



*Prof. Colin Coulson-Thomas

*Prof. Colin Coulson-Thomas is IOD India's Director-General, for UK and Europe Operations, also holds a portfolio of board academic and international roles, and has advised directors and boards in over 40 countries.

Corporate Ethics and Ethical Business Practices

There is an ethical dimension to a wide range of business practices. At what point do advertising and other claims that cannot be substantiated amount to an unethical practice? If taken too far, could the imagination displayed by a creative team and the associations they establish in the minds of target audiences amount to misleading

redundancies or closing an operation on the downside, people sometimes feel under pressure to sail close to the wind. Business may become a question of what one can get away with.

When taken too far, certain approaches can cross a line and significantly increase the risk of adverse consequences. Directors need to be sensitive to boundaries and what others, whether customers, commentators, regulators or courts, might consider has crossed the boundary of what is fair, reasonable or legal? Should they aspire to do more than this and seek to move the boundaries of what is acceptable in activities for which they are responsible? Should they be ethical role models?

Recognising Ethical Issues

Many business activities raise moral and ethical issues. For example, to what extent should a company feel responsible for the conduct of consumers of products that are legally produced and sold? Should it warn customers of the possible dangers of excessive consumption? Should credit sales be aggressively promoted to sections of the population who are least able to meet future payments? Where companies do not act responsibly, Governments may step in as with health warnings on cigarette packets, restrictions on the sale of alcohol or periods for reflection.

Should directors exercise subjective and moral judgements when each stakeholder group may have a choice of alternatives? Some boards feel that customers should be responsible for their own conduct and they should only act when required by law to do so. Rather than engage in ethical debates, the default position of some directors is to pursue opportunities to generate cash and profit while they can, recognising for example, that investors who are unhappy can sell their stock and purchase shares in enterprises that better satisfy their ethical investment policy.

In other companies, directors take the view that while people may have options, the choices they make should be informed ones. They take steps to warn potential customers of any potential areas of risk, their legal rights and the potential consequences of different courses of action, so that they are able to make responsible decisions. For some this approach can be a source of differentiation. Pointing out that certain products cause less environmental damage might increase their sales.

Ethical Responsibilities of Others

Directors are unsighted on a host of situations and transactions that can occur on a daily basis and in which people for whom they are responsible may consciously or inadvertently cross a line and stray into practices they

them?

Many people endeavour to portray themselves and their activities in a favourable light. They put the best possible face on events. Cosmetics are applied, curriculum vitae enhanced and images polished. Problems are sometimes hidden and threats downplayed, while credit is claimed for good luck or the efforts of others.

Directors sometimes complain that it is difficult to obtain honest information and advice when others tell them what it is thought they might want to hear. Yet when the boot is on the other foot and directors are accounting for their own performance to shareholders, how objective and transparent are they?

Sensitivity to Boundaries and Limits

Financial reports should be fair, balanced and understandable. Is there a point at which accounting assumptions and/or the valuation of balance sheet items not only stretch credibility but are unethical? Do accounts sometimes hide almost as much as they reveal? When does a bias become an embellishment and when is the latter a distortion and lies?

When does a situation that is unfair or unreasonable become unethical? The line that separates the two can be a fine one. A team that is congratulated for negotiating a favourable and profitable deal may be criticised the next day for driving such a hard bargain that an important customer complains about being ripped off.

When margins are slim, profitability with an existing business model can depend upon squeezing as much as one can from situations and opportunities that arise. Whether to secure competitive advantage, win a strategic bid, or secure a large order on the upside, or avoid a loss,



would consider unethical. What can they do to ensure ethical conduct? Who or what can they rely upon to ensure that people do not go too far? Should a whistle-blowing policy and arrangements be put in place to encourage people to report their ethical concerns?

In many companies, a range of important roles and sometimes sensitive tasks are undertaken by professionals who are supposed to behave in accordance with a code of practice issued by their professional institute or association. In practice, most professional bodies pursue relatively few disciplinary cases each year. They can be expensive to conduct and outcomes are often a reprimand rather than being struck off a list of members for a serious offence. In the case of governance scandals and the 2008 financial crisis, few if any professional misconduct cases have been initiated.

