
10th LUMEN International Scientific Conference Rethinking Social Action.
Core Values in Practice | RSACVP 2018 |
20-21 April 2018 | Suceava, Romania

Rethinking Social Action. Core Values in Practice

Coping with Everyday Ethical Dilemmas

Valeriu DECIU

<https://doi.org/10.18662/lumproc.39>

How to cite: Deciu, V. (2018). Coping with Everyday Ethical Dilemmas. In A. Sandu, T. Ciulei, (eds.), *Rethinking Social Action. Core Values in Practice* (pp. 99-106). Iasi, Romania: LUMEN Proceedings.
<https://doi.org/10.18662/lumproc.39>



10th LUMEN International Scientific Conference
Rethinking Social Action. Core Values in Practice |
RSACVP 2018 | 20-21 April 2018 | Suceava – Romania

Coping with Everyday Ethical Dilemmas

Valeriu DECIU¹

Abstract

We normally need case studies to explore ethical dilemmas, always with referential principles used to define what we think is right or wrong. Said principles are usually preordained, resulting from our life experiences, and help us draw a line between good and bad. Summing up perennial values and moral virtues like honesty, fairness, and responsibility, these principles seem theoretically untouchable and flawless. Though, both time and day to day situations force us to adjust these values, rephrase those principles and reposition the line delimiting the acceptable.

Same goes for real-life situations in the workplace. Values and principles stated in any Ethics and Compliance Program are not always easy to observe when tested by the unexpected and uncertainty. Is it possible to define those principles so that to withstand any test? Probably not, since managers have to cope quite often with potential conflicts of interest, mismanagement of resources, biased interpretations of contracts and agreements, to name just a few. Apart from “black and white” they have to operate in a very challenging “grey area” where things are far from being simple. Some might say that all they have to do is to consider their decision’s effects for the stakeholders while keeping a keen eye on the compliance issues. What happens when a wrongful situation is favourable for the shareholders? Or a hypothetical situation presents choices which entail ethical dilemmas, even if the expected outcome is “for the greater good”?

We posit that best way to cope with ethical and compliance dilemmas is to use a combination of subjective and objective instruments for risk assessment. These should be helpful when we deal with uncharted or unexpected ethical issues falling under the category of a “grey area”. How can we assess some dimensions of said issues which are not measurable? This is the question that we try to answer throughout the present paper.

¹ Alexandru Ioan Cuza University, Doctoral School for Economics and Business Administration, Iasi, Romania, deciuvaleriu@gmail.com.

<https://doi.org/10.18662/lumproc.39>

Corresponding Author: Valeriu DECIU

Selection and peer-review under responsibility of the Organizing Committee of the conference



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Noncommercial 4.0 Unported License, permitting all non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited

Keywords: *ethics, compliance, ethical dilemmas, assessment models, code of ethics, ethical values.*

1. Introduction

Ethical goals are to be integrated into codes of ethics or mission statements but putting them into action is what makes the ethics program successful. Once tested in practice these may eventually become moral or ethical principles.

Any such guidance instrument has to be in its turn calibrated, adjusted and completed on a regular basis according to new insights resulting from recent cases resolutions. Managers must deal with potentially illegal or unethical cases almost every day. Questionable practices about resources mismanaged or contracts misinterpreted are among the most met challenges, but casuistry is far more diverse and complex.

Moreover, managers sometimes must prioritize when it comes to conflicting interests. For example, in situations where shareholders' interests do not coincide with the rest of the stakeholders' ones, a decision is very hard to make. Business ethics is knowing right from wrong in the workplace and choosing the right thing. This choice is not easy when one has to consider all stakeholders' interests. [1]

As well, compliance rules cannot state all the possible situations exactly as these are met on a daily basis. In some cases, a resourceful manager might interpret the rule to the letter, leaving aside its spirit, according to his needs and interests. Illegal, unethical, or questionable practices, must be investigated from their causes to their effects and solutions to eradicate them contextualized. [2]

2. Theoretical Background

The main purpose of ethics and compliance programs is to uphold moral values and align behaviours with those values [2]. We do that employing ethics codes or codes of conduct with written policies and procedures and provide further insight with the help of specialized training from ethicists.

