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Universal values and global compliance programs

When designing global compliance programs, the easiest and most cost-effective approach would be to craft one code of conduct, one set of policies, and one training curriculum in the company’s headquarters, and then roll out this program to the company’s operations all throughout the world. This type of “universal” approach faces the obstacles that foreign laws do sometimes collide with the headquarters’ laws, and that the program may require translation based on the linguistic capabilities of the workforce. In addition, cultural observations, academic research, and experience gained from multinational companies point to cultural dissonances and obstacles that have deeper roots than just law and language, and may require additional customization.

When cultures collide
The author was honored to co-present a half-day session on “When Cultures Collide” at the SCCE’s 2014 Annual Compliance & Ethics Institute in Chicago, as part of a diverse panel. Attendees representing different backgrounds were invited to discuss examples of such cultural dissonances and obstacles; explore their historic, philosophical, and sociological underpinnings; and exchange experiences with culturally customized approaches. The discussions reflected a spirit of respect, tolerance, and openness towards other cultures, with compliance professionals aiming to be culturally sensitive and to avoid imposing the culture of the headquarters on foreign operations.

Most participants were receptive to cultural customization of compliance programs in areas such as reporting practices, privacy policies, and training approaches, but there seemed to be a set of issues pertaining...
to the worldwide rollout of the headquarters’ equal opportunities, non-discrimination, and anti-harassment rules and values, where a consensus was less evident. This article aims to shed some light on this area and explore the reasons why there may be no easy answers.

Examples of conflicting cultural values
In order to illustrate conflicting cultural values pertaining to equal opportunities, non-discrimination, and anti-harassment, let’s explore three hypothetical pieces of feedback that a fictitious US-headquartered company could receive from regional management regarding its compliance program.

- **Saudi Arabia and Malaysia**: The company’s commitment, in its global code of conduct, to non-discriminatory treatment of employees irrespective of their ethnic background, gender, and sexual orientation is “not workable.”
- **Russia and Turkey**: The company’s worldwide policy of being an equal opportunity employer for LGBT persons is “not realistic.”
- **France, Japan, and Mexico**: The example cases in the training materials for unwelcome behavior constituting potential sexual harassment are “laughable.”

A company faced with such feedback must take a step back and consider, among other factors, its public image, the message it sends to its employees, management credibility, as well as the respective business impact.

Universalism versus Relativism
During such reflections, the categories of universalism and relativism can be helpful. The question as to whether and to what degree values are universal or relative has long been a topic of controversial philosophical, religious, and political debate. In the political and moral discourse of the 20th century, positions taken in the United States tended to gravitate towards universalism, particularly in relation to civil rights, while China, Russia and many third-world countries were known to favor relativist positions, with Europe going back and forth between the two concepts.

Looking at the above feedback from regional management, there are two “easy” responses on the extreme ends of the universalism/relativism continuum. For an extreme “universalist,” all compliance materials should be the same around the world. The extreme “relativist” approach would be that the company should adopt separate versions its code of conduct, policies, and training materials to reflect local laws, customs, and realities for each country.

In search of middle ground
Obviously, neither of the extreme positions above makes much practical sense for a global company. Even staunch universalists will admit that the company’s compliance program needs to be translated in countries where the employees’ English capabilities are limited, and that mandatory local laws may require additional or modified compliance policies and training materials, especially when “compliance with local laws” is, in itself, one of the company’s values.

Similarly, proponents of relativist approaches may agree that it is beneficial for a company to have some degree of consistency in its global messaging and that too much tailoring can be cost prohibitive and impractical.

But the question remains: How should a company respond to the issues raised in the above examples? The author suggests a five-step questioning process that can help guide the decision process:

1. Is the respective value an integral part of our global public image?
2. How important do our US and global employees rate this issue?

3. If we were to insist on this value, could we still operate in the respective country?

4. If we were to insist on this value, would the company enforce it and management maintain its credibility?

5. If we were to insist on this value, how would the productivity of the company’s operations be impacted?

These five steps can be applied to develop a response to the feedback from regional management. Due to significant regional and industry variations in US-headquartered cultures, we apply the steps to the viewpoints of a fictitious “new technology” company from California’s Silicon Valley, a mining company based in Montana, and an Alabama widget company.

