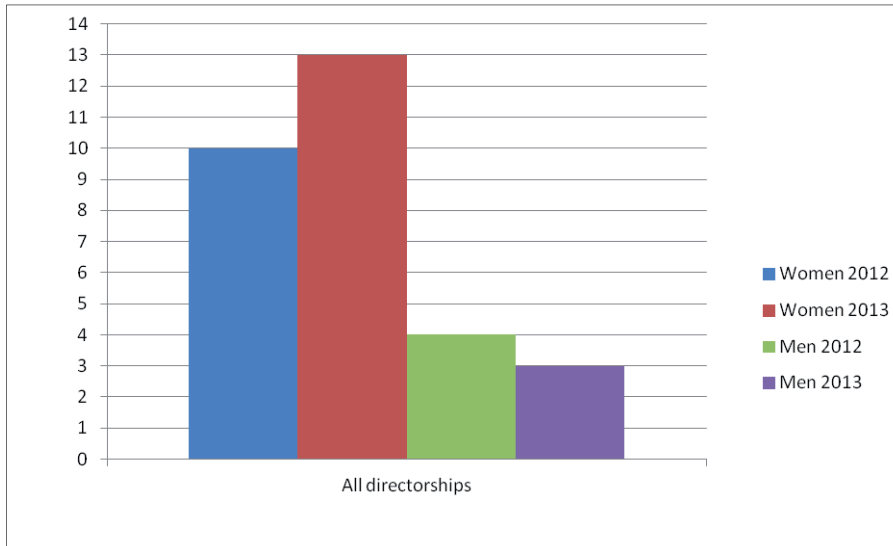


Table 95. Percentage rates of other directorships per CEOs of all companies in 2012–2013.

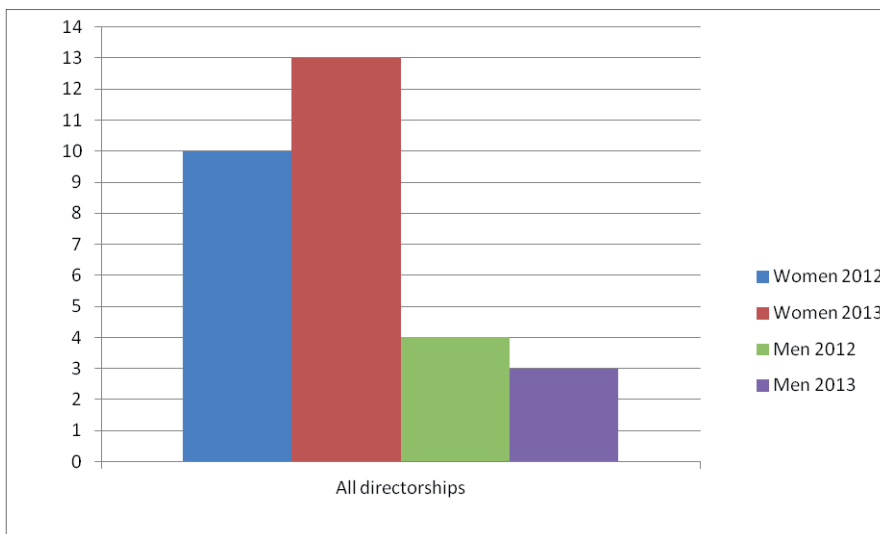


Table 96. Distribution of fields of businesses of other directorships of board members (women and men) of large- and mid-cap companies in 2012–2013.¹⁹⁶