There is no problem to find inspiration or guidance when conceiving an ethics code or program. Many materials were made available throughout the past decades, as OECD's Good Practice Guidance on Internal Controls, Ethics and Compliance [3] or the Federal Sentencing Guidelines [4]. Even if such materials appear to address specifically the risks of bribery, their recommendations could be applied to any general compliance and ethics program.

Recommended good practices have a common “thread” that can be easily traced. These can be grouped into seven categories:

First, the senior management has to support and commit to the ethics and compliance program clearly; anti-bribery policy must be visible and comprehensive; employees at all levels must be held accountable for compliance with the laws; if there is a designated ethics officer, such person has to be invested with proper authority and resources. Second, clear policies and procedures are to be stated in the areas where the bribery risk is highest. Limitations and procedures are to be enunciated concerning gifts, hospitality, entertainment and expense accounts; political contributions, donations, charities, and sponsorships; facilitation and solicitation payments. Third, to be effective, such compliance measures have to be extended to any related third parties such as agents, consultants, representatives, distributors, contractors, and suppliers. Fourth comes to the need for accurate books and records, accounting and financial procedures. Fifth is the recommendation for continuous training and good communication at all levels. Sixth is the confidential reporting system and disciplinary procedures that address both the law and companies’ policies and procedures. And last, but not least, the recommendation to review periodically the ethics and compliance program aimed to evaluate, improve and align with recent developments in the field and industry standards.

3. Argument of the paper

Sometimes ethical values are conflicting, and when managers have to choose from equally justifiable alternatives, we have to evaluate their consequences towards the stakeholders. Morality is most challenged when managers look to maximize profit, cut costs or expand company’s market share. Ethical behaviour is preserved in such cases through the agency of limitations provided by laws, rules, and regulations. Strategic priorities have to fall behind if associated actions transgress policies and procedures.

If there is a discrepancy between declared values and those reflected by actual behaviours, chances for increased productivity in a good environment provided by strengthened teamwork are very low. Same goes for the lack of openness and ongoing dialogue over the assumed organizational values. Employees respond to these issues with a lack of motivation. and hence their performances are affected.

There are several methods to address ethical dilemmas. All have advantages and disadvantages, powerful insights and shortcomings. In the end, each organization should choose the methods mix that suits better its size, complexity and types of risk it faces. We submit that a thorough

assessment must be carried out both from subjective and objective standpoints.

Confronted with unexpected or uncharted ethical dilemmas in the workplace, a manager cannot always turn to the ethical code's provisions for reference. In most cases, a quick decision is required, and even if he submits the case to the ethics officer for counselling, there are no.2 types of assessing instruments they could both use for evaluation.

First method- a subjective approach

Consists of clearing out the doubts by running the case through some standard questions. Such questions should help establish on the one hand the pros and cons, and side effects as well. A typical questionnaire might look as follows:

- Is the problem properly defined? Try defining it from an opposite standpoint.
- What triggered this problem? Is it something unforeseen or uncharted?
- If you would have to prioritize, to whom do you owe allegiance mostly?
- What is your decision's main goal?
- What are the expected results of your intended decision?
- Are there any persons or organizational interests harmed by your intended decision or action?
- Can you share with the affected parties your thoughts before making the said decision?
- Do you anticipate any possible qualms after making that decision?
- Is there any symbolic dimension that can be attached to your action?
- Is your stance subject to exceptions under different circumstances?

Going through the above questions gives a rather subjective perspective since there are no measurable deliverables as an outcome. The undeniable merit of the above tool is the help it gives the manager or ethicist to cover the issue from different possible angles.

Second method- a more objective approach

The following instrument is much more objective and consists of an ethical checklist. To obtain a measurable deliverable, to each position, a

Likert scale must be attached with numerical values from 1 to 5 corresponding to answers ranging from “definitely not” (1) to “definitely yes” (5).