Public image
The Silicon Valley-headquartered new technology company will likely want to portray an image of social responsibility, openness, innovation, diversity, and progressive global citizenship. Its core customers and stakeholders, whether based in the United States or elsewhere, will expect the company’s compliance program to contain a commitment to equal opportunities, non-discrimination, and anti-harassment. Global application of these standards, not only to the companies’ subsidiaries and affiliates, but also down the supply chain, will be monitored by social media-savvy customers, stakeholders, and the press.

On the other end of the spectrum, things may be different for the Montana-headquartered global mining company or our global manufacturer of widgets based in Alabama, whose customers and stakeholders may be more concerned about the bottom line (i.e., pricing, quality) than promoting universal values.

Employee perceptions
US employees of the Silicon Valley-headquartered company will likely identify with the company’s values in these areas and be appalled if they witness, in their global travel, when hosting global visitors, or when attending global conference calls, that different standards pertaining to equal opportunities, non-discrimination, and anti-harassment are being followed elsewhere in the company. If employees in foreign operations subject a US employee or their fellow local employees to treatment that the US employee perceives as discriminatory or harassing, the US employee is likely to speak up.

Employees of the Silicon Valley-headquartered company in Saudi Arabia, Malaysia, Russia, Turkey, France, Japan, and Mexico will likely understand the “progressive” nature of the headquarters culture. Many employees may identify with the company’s values and support change in their own countries, such as empowering women, ending discrimination of the LGBT
community, and adopting more thoughtful ways of collaborating in diverse work environments. The company may even attract top women, LGBT individuals, and progressive talent who are not appreciated in the country’s “traditional” corporate culture, and thereby gain a competitive advantage.

By contrast, Montana and Alabama employees in the mining and widget industries may get less excited about the above values, accept that different countries do things differently, and resign themselves to the fact that progress in these areas, even in the U.S., has been a long, historic process.

Similarly, most global employees of those companies may follow more “traditional” values in their respective cultures and resent the headquarters’ meddling in internal cultural affairs.

**Business impact**
After looking into the impact of their respective decision on their public image and employee perceptions, companies that want to apply their values “universally” would be well-advised to study the business impact on:
- Continued global operations
- Enforcement and management credibility
- Productivity

**Continued global operations**
As for the Silicon Valley-headquartered company, the question is whether the application of its “universal” values will allow the company to operate under the laws of Saudi Arabia, Malaysia, Russia, Turkey, France, Japan, and Mexico. At this stage, a legal review with local counsel is recommended, which may identify issues such as laws penalizing expressions of sexual orientation and identity (Saudi Arabia, Malaysia, and Russia), requirements for gender segregation at the workplace (Saudi Arabia), and an affirmative action requirement in favor of a certain ethnicity (Malaysia). In most countries, however, a reasonable expectation would be that the adoption of US values will not trigger automatic actions by foreign governments that would impede the company’s continuous operations.

**Enforcement and management credibility**
In some cases, local employment laws may make it difficult to discipline or terminate employees who violate the “universal” values. In the worst case, local managers may be viewed as “cultural traitors” by local employees who feel a strong attachment to conflicting local traditions.

Similarly, most global employees of those companies may follow more “traditional” values in their respective cultures and resent the headquarters’ meddling in internal cultural affairs.

**Productivity**
As explained above, for a company like our Silicon Valley-headquartered new technology firm, hiring top women, LGBT individuals, and progressive talent who would otherwise be marginalized by the local “traditional” culture may lead to productivity gains and competitive advantages. In the worst case, however, a mismanaged rollout of “universal” values could trigger a backlash, lead to employee discontent and non-compliance, and
necessitate repeated disciplinary actions and terminations of employees.

Conclusion

Company headquarters must be sensitive to legal, linguistic, and cultural consideration when designing global compliance programs. Prior to their global rollout, compliance programs should be reviewed by management and compliance/legal professionals familiar with local circumstances. There is a natural tension between the advantages of “universal” rules and values in all company locations and customizing content according to local requirements and circumstances. Decisions on a “universal” versus “relativist” approach can have high stakes in certain areas of compliance programs, such as equal opportunities, non-discrimination and anti-harassment rules and values. The “right” balance depends on the nature of the company’s operations and can be approached by following the five-step process suggested in this article. *

2. The author was joined by co-panelists Sally March, Cindy Morrison, and Nitish Singh.
3. Kant’s categorical imperative and most teachings of monotheistic religions such as Christianity, Islam, or Judaism are examples of moral “universalism”, whereas utilitarianism and Marxism are often cited as examples of moral “relativism.”

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