Cultural Aspects of a Global Ethics & Compliance Program

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Agenda

- Definitions
- Values vs. Rules Based
- Think Global, Act Local
  - Global vs. Local Program; Headquarters Requirements
- Global and Local Program – a proposition
  - Review of Values – From the Top
    - Making the Code of Conduct relevant and translatable
    - Pros and cons of value-based vs. rules-based programs
    - Shaping corporate culture
- Where were the Values?
- Touchstones for an International Program & A Matter of Trust
- A "Grain" of Truth
- Translating Culture and Risk
  - Understanding "why"
  - Communication with headquarters or "not France and Brazil again...."
  - Engaging with local management, revising governance, risks and weakness
  - The role of Works Councils in Ethics and Compliance, BoD and Audit Committee
  - Managing breaches consistently

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Agenda

- Different Cultural Basis and Approaches
  - Examples of Different Cultural Approaches

- Finding Common Ground

- Cultural issues at Play – Examples
  - Cultural aspects of gifts & entertainment & charitable contributions
  - Communications and reporting concerns

- Measuring Effectiveness
  - Cultural aspects of monitoring the effectiveness of the program, e.g., employee surveys and hotline statistics
  - Effective response and enforcement

- Examples of Culture/Legal Conflicts

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A bit of inspiration – I …

"A visionary company exports its core values and purpose to all of its operations in every country, but tailors its practices and strategies to local cultural norms and market conditions."

Jim Collins and Jerry I. Portas, "Built to Last"

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Definitions

➢ **Ethics** "The basic concepts and fundamental principles of right human conduct, it includes study of universal values such as the essential quality of all men and women, human or natural rights, obedience to the law of the land, concern for health and safety and, increasingly, also for the natural environment. " Source: BusinessDictionary.com

➢ **Compliance** "is the act of adhering to, and demonstrating adherence to, a standard or regulation." Source: Wikipedia

➢ **Culture** ""is the set of shared attitudes, values, goals, and practices that characterizes an institution, organization or group". Source: Wikipedia
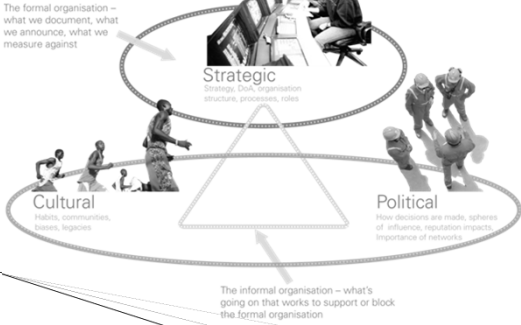
Values vs. Rules Based

➢ **Culture** is a set of shared attitudes and values….

➢ **Values** are key to creating a corporate culture that transcends national/ethnic cultures

➢ **Rules** are important – and should link back to the **Values**
  · Easy to understand and access, clear meaning throughout the corporate culture
  · Consequences for breaches: transparent and consistent

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1. Culture & how organisations really work

The formal organisation – what we document, what we announce, what we measure against

Strategic
Strategy, DoA, organisation structure, processes, roles

Cultural
Habits, communities, biases, legacies

Political
How decisions are made, spheres of influence, reputation impacts, importance of networks

The informal organisation – what's going on that works to support or block the formal organisation

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Think Global, Act Local

➢ Global vs. Local Program

- Headquarters requirements
  · Stem from culture, risk assessment, risk appetite
  · Be aware of cultural aspects of risk assessment

- Regional and local requirements
  · How does a company inform itself on local regulatory risks?
  · How does it tailor practices to local norms?

- Legal and regulatory guidance
  · Beyond the U.S. Federal Sentencing Guidelines, OECD Guidance and "Adequate Procedures" under the UK Bribery Act, FATF, and others

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Global and Local Program – a proposition

➢ **Review of Values – From the Top**

- Efficiency may depend on:
- In-depth analysis of corporate values and how they translate into other cultures
- Involvement of key players across the globe
- Effective actions to inculcate the corporate culture with its expected behaviour standards
- Personal engagement of top management

  - Impact on:
  - Making the Code of Conduct relevant and translatable
  - Clear understanding of relevance and impact to each individual
  - Engagement across ranks beginning at the top
  - Effective communication channels leading to better risk awareness across the board

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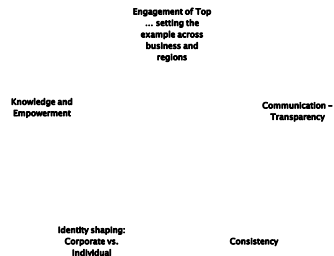
Where were the Values?