An example of such a checklist hereunder:

- 1) Do I have all necessary information for an informed decision?
- 2) Are all the persons who have the right to weigh in informed and involved?
- 3) Have I anticipated the consequences and accommodated the persons significantly affected?
- 4) Is this a fair decision from any stakeholder’s standpoint?
- 5) Is my decision aligned with organizational values?
- 6) Should my current decision become a reference to future similar situations?
- 7) Would I be embarrassed or uncomfortable if details of my decision under the circumstances became public knowledge?

After checking from the above list the numerical value that applies, one can obtain by summing them up a certain score for each situation. The value of this score should express the level of confidence that your decision is ethical.

Results are to be interpreted according to Table no.1 hereunder:

Table 1. Interpreting the results of the checklist

Total score	Confidence level
7-14	Not very
15-21	Some what
22-28	Quite
29-35	Very

There is a clear advantage from using the second method and instrument, as it provides a higher degree of objectivity, but using a combination of both methods has obvious perks.

4. Arguments to support the thesis

No matter what method or combination thereof is employed, ethical standards, ethics program or code of conduct has to be reviewed and

updated regularly. On each such occasion, provisions are to be completed and revised according to every new ethical issue dealt with since the last revision. When conducting the said revision, a company must every time seek to align with the basic values and follow the same standard objectives:

Align to general legal and specific standards of the industry; ensure that every employee is committed to following the same standards towards building a responsible business [6]; provide them with necessary tools and resources to achieve that goal.

The foundational management tool in ethics and compliance management is the standard of conduct. Operational policies are to be documented in the standard of conduct in consideration of the followings:

Standards should match specific characteristics and needs; regulations have to be accompanied by corresponding penalties for violations; steps to be taken in achieving the desired ethical goals; specific standards of conduct developed for relevant third parties, especially suppliers; training and reporting channels; investigations and disciplinary procedures; code revision process in order to incorporate best practices; standard communication processes and channels.

The key factor remains addressing ethical dilemmas. Confronted with standard situations or already stipulated in the continuously updated ethics program, managers will just have to reference the code of conduct. But when the situation is not an ordinary one or poses ethical dilemmas, the solution is to properly evaluate the risk by employing the combined subjective-objective method proposed hereby.

5. Arguments to argue the thesis

A successful ethics program has to establish clear values and behavioural norms, state organizational roles for ethics management and enforce values observance in daily operations. Thus are developed awareness and sensitivity towards ethical issues. Employees must see that ethical guidelines are integrated with any level's decision making, and whenever an ethical dilemma is to be dealt with, established mechanisms are in place to guide and help throughout the process.

When conceiving or adopting such mechanisms, the main challenge comes from items that are not measurable. Most of the deliverables produced by ethics programs and its management, such as procedures, codes and authorization forms cannot be measured, except maybe for some related budget items.

As long as policies and procedures are translated into appropriate behaviours in the workplace, there is no problem. For that to happen,

employees must be included in the ethics program's development and operation. By feeling a sense of participation and ownership of the program, they will adhere to its values with fewer hesitations.

The final condition is the signal coming from the high management. This should constantly prove on their turn dedication to the program, while the chief executive officer must aspire to lead ethically, championing programs' implementation and closely supervising the activity of the ethics officer or committee.

As from the values standpoint, any code of ethics usually follows some standard guidelines:

The first set of values is the one showing the organization's commitment to observe relevant laws and regulations. The second set of values are those producing the top traits of highly ethical and successful product or service in the given area of activity. The third set of values should reveal the strengths, opportunities, weaknesses, and threats according to the strategic planning of the company. The next set of values deals with expectations from the employees, customers, suppliers and all the other stakeholders [5]. The last set of values are addressing topical issues in the workplace like discrimination, respect, honesty, and fairness. Furthermost attention must be paid to universal character traits required from the organization's members, such as courtesy, tolerance, dignity, accountability, integrity, loyalty, impartiality and consistency, to name a few.

Some codes of conduct include stipulations regarding the style of clothing, illegal drugs consumption, confidentiality and limitations of using organization's property. One may notice that a typical ethics and compliance program must promote an ethical organizational culture and avoid compliance risks, with an emphasis on anti-bribery policies. That is why risk assessment is the key factor in any ethics program's implementation.