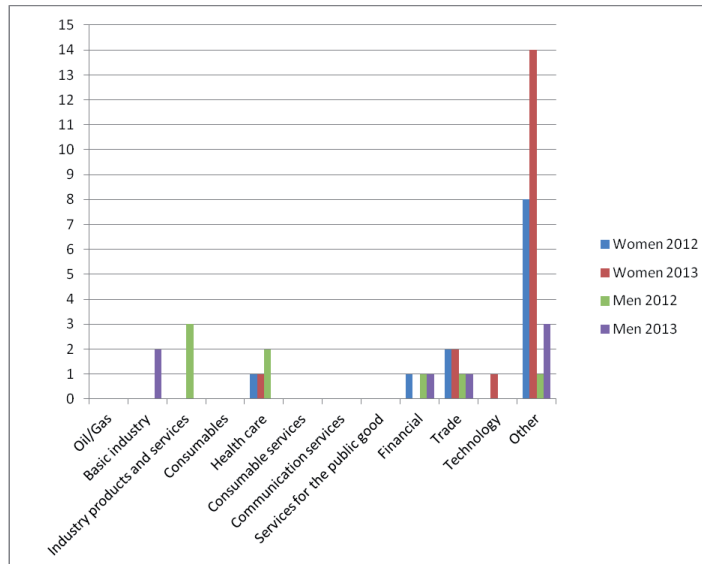
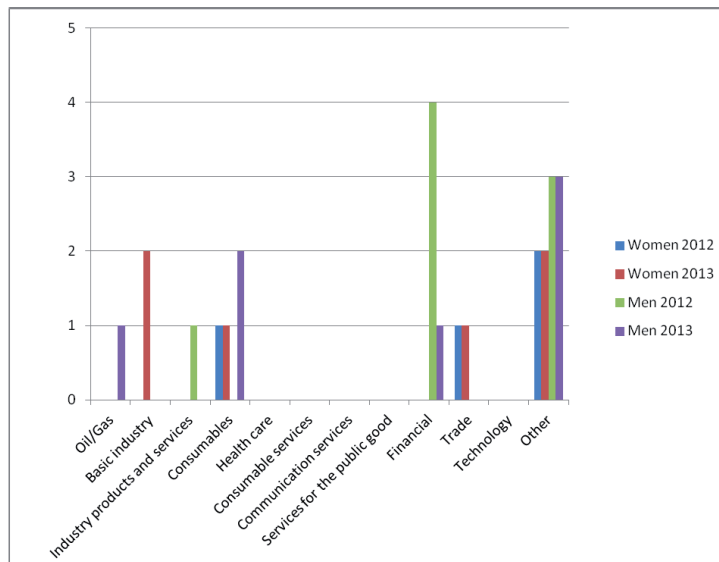


Table 97. Distribution of fields of businesses of other directorships of the members of top management teams (women and men) of all companies in 2012–2013.



¹⁹⁶ There were no other directorships among small-cap companies' board members in 2012–2013.

Table 98. Distribution of fields of businesses of other directorships of CEOs of all companies in 2012–2013. There was no information about distribution of responsibility areas in relation to other directorships of CEOs.

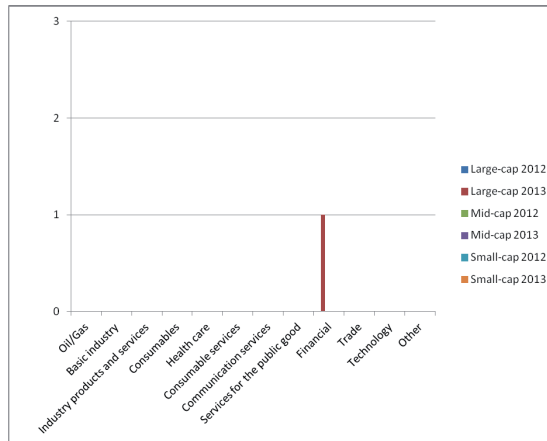
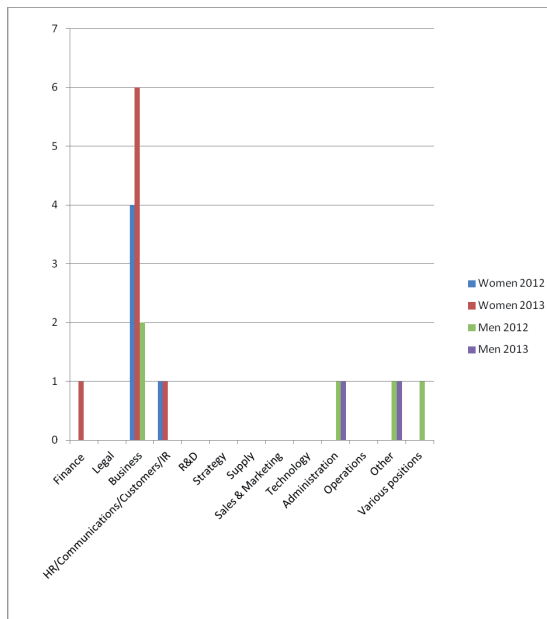