Some professional institutes and associations and certain companies do provide ethical guidance and support. Its form can range from confidential ethical advice help-lines to windows opening on performance support tools that offer advice as and when certain situations arise or occur, whether to warn of possible ethical issues and their consequences or to explain why a certain step cannot be allowed as it would contravene ethical or other policies and associated guidelines.

Understanding Implications and Possible Consequences

A director's first concern should be for what is in a company's best long-term interests. There may be a significant risk of implications, penalties and sanctions when unethical business practices break one or more laws, regulations or license conditions. When what a board considers unethical does not contravene a law or regulatory requirement, there might still be consequences. The public, media and important stakeholders may highlight and object to certain practices. Damage to a corporate reputation might occur as a result.

Boards need to understand the implications, likely consequences and possible penalties of unethical conduct. They should also consider the probability of unethical conduct. This is not to suggest that unlikely unethical conduct should be ignored, but to allow assessment of where and to what extent guidance should be provided and what steps might be taken to reduce the likelihood of it occurring?

Corporate statements of values tend to list worthy principles, but they often provide little in the way of practical counsel for people faced with particular business decisions. In some areas guidance should more specific. For example, it might cover how the risk of particular consequences may be reduced. Ethical investment practices are often underpinned by research and analysis to ensure that corporate conduct is in accordance with ethical investment policies.

Handling Diversity and Ethical Differences

Integrity often ranks highly in surveys of qualities that are desirable in company directors and many people are taught that morality is both advantageous and desirable. However, on occasion what is regarded as immoral and/or unethical in one situation or place, or by one religion, can be generally acceptable in a different context. Practices that certain religions consider immoral might be legally allowed in a particular

country. What is tolerated or approved in one place may be illegal elsewhere.

To what extent should the board of a company that operates in many jurisdictions and with staff, customers, suppliers, business partners, investors and regulators from a variety of nationalities and religions adopt and impose a single and absolutist view of morality across all its activities? Alternatively, should it adopt a relativist approach that reflects, respects and matches prevailing local views and ethical norms in the diversity of situations in which it operates? Certain laws, such as the UK's bribery legislation can cover conduct in other jurisdictions.

Are there universal principles that a board should sign up to, while also allowing some flexibility in other areas so as not to cause offence at a local level? Ethical policies, codes and guidelines may be required, but they also need to be implemented. Boards should take steps to ensure they are followed. Whatever is said or appears in a statement of principles, people may take their cue from how directors behave and the decisions they take. Where it is felt that an individual ethical decision could form a useful precedent, it could be widely disseminated to both encourage and warn others.

Addressing Realities

Different stakeholder groups may share some views of what is appropriate and acceptable, but have different opinions in other areas. Boards may need to disaggregate certain stakeholder communities in order to understand and respond to different ethical perspectives. Thus, many investment fund managers establish ethical funds to meet the requirements of ethical investors.

Following allegations of greed and commission driven behaviour and distortions created by a single minded focus on bonus criteria, quantitative targets and league tables at the expense of wider considerations of values, since the 2008 banking and financial crises more attention has been devoted to corporate culture. Certain banks have paid substantial fines for inappropriate conduct and billions have been paid out as compensation for mis-selling. Is changing a corporate culture the answer when such undesirable behaviour could be quickly contained by appropriate support tools?

When corporate scandals and malpractices arise a question that often arises is: where were the board and the auditors? People ignored the risks of practices such as self-certified mortgages while the sales and bonus cheques rolled in. How much effort should be devoted to changing a corporate culture? Deeply held beliefs and values may be difficult to change, but behaviours can often be influenced by altering remuneration and other incentives as well as with performance support.

Providing Practical Help and Support

Performance support tools can help people to act in desired and ethical ways, by making it easy for them to do so, while at the same time making it difficult or impossible for them to pursue unethical and harmful options. Practices the authorities might choose to ignore, or contraventions that are not enforced, can be covered. Allowing them could embolden those who "sail close to the wind".

Wherever possible, guidance and checks should be built into processes



and support tools to activate as and when someone seeks to pursue an undesirable course of action. They should be designed to prevent steps that might be impractical, uneconomic, environmentally damaging, unethical or otherwise undesirable. Ideally, along with blockers, warnings and other guidance, windows should open to give reasons why a particular course of action should not be pursued. Users can then learn from each case that arises.