Some authors [5], [6], argue that a good code of conduct and an updated compliance program is all a company needs for an effective ethics policy. We argue that real-life situations need personalized evaluations within a subjective-objective approach.

6. Dismantling the arguments against

Whatever the provisions of an ethics program or code of ethics, one of the main issues is risk avoidance. To achieve that, the risk must be first properly assessed, especially for dilemmatic cases. [1]

According to US Federal Sentencing Guidelines for Organizations, organizations have to assess the risk of criminal conduct and design periodically, implement or modify requirements intending to reduce it.

Individual circumstances of the organizations have to be addressed from the risk standpoint and measures for preventing and detecting in due time associated risks have to be taken accordingly.

A typical risk assessment is directed towards specific compliance risk areas relevant to the organization, with quasi-standard objectives: determining the baseline from which future effectiveness of ethical actions can be measured; measuring and prioritizing the tasks at hand; identify the specific areas of activity needing special attention and establishing methods to manage the compliance risk.

What are the common considerations that a risk assessment should take into account? First of all, it should have a unique design for each company. Risk topics selected from the common ones like corruption or conflicts of interest should be relevant to the organization's industry and activities. Then, a thorough assessment has to be conducted on all business units, functions and locations, if there is a large and complex organization. For smaller organizations, it may be reduced to functions. Last, these assessments must be conducted periodically, on an ongoing basis, whether with internal or external staff and monitored in between.

When conducting a risk assessment, there are some activities recommended for almost any medium and large organization.

A preparation phase must review prior assessments if there are any and identify the objectives of the current assessment. Such objectives might be internal, related to achieving some organizational goals, or external such as meeting some compliance standards or stakeholders' expectations.

Then there is a planning phase, throughout which assessment criteria are developed, and relevant data gathered. It is also the phase when significance and likelihood of each risk area are established.

Throughout the assessment phase, employee participation is the key factor. Some companies choose to use confidential reporting under non-disclosing privilege.

In the end, a final report must be issued. This may include findings, conclusions, and recommendations, but most importantly, who is responsible for mitigation of identified issues, time frame and resources needed.

7. Conclusions

An ethics program depends indeed on the quality of its standards of conduct. If poorly enunciated these only cause confusion and employee disengagement. Organizations may assess the quality of their ethics effort by surveys and interviews to establish their employees' knowledge, appreciation

and use of standards, while the management must find the standards helpful in guiding their subordinates.

This paper argued that standards of conduct must help the employees and especially the management to clarify responsible business actions and turn them first into useful references and then into code procedures and policies. Subjective and objective tools may help them deal with uncharted and unexpected ethical issues, and we have proposed two such instruments, one for each category, but we strongly recommend the use of both for each case.

Correct assessment of the risk and corresponding ethical actions also depend in the great extent of the leadership's attitude towards responsible business. Some organizations adopt a legally-minimal tone whereas others adopt an aspirational style. Hence, organizations' members will reference the standards and procedures accordingly and treat ethical dilemmas with pursuant dedication and responsibility.

References

- [1] Kirrane D. E. Managing Values: A Systematic Approach to Business Ethics. Training and Development Journal. Date of publication. 1990; 44(11): 53-60.
- [2] Kaptein M. Integrity Management. European Management Journal. Date of publication. 1999; 17(6): 625-634.
- [3] OECD Council. Good Practice Guidance on Internal Controls, Ethics and Compliance, Annex II. Date of publication 2010, Febr.18: 1-4.
- [4] U.S. Sentencing Commission. Chapter Eight- Sentencing of Organizations. 2015, Nov 1. §8B2.1.
- [5] Weaver, Gary R. Ethics Programs in Global Businesses: Culture's Role in Managing Ethics. Journal of Business Ethics.2001; 30: 3-15.
- [6] Blodgett M. S. Substantive Ethics: Integrating Law and Ethics in Corporate Ethics Programs. Journal of Business Ethics. Date of publication, 2012 Jan. 24. 99: 39-48.