5. Having an independent voice of ethical culture in the C-suite

Over the past few years, CCOs have gained independence and stature in the organization and more are being heard as an independent voice in the C-suite.\(^7\) The list of companies dealing with the fallout of high-profile compliance scandals—that would have benefitted from an independent CCO voice in the C-suite—is long indeed. Perhaps CCOs have limited control over the final decision whether to give Compliance a seat at the table (other than voting with their feet),\(^8\) but they can be smart about what they say when they get there. CCOs need to be more than a human playback of training and hotline statistics; they need to be the subject-matter expert on ethical culture and the role of managers to develop, promote, and sustain it in the organization. These are messages leadership needs to hear often, and with real-life examples. If not from the CCO as the Ethical Culture Leader, then from whom?

I’ve written elsewhere about the enormous challenges facing CCOs just trying to do their jobs well. Some of you may be familiar with my “hot air balloon” analogy.\(^9\) But challenges and perils aside, the CCO that embraces the role of Ethical Culture Leader does exponentially more to advance compliance and ethics in the organization than one who does not. Ultimately, a company can have on paper all the building blocks of a robust compliance program, but the glue that binds it together and makes it work is the sum of ethical leadership acts that occur on a daily basis. The CCO should view the nurturing of that ethical leadership as Job No. 1. \(^\Box\)

Endnotes

The ethics of downsizing

By Paul E. Fiorelli, JD, MBA

Loyalty in business isn’t what it used to be. My father worked for Sears Roebuck & Co. for almost 40 years and retired as a senior executive in the mid-1980s. He was part of the “Greatest Generation” of World War II veterans, staking their claim to the American Dream. They worked under a social contract: If you work hard and take care of the company, it will take care of you. You could retire comfortably with an engraved watch and a pension plan to carry you and your spouse through the golden years.

About the same time my father retired, this “womb to tomb” or “cradle to grave” pact began changing. This US adjustment was facilitated by a set of laws known as “at-will employment.” That means in many states, a company can get rid of the employee at any time for good cause, bad cause, or no cause at all. Likewise, an employee could leave the company at any time, for any reason. In theory, at-will employment was considered fair due to this “doctrine of mutuality.” In practice, what the doctrine doesn’t take into account is the impact layoffs have on individuals, families, and their communities is far greater than the impact on the company for an employee working with a new organization.
While it’s not difficult for US companies to lay off workers, in Europe and Japan, a job is seen more as a property right. It’s not as easily taken away.1

The US arrangement may appear economically sound, at first. Both sides—employers and employees—are free to do what they want. It’s the free market in action. You can argue we have one of the most productive work forces in the world. But there are some problems with this arrangement. Sometimes we work scared. As Americans, we tend to define ourselves by our jobs, our titles, and the companies we work for. The downside of that is, if we lose our jobs, we lose the status we’ve built. Our prestige vanishes, and along with it, our identity. That makes Americans more desperate to keep their jobs. We “live to work”, while Europeans “work to live.” We feel lucky if we have a job that allows us to work 43 to 45 hours a week (or more). On the other hand, some Europeans consider the company lucky that they’re allowing their employer to have 35 hours of their time each week.

This “new work order” was highlighted in Oliver Stone’s original Wall Street movie. In Gordon Gekko’s famous “Greed is good” soliloquy during that 1987 movie, he doesn’t think of himself a destroyer of companies. He liberated them. Gekko considered this unleashing the company’s potential and unshackling it from past inefficiencies, like paying 33 different vice presidents $200,000 a year (which was a lot back then) to do who knows what.

Gekko, symbolized the new breed of entrepreneur/corporate raider. He represented the person who was willing to buy a company, and then tear it apart. This “liberated” company could now be sold off in pieces, generating enough profits to pay off the debt used to buy the company in the first place. Then he’d pocket the difference, and live happily ever after. Or at least until the next deal. This was addition (to his wealth) by subtraction (jobs from the community), leading to “excess for success.”

Nothing stopped Gekko, until his Faustian apprentice, Bud Fox, failed his final test in selling his soul to Gekko’s Mephistopheles. Fox put a halt to the planned “asset liberation program,” only when it involved his father’s company, Bluestar Airlines.

That concept, whether from Gekko and “Wall Street” or the real-life corporate raiders of the time, caused management teams at companies across the country to wake from their slumber that had been filled with dreams of lifetime employment. They realized it was better for them to be the ones “cutting heads,” rather than leaving it up to the Gekkos of the world.

Managers did this under the banner of “maximizing shareholder value.” Their view was that this was their fiduciary duty. If they were to act in the best interest of shareholders, they had to “rightsize” the company by selling off divisions, and get the most value out of the pieces of their company. But these moves also conveniently lined the pockets of executives who were compensated based on short-term results. That set up an inherent conflict of interest—short-term profits v. long-term value.