Table 99. Distribution of responsibility areas between large- and mid-cap companies' board members' (women and men) other directorships in 2012–2013.¹⁹⁷



¹⁹⁷ There were no other directorships among small-cap companies' board members in 2012–2013.

Table 100. Distribution of responsibility areas between other directorships of the members of top management teams of all companies (women and men) in 2012–2013.

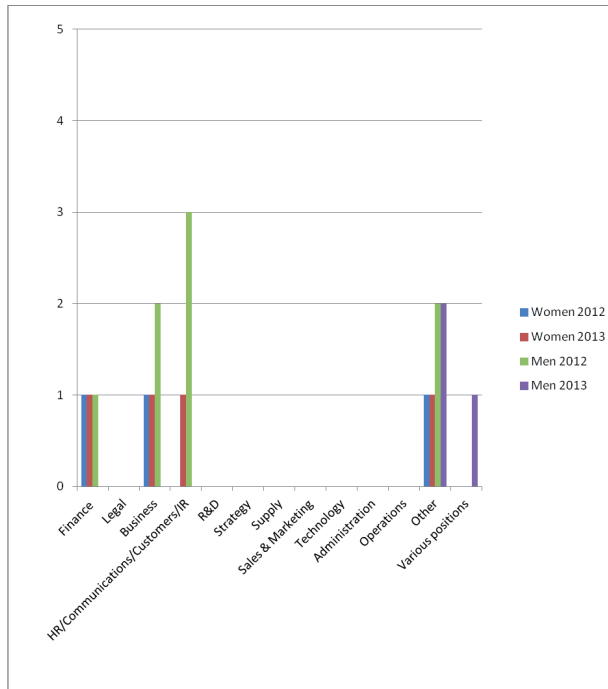


Table 101. Percentage rates of other work experience in relation to board members of large-cap companies (women and men) in 2012–2013.

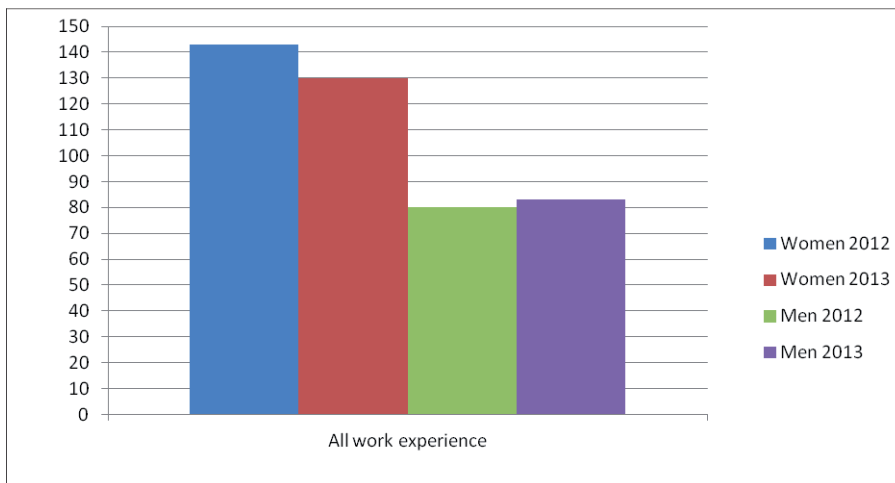


Table 102. Percentage rates of other work experience in relation to board members of mid-cap companies (women and men) in 2012–2013.

