Alliance for Integrity

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CORRUPTION DOESN'T PAY – COMPLIANCE PAYS

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Businesses that run a serious and effective anti-bribery and corruption compliance programme are doing the right thing – not only from an ethical and legal perspective, but also from a commercial perspective.

'If you think compliance is expensive, try non-compliance!'

This well-known quotation is primarily an implicit reference to the serious commercial damage which compliance violations such as bribery and corruption offences by managers and employees can cause to businesses if they come to light.

Enforcement actions by authorities or courts and negative media coverage can cause immediate and substantial reputational damage that, in turn, directly affects turnover and share price, and that is not easy to reverse, regardless of the outcome of the legal proceedings. In the worst case, they may lead to hefty penalties not only against the responsible staff members, but also against the companies and banks they work for.

Depending on the jurisdiction, such penalties may, for instance, include substantial fines or disgorgement orders and the imposition of an external monitor who reports to authorities and courts and who may require the introduction of burdensome internal measures. Additional taxes may become due for past tax periods. Customers, other business partners and competitors may raise civil damage and other claims. Public and private customers may put the business on a blacklist, refusing to allow it to bid in procurement exercises, and existing contracts may be put at risk. A lower share price may make refinancing more expensive. The process of replacing staff members responsible for compliance breaches is likely to result in additional cost and effort. Fees for auditors and lawyers may reach substantial amounts. And, last but not least, managerial time and other internal resources are to a great extent spent on resolving the negative consequences of wrongdoing and shortcomings in the past instead of developing future business.

The Subtly Corrosive Effects

However, even if compliance violations do not come to light, they cause serious damage to the business in the long run in more subtly corrosive ways.

Talented staff who are uncomfortable in a non-compliant environment may leave and possibly even join competitors, probably the best people first. Others who stay, perhaps reluctantly, may distance themselves silently from the business and its goals and may no longer use their best efforts, but work to rule in 'inner emigration'. This may seriously hamper the business's efforts towards continuous improvement of competitive quality and may have a detrimental effect on the pricing of its products and services. Achieving turnover and market share by means of compliance violations is not a sustainable business model. All this affects the true value and price of a business – in addition to the risk of penalties and costs described above.

Moreover, experience shows that employees involved in giving bribes often route some of the monies into their own pockets. Such employees, and those who witness corrupt practices, are likely to be less scrupulous about accepting bribes from suppliers, competitors or others in exchange for acting to the detriment of their employer. In serious cases, they may even turn to extortion and blackmail superiors, colleagues or the company.

The Vital Role of Managers

Integrity is, therefore, a crucial professional quality and a precondition of sustainable economic success. This should be reflected not only in a clear tone, but also in a genuine ethical commitment at the top and at all other management levels.

Managers should be credible role models and should demonstrate integrity through their beliefs, words and actions. They should never turn a blind eye to weaknesses and deficiencies that relate to a failure of integrity. They should encourage and support staff members, especially in challenging business situations where compliant business conduct, such as the refusal to pay bribes, may seem to lead to a short-term loss of business. They should refrain from creating incentives or pressure such as success bonuses and turnover targets that may induce staff members to use corrupt practices to achieve and deliver certain results, but instead consider positive rewards for ethical conduct.

What's more, managers should see internal and external legal and compliance advisors as gate-keepers protecting them, other staff members and the company against wrong judgement and mistakes, and they should listen to legal and compliance advice seriously and refrain from using methods of selective information or pressure to obtain a pro forma bill of health for dubious business practices.

There is no alternative to compliance – not just in order to avoid financial penalties, criminal prosecutions and public opprobrium – but also because a well-run compliant business makes good commercial sense.

By Dr. Heiner Hugger