Visionary corporate stewards ask themselves, “How can I grow the business and leave it better than I found it?” That’s a completely different mentality from the Gekko’s of this world. With that bunch, the concept of “legacy” has been replaced by “immediacy.” They calculated the easiest way push the stock price to new heights. If it took schemes and scams, so be it. Even if the price was built on a house of cards, once the stack of stock got high enough, they’d cash in their options, and retire comfortably. Who couldn’t sleep soundly with this new American dream? It didn’t matter what happened to the company and its employees after that. They justified their short-sighted actions using the John Maynard Keynes line, “In the long run, we are all dead.”2 Then they thought, “Who am I to argue with Keynes?” They figured everyone else should try to get theirs, as long as it didn’t interfere with my ability to get mine.

Skilled employees learned the new rules to the game, then started playing the cards they were dealt. In Studs Terkel’s classic book, Working, one of the people he interviewed was Larry Ross. Ross (not his real name) told Terkel, “The most stupid phrase in business is loyalty...The shnook is the loyal guy because he can’t get a job anywhere else.”3 Loyalty has changed from “40 years and a gold watch” to “if you’re not doing anything for me, I’m not staying.” I had one student who was approached by her company for an 18-month assignment. It looked like the job was designed for her and that she was the ideal candidate for the project. Even though the company would have benefited had she taken the assignment, she turned it down. She rationalized...
her decision because the job didn’t “improve her skill set.” That’s the mentality people have now. They want to know “what’s in it for me?” and “what have you done for me lately?” These employees think, “I’ll see your John Maynard Keynes, and raise you a Studs Terkel!”

The best-case scenario might be a “new normal” for the employer-employee relationship. Instead of staying with a company until retirement, loyalty means that employees: (1) work hard while they’re with the company, (2) they do well by the company, and (3) they speak well of it when they leave. It’s a different dynamic than it used to be.

Layoffs can end up causing bigger problems over time, whether we’re dead in the long run or not. And they result in other costs. Employee engagement can suffer when a company has a tendency to lay off people as a first resort, instead of a last resort. Employees who are “not engaged” exert the minimum amount of effort. They do just enough to not get fired. “Actively disengaged” employees have an even greater impact on a company. They try to “poison the well,” making a miserable work environment for everyone else (think about the movie Office Space). It seems hard to expend your discretionary energy—the definition of actively engaged employees—to advance the company’s interest, if you think they might get rid of you, or your friends, any day.

This isn’t to say that companies shouldn’t lay off employees or, for that matter, that employees shouldn’t leave their employers. The point is that employers should be aware of the significance of layoffs and, more importantly, that a “more just” way of doing it may exist. Companies may be forced to lay off workers, but they should do it with an ethical, compassionate approach.

In the movie Company Men, Phil Woodward, played by Chris Cooper, plays a “rags to riches” senior executive for the fictional GTX Corp. From his hard-scrabble beginnings, Woodward likes his new life of privilege. Unfortunately he’s part of the latest round of downsizing, as part of GTX’s strategy to cut expenses and raise the stock price. Woodward throws rocks at GTX’s headquarter as he screams that his life has been ruined, while everyone else’s life keeps moving along smoothly. Why didn’t the rest of the world stop when his did? This character died by suicide shortly thereafter. It raises the question of whether companies should do more than offer outplacement consulting to help employees with their transition to another job.

There are ethical ways to cut positions. You might want to have an exit interview with a person other than the one who fired the employee. Or use an exit questionnaire in addition to the interview. Some employees will feel more comfortable expressing thoughts that way. If fired employees seem to take it overly hard or cause concern, refer them to the company’s Employee Assistance Program. And if the problem seems bigger than that, the company could even contact the employee’s friends and family. Tap into the person’s support network to make sure things are okay. Encourage former coworkers to stay in touch with the laid-off ex-employee.

Layoffs can’t always be avoided. But managers should take a long, hard look at their other options before taking that difficult step. Maybe it means putting employees on furlough or job-sharing to save money. This could be an opportunity to train employees in new technologies, which could give the company a competitive edge in the future. It might mean finding another place to cut costs. Maybe the executives don’t need those huge expense accounts. Perhaps only flying business class, instead of using private Gulfstream G4 jets will suffice? Or maybe you don’t need to spend as much on off-site meetings in sunny locations. Videoconferencing might work just as well. You could even wear Hawaiian shirts, and place sunlamps around the conference room, if you wanted. And if a company does need to lay off employees, it can pay to retrain them so they can quickly get back into the work force.

Ultimately, company leaders should look for alternatives to laying off employees. And if they don’t have any other options, they should look for ethical ways to reduce their workforce. If they want to become an “employer of choice,” they can’t afford to do it any other way.

Endnotes