Managing Conflicts of Interest and Encouraging Ethical Decision-Making in the Utilities & Energy Sector

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Introductions - Tijd voor “koffie”

• Who Am I?
  • Compliance advisor, writer, & blogger
  • Financial sector professional
  • “Born” September 15, 2008
  • Ex: Lawyer, Los Angeleno
  • Forever: New York Islanders fan, Thanksgiving enthusiast

• How About You?
Agenda

• Conflicts of interest
• Ethical decision-making
• Ethical dilemmas
• Theoretical insights
• Practical applications

Conflicts of interest

• Arise when a person and/or organization is involved in multiple interests which could impact:
  • The decision-making of that person and/or organization
  • The interests of other person(s) and/or organization(s)
• Can be between:
  • Individuals and other individuals, organizations, clients, stakeholders
  • Organizations and other organizations, individuals, client, stakeholders
• Could come from outside business activities, interests, and involvements; family and social relationships within or outside work; gifts and entertainment
Risks from conflicts of interest

• Judgment or actions regarding one interest or set of interests could be improperly influenced by another interest or set of interests by:
  • Biases and unfair preference or harm
  • Commercial limitations
  • Loss of competitive advantage

• Or that conflicting interests could result in the perception of unfair judgment or actions
  • Reputational risk
  • Stakeholder “mis”-management
  • CSR and engagement

Ethical decision-making

• Making choices from a basis of integrity
  • The determination to do the right thing for the right reason at the right time
  • At both individual and organizational level

• Not sufficiently nuanced to view process as being about “right” vs. “wrong” or “good” vs. “bad”
  • Avoid moral relativism
  • Nature vs. nurture – individual ethics or corporate culture of compliance by force can never be authentic

• Complicated context of incentives for, and obstacles to, ethical choices
Risks to ethical decision-making

- Narrow framework
- Inadequate awareness and information to support choices
- Isolation from consequences
  - Lack of responsibility
  - Lack of context
- Inability to escalate
  - Culture of fear = culture of non-compliance
  - Management that isn’t leadership or vice versa
- Limitations of good vs. bad apples

Ethical dilemmas

- Prompts describing situations from daily life or work where conflicts of interest may present challenges to ethical decision-making
- Dilemma analysis that leads to variety of perspectives and outcomes
- Dialog with a goal of creative engagement with ethics and inclusive, organic discussion that creates fluency
- Classic example: The Trolley Problem
- Workplace example: It’s Relative
Working with ethical dilemmas from the utilities & energy sector

In small groups, discuss dilemmas (professional context, facts anonymized) guided by the following considerations:

- What is the ethical question?
- What are the relevant personal values?
- Who are the interested parties?
- What are their interests and how do they conflict?
- What are the potential answers and the consequences of each?
- Given the above, what is the answer to the ethical question (choice)?
- Is the choice possible/practical in light of all the interests and consequences?

Then, share your thoughts with everyone.

Theoretical insights

- Behavioral economics
  - Dan Ariely – Moral engagement; self control as potential conflict of interest (Predictably Irrational; The (Honest) Truth About Dishonesty)
  - Richard Thaler & Cass Sunstein – Libertarian paternalism; choice architecture (Nudge; Misbehaving)
  - Daniel Kahneman – Role of thinking in deciding; bias (Thinking Fast & Slow)
- Psychology
  - Viktor Frankl – Purpose-driven life, importance of quest for meaning (Man’s Search for Meaning)
  - Sheena Iyengar – Intentionality of choice as: art, freedom, individuality, experience, and identity (The Art of Choosing)
  - Malcolm Gladwell – Thin slicing, filtering to choose (Blink)
Practical applications

- Build control framework at organizational level and for all employees
- Duality of compliance
  - Mandatory and voluntary
  - Discipline and function
- Culture unites rules and values
- Implement best practices
  - Get concrete buy-in from the top – conduct also, not just tone
  - Demonstrate accountability
  - Policies in place
  - Procedures in place
  - Two-way communication, not training

And finally, a call to action, for you and the businesses you advise...

“İ’m The Decider”

Four steps to Be The Decider

- Take personal accountability
- Chop wood and carry water
  - “Hear the voices, read the front page, know the speculation”
  - Consider outcomes and consequences
- Be ambitiously ethical
- Choose by doing unto others as you’d have done unto you
Thank you! Let’s stay in touch!

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