Ethical and other guidance needs to be kept up to date as situations and requirements change. One of the advantages of performance support tools is that they can automatically generate evidence that a board is taking reasonable and practical steps to implement ethical and other policies. Data on which areas of content are being accessed or triggered can also be helpful in determining where further guidance is required.

Complexity and Accountability

Directors need to face the reality that many people are self-interested and ethical issues can be challenging and complex. More than simply encouraging people to "do the right thing" might be required. As already mentioned, legal requirements and business practices can vary significantly in different locations and there may be differences between a legal position and deeply held religious beliefs. International managers need to be aware of cultural and other variations. A company may employ people and serve customers from communities, religions, cultures and nationalities that are in conflict. What is justifiable to one group might be regarded as outrageous by another.

Boards setting out to change a corporate culture need to be mindful of cultural differences between various groups of stakeholders such as staff and customers and within them. While mindful of principles that are important for a brand, cause or corporate purpose, they should try to avoid causing unnecessary offence. Hence the value of wide consultation when considering changes.

Many boards encounter allegations of unethical or other undesirable conduct. While these and the involvement of regulatory and other authorities and third parties and the media may be motivated, responses should be fair, balanced, reasonable and capable of defence in situations such as an Annual General Meeting. A board should be accountable for ethical positions it takes. Some stances such as the use of genetically modified crops may raise emotions in certain quarters.

Recognising Ethical Exposure

Most boards cannot avoid the extent to which the activities of companies are increasingly visible in an era in which any citizen with a mobile device may be able to quickly capture and disseminate instances of conduct that many would consider unacceptable. Arrangements should be in place for responding where appropriate and handling ethical issues as they arise.

Prevention is better than damage limitation and quick recovery, helpful though these can be. Directors should ensure that people within and throughout company think through the ethical consequences of different courses of action. Some areas may be under the company's own control. Thus sales of profitable products may be stopped or the products modified if they or their production have negative consequences for health, safety or the environment.

Other activities may be under the control of third parties. Have operations been outsourced to countries that have limited health, environment and safety laws? Have checks in these areas been made for all suppliers? A company does not want to face a consumer boycott because of a horror story about the working conditions of those who make the products it sells.

Giving a Lead and Setting an Example

Directors should also consider the consequences of their own decisions and the pressures they put people under. Driving an executive team to quickly reduce a cost base can lead to unfortunate consequences. For example, reducing expenditure on maintenance can lead to higher future costs. For an oil company it could lead to leaks from a pipeline, or the need to clean up after spills.

Board decisions can communicate key messages. Action against someone who contravenes an ethical code can deter similar behaviour by others. Some decisions can provoke unwelcome reactions from others. Thus, allegations of the payment of bribes or the offering of favours to obtain an order can result in adverse media publicity and trigger Parliamentary and other investigations, as can suggestions that a company is not paying its fair share of corporate taxation.

The unethical conduct of a company, its board and/or people can have legal and other consequences. What more can and should directors do? Ethics are to be discussed at IOD India's forthcoming Global Convention on Corporate Ethics and Risk Management. Ethics and risk management are interrelated. Fraud, reputational damage and other risks reflect unethical conduct. The convention will enable networking and the sharing of good practice on how to address them.



Another New Year is in. Most of us may have new goals set, new dreams to follow and new aspirations to achieve. I found the following very inspiring and encouraging.

Allow Your Own Inner Light to Guide You

There comes a time when you must stand alone.

You must feel confident enough within yourself to follow your own dreams.

You must be willing to make sacrifices.

You must be capable of changing and rearranging your priorities so that your final goal can be achieved.

Sometimes, familiarity and comfort need to be challenged.

There are times when you must take a few extra chances and create your own realities.

Be strong enough to at least try to make your life better.

Be confident enough that you won't settle for a compromise just to get by.

Appreciate yourself by allowing yourself the opportunities to grow, develop, and find your true sense of purpose in this life.

Don't stand in someone else's shadow when it's your sunlight that should lead the way.

May the New Year be Happy, Peaceful and Prosperous for all!