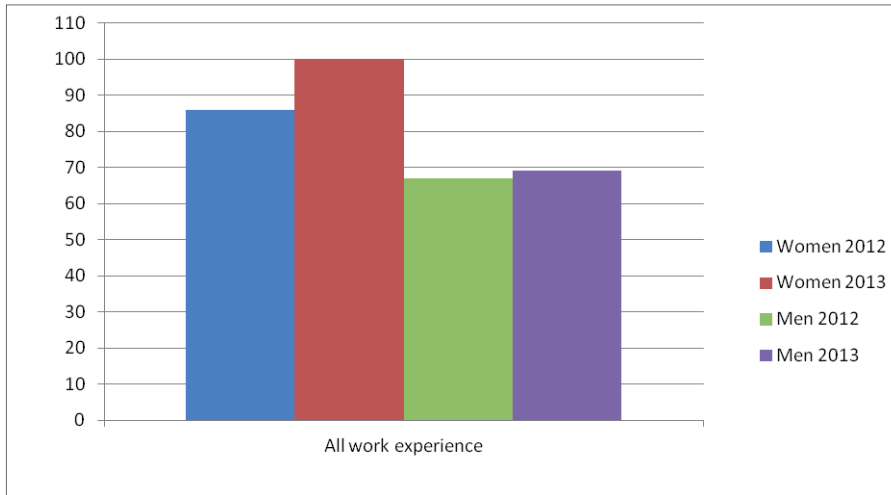


Table 103. Percentage rates of other work experience in relation to board members of small-cap companies (women and men) in 2012–2013.

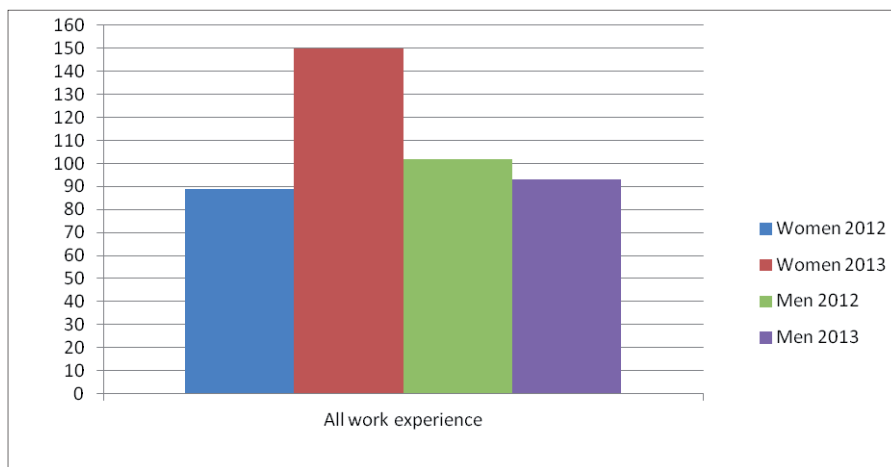


Table 104. Percentage rates of other work experience in relation to members of top management teams of large-cap companies (women and men) in 2012–2013.