"You f***ing Americans. Who are you to tell us, the rest of the world, that we're not going to deal with Iranians."
  • Standard Chartered Bank executive in e-mail response to the bank's US chief expressing concerns that dealing with Iran has the "potential to cause very serious or even catastrophic reputational damage to the group". <u>The Telegraph – 2012</u>

  • Fines to date = $340M
  • Expected cost to settle accusations = $1B

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Touchstones for an International Compliance Program

Engagement of Top ... setting the example across business and regions

Knowledge and Empowerment

Communication – Transparency

Identity shaping: Corporate vs. Individual

Consistency

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Communication and feed-back – Challenge Across Cultures...A Matter of Trust

Regional Local Practices

Headquarters

Public Image

International

Risk assessments, reports, common understanding, agreements, engagement, leveled play field
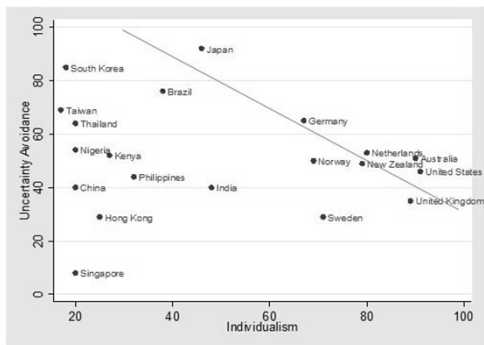
Regulatory Environment

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A "Grain" of Truth

➢ Intuitive impressions have a pervasive influence on our thoughts and behaviours.

➢ Understanding the science behind stereotypes.

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Figure 2: Individualism vs. Uncertainty Avoidance

Source: Alexander Group   14

Translating Culture and Risk

➢ Understanding "why"

➢ Engagement of local management
  • Hierarchy – fear of appearing improper, confronting, escalating issues reflecting badly on image – Examples in Asia and Latin America
  • Poor accountability may stem from poor corporate culture, values or clarity about role and expected behavior

➢ Key roles of Committees and Councils
  • Works Councils
  • The Boards of Directors of subsidiaries
  • Compliance Councils
  • Audit

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Translating Culture and Risk

➢ Communication with headquarters

- "Not France and Brazil again…."

  · Identify the phenomena – gaps and weaknesses
  · Engage with players
  · Periodically review issues and lessons
  · Joint work resulting in meaningful points for all involved

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Translating Culture and Risk

"People of different cultures share basic concepts but view them from different angles and perspectives, leading them to behave in a manner which we may consider irrational or even in direct contradiction of what we hold sacred." (Lewis, Richard D. (2005-10-13). When Cultures Collide: Leading Across Cultures (Kindle Locations 191-192). Nicholas Brealey Publishing. Kindle Edition.)

Fear: Many of us mistake the reversal of our own values systems for a negation of what we believe in.

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Different Cultural Basis and Approaches

➢ Leaders need to be culturally sensitive

- "My way or the highway" – limited results and may bear little or no truth…
- Examples of different approaches among different cultures include:

  · Individualistic vs. Collectivistic

    · **Individualist**ic – need to arrive at a solution quickly, settle conflict without considering the relationships – focus on own image, not the group's – competitive dominating
    · **Collectivist** – long term view of relationships – trust building – mutual face preservation – (mostly Asian Confucian influence)
    · **References mostly based on Charles Hampden-Turner and Fons Trompenaars, "Building Cross Cultural Competence" and "Riding the Waves of Culture"**

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Different Cultural Basis and Approaches

➤ Individualism – Communitarianism

- Dilemma for business
- What is more important personal fulfillment, self-expression, freedom of individual or the shared resources, and heritage enjoyed by a group or society?
  - **Individualistic –** Competition, self-reliance, self interest, personal growth and fulfillment
  - **Collectivist** – cooperation, social concern, altruism, public service and societal legacy

