

ethikos Volume 34, Number 3. March 01, 2020 It's not just about compliance; ethics must be institutionally embedded

By Ken Chamberlain

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It's no easy task being a compliance and ethics (C&E) leader in today's volatile business environment with seemingly endless scrutiny of your activities. You're probably being quizzed from many different directions, from your board and shareholders to your counterparts, from regulators to middle management. The list of urgent issues can sometimes seem insurmountable as you prioritize your agenda.

When it rains, it pours. This idiom appears to perfectly describe a typical C&E function as the volume of urgent to-do lists accelerates without pause, all of which are assigned top priority. So, the former top priority slips down to number two, number two to number three, and so on.

Ethics, quite rightly, has been given equal status to compliance. It's no longer just about achieving results, but also the manner they are attained.

Setting the stage: Is your organization's ethics infrastructure competent?

In the wake of myriad high-profile corporate corruption scandals throughout the last couple of decades, combined with the exponential intensity of media scrutinization, it appears that C&E teams are at the epicenter of observance, with responsibilities swollen beyond recognition and activities probed ever-more deeply. The ability to tangibly demonstrate total compliance is now firmly in the crosshairs of regulators, together with the intensifying view on the personal responsibilities and liabilities of the chief commercial officer (CCO).

Could you be accused of willful blindness and be considered culpable? Well, isn't it at the core of the CCO's responsibility to identify the facts, eliminate wrongdoing, and ensure appropriate disciplinary actions are taken? Yes, it is, and so you could be held liable!

Recently, we've witnessed an influx of cases in which named CCOs were barred from the office or had significant financial fines imposed for compliance failures within their businesses.

Corruption, although not exclusively, has become a primary focus across all jurisdictions, both in the corporate sector and within government. There have been numerous examples of publicized ethics and corruption cases where internationally renowned organizations have been exposed. Some examples include:

- US banking institute: Fake bank accounts
- Europe: Misleading vehicle emissions
- European electrical giant: Bribery
- US multinational retail corporation: Pay discrimination
- US oil giant: Climate change denial

- International pharmaceuticals organization: Drugs pricing
- Swiss multinational food and drink processing conglomerate: Misleading marketing
- UK banks: Payment protection insurance misselling
- Brazilian conglomerate – petrochemicals: Bribes to politicians
- Brazilian petroleum corporation: Bribes to politicians
- Scandinavian telecoms giant: Bribes to obtain licenses and frequencies in the Commonwealth of Independent States
- Israeli–American multinational pharmaceutical company: Price fixing

The list goes on and on...

No compliance team could realistically address all the ethics-related business risks at a glance and provide cast-iron assurances. A systematic process of risk evaluation—a health check—is perhaps the best option to identify and prioritize appropriate mitigation strategies.

Consider also that executives in some companies don't always appreciate the role and potential benefit of an effective compliance department, instead taking only a passive interest in what they actually do and prioritizing the bottom line.

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