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What does it take to build an ethical culture?

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With the growing web of the regulatory environment, attorneys and compliance officers alike face a lot of problems interpreting regulations. The buzzwords in today's economy are "compliance programs," because the words act as a euphuism for survival in the fight against regulatory compliance. There is an overreliance placed on the words "compliance programs" rather than the substance of them.

The pressure on the compliance department

With the ever-growing regulatory and legal landscape, as well as other internal rules, policies, and procedures, it is difficult to manage or adhere to compliance. Furthermore, the effects of the recession are still looming over various economies, and there are many people who are simply looking for an entry into a profession to commence their daily earnings. Only a limited handful of professions have grown in requirement, and if one removes the opportunities associated with information technology, then people are left with hardly any options.

Compliance is a profession in demand, and it is in its nascent stage as it grows into a hardcore, technology-focused field. The impact of people not having the adequate background, engaging communication skills, training capabilities, a keen eye for detail, awareness of policies and local laws, and/or the ability to appropriately interpret regulations could be catastrophic for the organization that hires ill-equipped or inexperienced senior compliance officers.

This can further lead to a false sense of security amongst the management and the board when:

- A program is developed but is not tailored according to the local culture of the company;
- Policies and risk assessments are carried out by employees who are not adequately trained or made aware of their responsibilities;
- An induction/orientation program is held for new joiners without any substance to convey the organization's values and conduct;
- Investigations are carried out without any concrete evidence;
- People are disciplined based on their hierarchal value in their chain;
- Management reports are made on the number of investigations closed, only to later find out that half of

them were closed because they were reported by anonymous whistleblowers;

- The “weight” of the department is thrown around, only to find out that one senior compliance officer bullied the whistleblowers to reveal names; or
- Monitoring/spot checks are carried out without any actual effect of compliance; and
- The list goes on and on.

U.S. Securities and Exchange Commission (SEC) Enforcement Director Andrew Ceresney, in 2014, mentioned the importance of compliance officers and, in the same speech, mentioned that the SEC has brought and will continue to bring actions against personnel who have affirmatively participated in misconduct, who have misled regulators, or who had the clear responsibility to implement compliance programs or policies and wholly failed to carry out that responsibility.^[1]

This goes to show the importance of compliance officers. One mistake in the hiring of a compliance officer could take the organization down like a house of cards.

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