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

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SCCE Utilities & Energy Compliance & Ethics Conference
Session 302
Monday, February 5, 2018

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 organisational level and for all employees
  • Duality of compliance
  • Mandatory and voluntary
  • Discipline and facilitation
• 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...

“I’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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