Canada and US top of list – Individualistic pioneer capitalist countries)

Japan, Singapore, China and France – top Communitarianism (rurally based feudal elites)

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Different Cultural Basis and Approaches

➤ Universalist – Particularist

- Dilemma for business: "sameness" vs. "vive la difference"
- Each approach poses advantages and disadvantages
  - **Universalism –** rules, codes, laws, standards, generalizations
  - **Particularism** – exceptions, circumstances, relationships

Switzerland, Sweden, Canada, Australia , the UK and the Netherlands, etc. – universalistic cultures

Particularistic – Brazil, Spain, Poland, France, Mexico, Cuba, Venezuela, Buddhist, Confucian, Hindu and Shinto countries
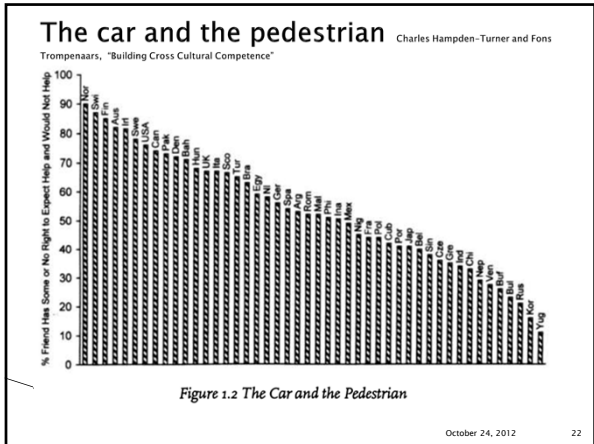
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Examples of Different Cultural Approaches

- Customized vs. Standard (e.g., finding exceptions to rule – this is not how it works here…. Mexico, France, India, Brazil, etc)
- Personal and Contextual Communication Styles
- Multilingual – "The American culture is one of the few cultures that does not value multilingualism. One reason for this fact may be that English is the primary language used in international business…" Source: Intercultural Communication – Houman A. Sadri & Madelyn Flammia, page 143
- Informality vs. Formality – America, Australia vs. Asia and Middle East also certain Latin America cultures, highly hierarchical
- Body language – Italy, China and Brazil – old touch
- Different approaches to conflict resolution: dominating, integrating, compromising, obliging and avoiding
- Use of humor, concept of time, etc…

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The car and the pedestrian Charles Hampden-Turner and Fons Trompenaars, "Building Cross Cultural Competence"

Figure 1.2 The Car and the Pedestrian

Finding Common Ground

- Do your homework and listen

- Build a network across borders and cultures

- State the "obvious" – it may not be obvious to others

- Be clear about the "Rules of the Game" supported by:
  - shared values and clear plans, roles & responsibilities
  - objective polices and procedures
  - local accountabilities

Cultural Issues at Play – Examples –

- Cultural aspects of gifts & entertainment & charitable contributions
  - Asia – gifts, meals & entertainment
  - Mexico – exceptions to "privileged few"
  - Thailand – supporting temples
  - The Minister's child's wedding
  - Taking regulators to eat

- Handling cultural expectations on gift giving and entertainment in certain regions and certain business (sales organizations)
  - Gift cards
  - Moon cake
  - Sales & Marketing events

Cultural Issues at Play – More Examples–

➤ Channels for reporting concerns
- Continental Europe
- Asia
- Latin America

➤ Communication of the program
- Languages
- Media

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Measuring Effectiveness

➤ Certain measures of effectiveness expected by regulators are not uniformly reliable.

➤ Cultural aspects of monitoring the effectiveness of the program, e.g.,
- Level of reliability of employee surveys and hotline statistics
- In-person interaction – engaging with different management levels across areas and cultures

➤ Effective response and enforcement
- Addressing breaches consistently
- Post implementation reports

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Appendix

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Hot Topics Across the Globe

- International investigations
- Data protection privacy
- Insider trading (wall crossing, chaperoning, marketing)
- Private Banking
- Corruption (engaging with third parties, sales agents and representatives, suppliers, government entities, IPOs due diligence, vendor and contracts due diligence check lists, charitable contributions, gifts reports)
- Fraud – Petty cash
- Collusion practices (establishing rates, prices and practices)
- AML Sanctions

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