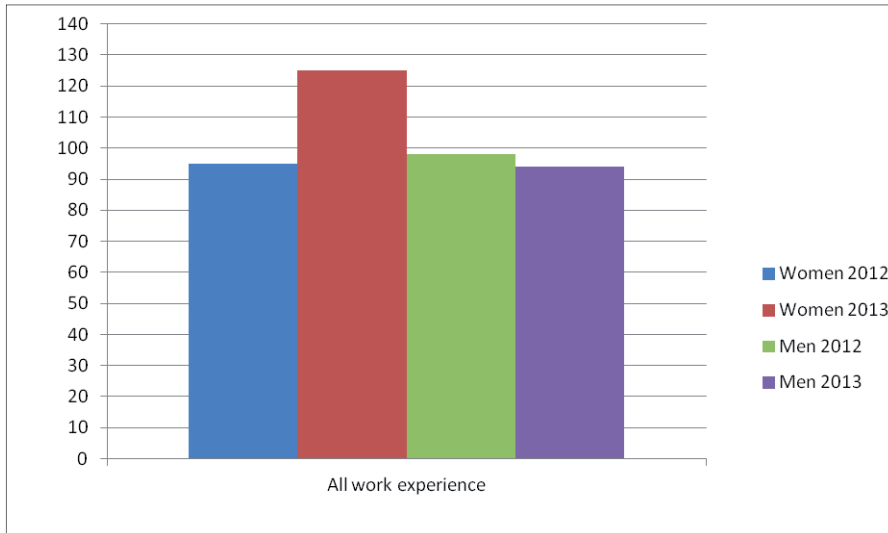


Table 105. Percentage rates of other work experience in relation to members of top management teams of mid-cap companies (women and men) in 2012–2013.

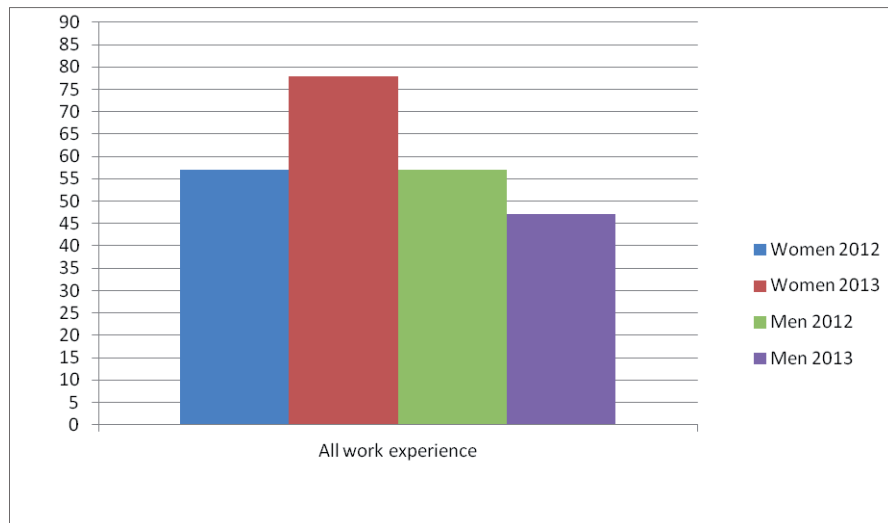


Table 106. Percentage rates of other work experience in relation to members of top management teams of small-cap companies (women and men) in 2012–2013.

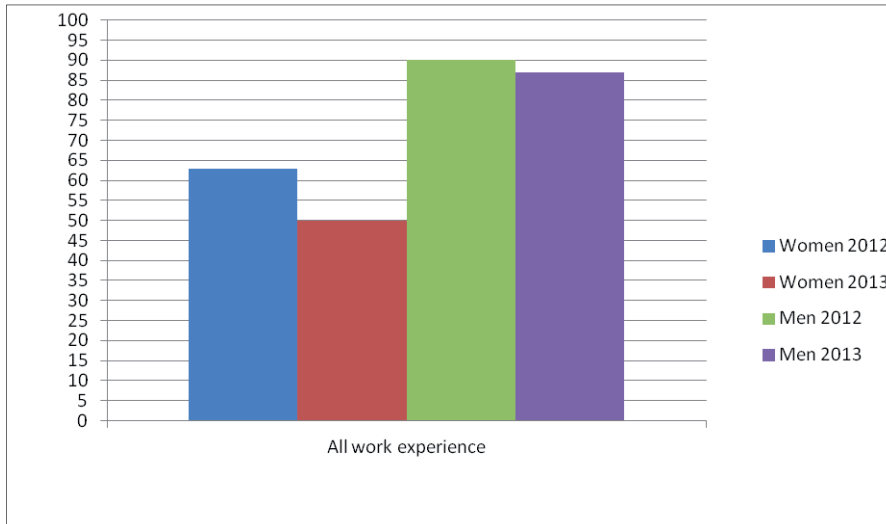


Table 107. Percentage rates of other work experience in relation to CEOs of all companies in 2012–2013.

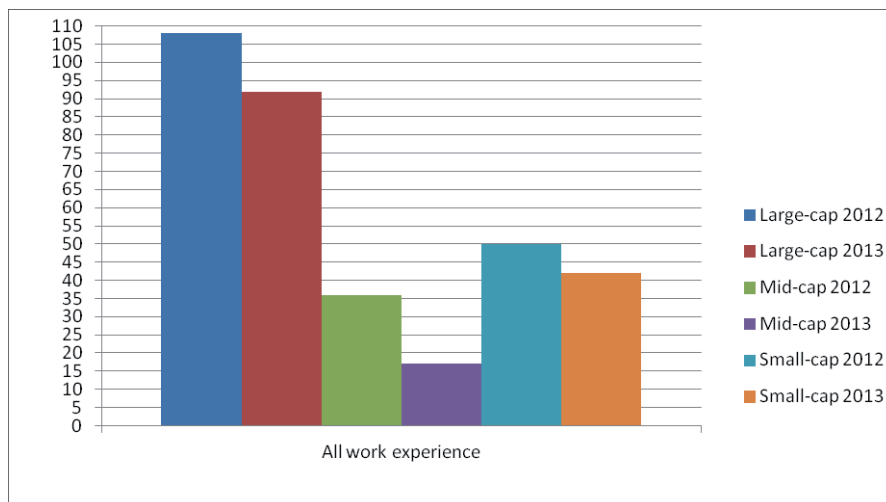


Table 108. Distribution of fields of businesses of other work experience of board members (women and men) of large-cap companies in 2012–2013.

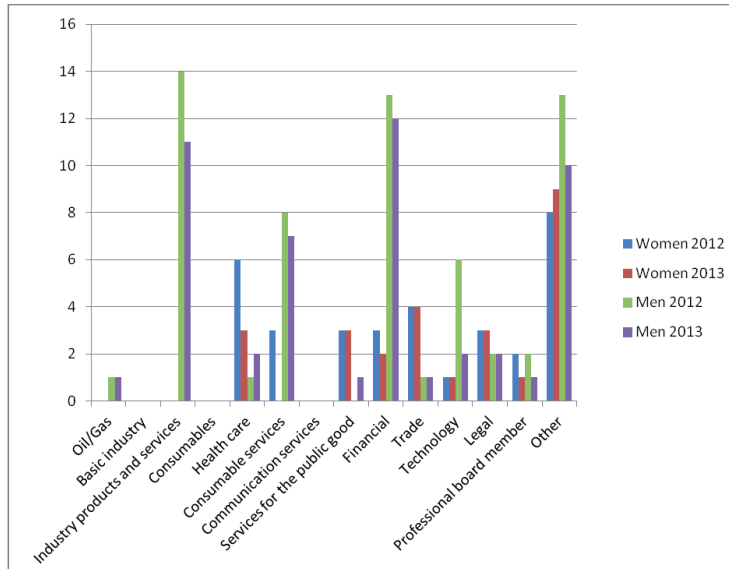


Table 109. Distribution of fields of businesses of other work experience of board members (women and men) of mid-cap companies in 2012–2013.

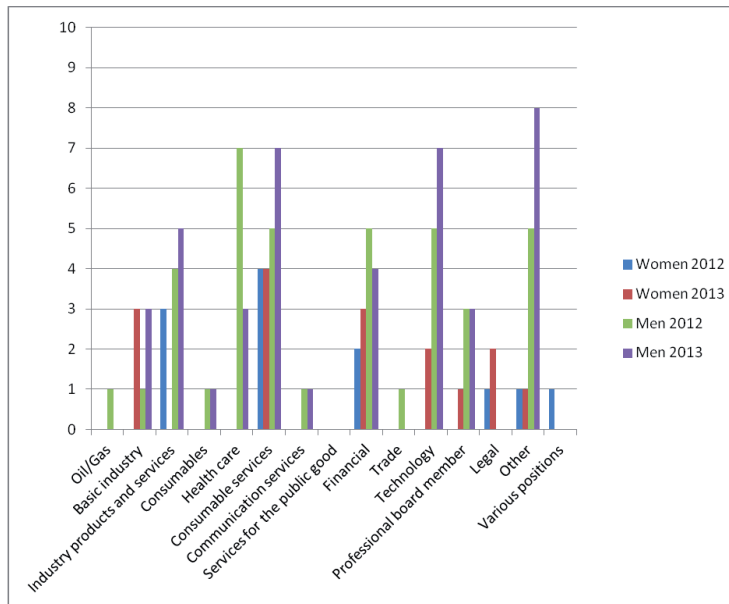


Table 110. Distribution of fields of businesses of other work experience of board members (women and men) of small-cap companies in 2012–2013.

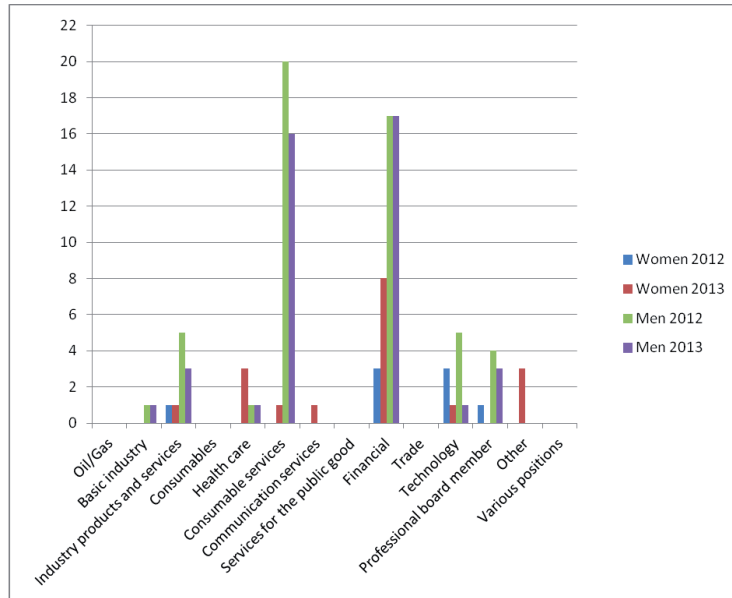


Table 111. Distribution of fields of businesses of other work experience of the members of top management teams (women and men) of large-cap companies in 2012–2013.

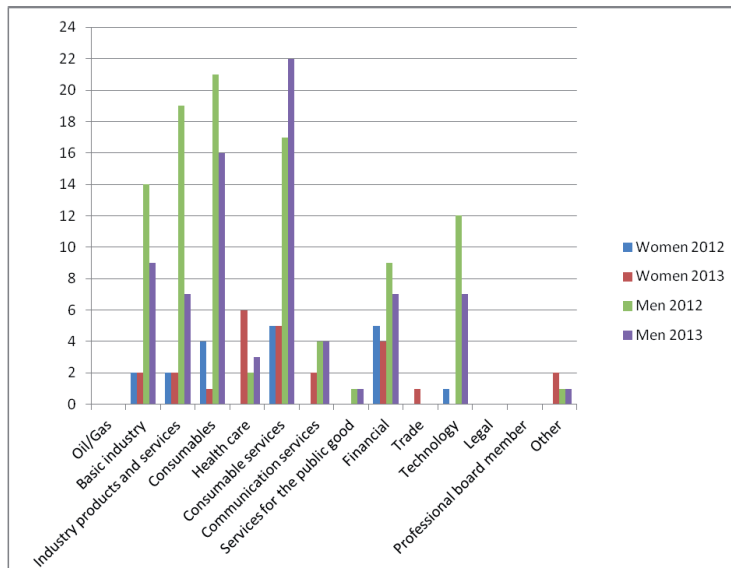


Table 112. Distribution of fields of businesses of other work experience of the members of top management teams (women and men) of mid-cap companies in 2012–2013.

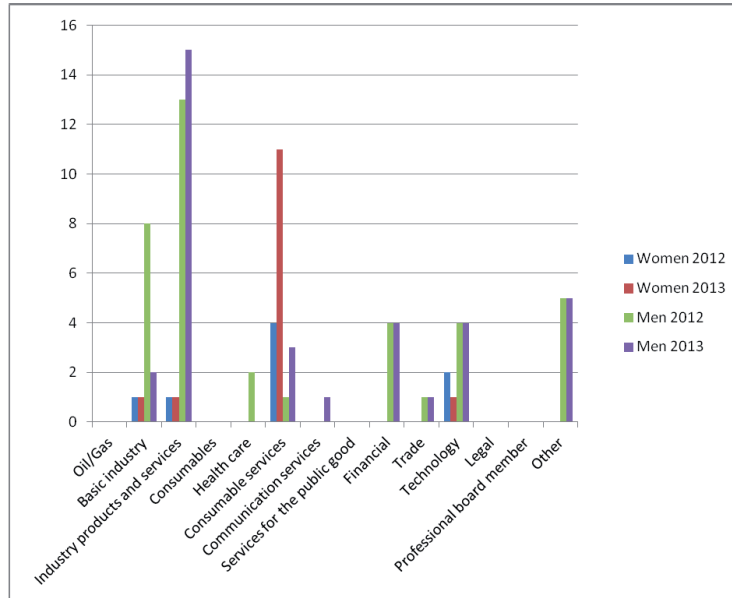


Table 113. Distribution of fields of businesses of other work experience of the members of top management teams (women and men) of small-cap companies in 2012–2013.

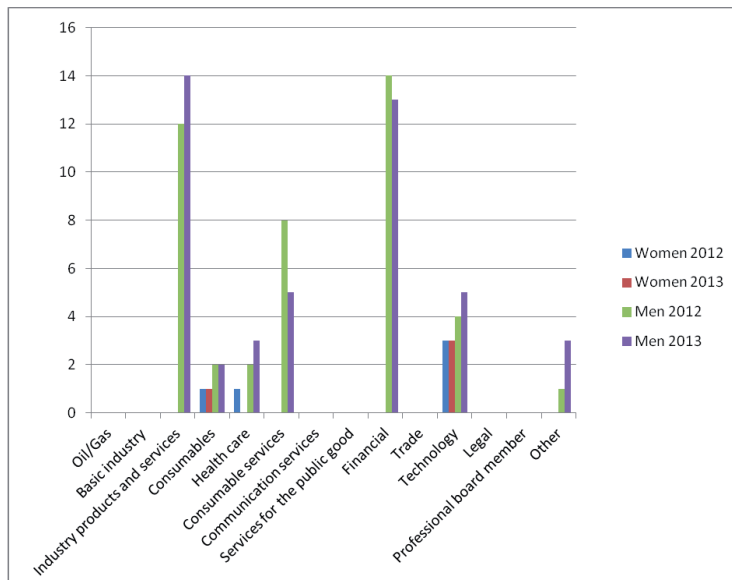


Table 114. Distribution of fields of businesses of other work experience of CEOs of all companies in 2012–2013.

