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THE SPHERE

DATA. INSIGHTS. ACTION.

It's all *Greek* to me

Lorem ipsum **regulatory guidance** amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim **doesn't need to feel** veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor **like a foreign language.**

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OUR MISSION STATEMENT

Ethisphere® is the global leader in defining and advancing the standards of ethical business practices that fuel corporate character, marketplace trust and business success. We have a deep expertise in measuring and defining core ethics standards using data-driven insights that help companies enhance corporate character. Ethisphere believes integrity and transparency impact the public trust and the bottom line of any organization. Ethisphere honors superior achievements in these areas with its annual recognition of The World's Most Ethical Companies®, and facilitates the Business Ethics Leadership Alliance (BELA), an international community of industry professionals committed to influencing business leaders and advancing business ethics as an essential element of company performance. Ethisphere publishes Ethisphere Magazine and hosts ethics summits worldwide.

**The opinions expressed in this magazine are those of the authors,
not the printer, sponsoring organizations, or Ethisphere.**

The Ethics Advantage

Three Simple Questions



by Tom Bubeck

Before I joined Ethisphere in early September as its CEO, I had spent a long time in the ethics and compliance space and deeply appreciated Ethisphere's role in it. I had spoken at the Global Ethics Summit, and I had an abiding respect for my friend and peer (and now, colleague), Erica Salmon Byrne.

Once onboard at Ethisphere, one of the first things I did was schedule individual meetings with staff members to introduce myself to them personally, to understand how they build value for this company, and to see how I could help them. And the more meetings I had, the more impressed with my new colleagues I became.

The people at Ethisphere are smart and capable, and they have a real desire—no matter their role or seniority—to make a positive impact upon the world through their work. My co-workers are good, likeable

people who appreciate our mission of defining and advancing the standards of ethical business practices. They embody a perfect blend of building a successful business around some very genuine, values-based objectives.

That special kind of dedication is how we help organizations build and strengthen their ethics and compliance programs by providing the answers to three simple, but critical questions: Where are we now? Where do we want to go? How do we get there? If you know what your answers are to these questions, if you develop a strong strategy to achieve it, and if you truly commit to delivering the goals you set, then you can accomplish just about anything.

Where are we now? I was excited to join Ethisphere because of its amazing community with the Business Ethics Leadership Alliance, industry events like the Global Ethics Summit, thought leadership platforms like this magazine and its associated podcast The Ethicast, and valuable resources like our culture assessments, our data benchmarking service The Sphere, and of course, The World's Most Ethical Companies® program.

Where do we want to go? We are dedicated to being the leader in standard-setting for ethical business practices. This is at the heart of who we are and what we do. We see this as incredibly important work that helps to make the world a better place. Society isn't held together by occasional grand gestures but by everyday actions big and small, near and far, from people who are practicing their everyday devotion to ethical principles and upholding the laws by which they have agreed to live. We don't have to look

very hard to see signs everywhere, especially in the news, of those who would rather perform outside of ethical norms or who would hand-wave away legal expectations in the name of easy power or expediency. These things are not okay.

How we are going to get there? That's perhaps the most exciting part of all of this, as Ethisphere works to scale everything we do in our effort to engage and support everyone, everywhere, who is responsible for driving their organization's ethics, compliance, and business integrity efforts. Already, Ethisphere has undergone some amazing changes this year as we have added even more talent to our already deep bench. And as Erica dives into her new role building our product development efforts and directing our mergers and acquisition strategy, Ethisphere's future is very bright, indeed.

Where are we now? Where do we want to go? How are we going to get there? Those three simple questions are something we should all ask ourselves every day. And I'm very grateful I can be part of that effort. ■

A stylized, handwritten signature in black ink, consisting of a large, sweeping 'T' followed by a long, horizontal flourish that tapers off to the right.

TOM BUBECK
CEO, Ethisphere

Dispatches from the Ethics Economy

The Business Imperative to Lead on Integrity



by Erica Salmon Byrne

For years, we at Ethisphere have talked about the importance of social license. Companies don't have a divine right to go out and make money; they must, first and foremost, get permission from the communities they seek to serve, do business with, and exist alongside. Society is not beholden to the desires of business; business is beholden to the desires of society. Just sit in on a zoning board meeting if you disagree.

Social license is incredibly important because it is a covenant between an employer and those whom it interacts with—employees, clients, partners, and the community. When we look at the latest [Edelman Trust Barometer](#) report, we see that employers are the most trusted major social institution, compared to national governments, media sources, advertising and social media. As usual, this report covers the ways in which our shifting cultural needs as people are reflected by our needs

as employees. It also showcases some relevant opportunities for organizations to turn their cultural challenges into ways to further engage their employees.

It turns out, 80% of the employees that Edelman surveyed expect regular communication, truthful information, and opportunities to give their input at work. The good news is that employees already largely trust workplace communications, often accepting information they there either right away or after it has been repeated only once or twice. The problem is that those same employees don't often see their employers living up to expectations, either for making it easy for employees to give input, or for including them in organizational planning processes. This is especially a problem among Gen Z employees, fully half of whom will gladly voice their discontent in a public forum. Our culture report from earlier in the year backs this up: Gen Z, as a cohort, expects their workplace to live up to expectations. And when employers don't walk the walk, their youngest workers will absolutely call them out on it.

Managers or direct bosses are employees' most trusted voice within a workplace. We see this again and again within our own Ethical Culture Surveys: one's manager is not just the foremost person through whom a company expresses its culture, they are also the primary medium through which cultural concerns are raised, elevated, and addressed. Put simply: Managers matter because whether you work at a desk or work on a production line, trust at the workplace is a local phenomenon.

This is why it is so important that managers receive the support they need to promote a culture of ethics

and to make sure that employees are heard when things seem off or aren't right. Employers do well when they formally support managers to address concerns, create teams to represent all employee levels when addressing workplace issues, and create some kind of stakeholder council to ensure that everyone within the employee ecosystem has a voice that is heard.

None of this is surprising, but it is always comforting to see the data back up the truths that we consider to be self-evident. Increasingly—and once again, we can thank Gen Z for tipping the scale here—employees want their work to help make the world a better place. Right now, the various organizations that are finalizing their 2024 World's Most Ethical Companies applications know this better than anyone. And when we look at the Five-Year Ethics Premium that shows how honoree companies outperform their peers by some 13.6%, the proof is right there for everyone to see: strong ethics really is good business. Trust in *that*. ■

A handwritten signature in black ink that reads "Erica Salmon Byrne".

ERICA SALMON BYRNE
Chief Strategy Officer and
Executive Chair, Ethisphere

In the News

THREE CHEERS

This summer, the **Biden-Harris Administration** unveiled the [National Cyber Workforce and Education Strategy \(NCWES\)](#), a comprehensive approach aimed at addressing both immediate and long-term cyber workforce needs. Among the many NCWES stakeholders from academia, industry, and government cited in the announcement was the Cyber Readiness Institute (CRI), for which Ethisphere Executive Vice President **Craig Moss** is a Director. Craig's cyber readiness program that he developed for CRI has also received a grant from **Microsoft** to run a large program on improving and verifying the [cyber readiness of water utilities](#) throughout the U.S. As part of scaling the CRI program for the water utilities, Craig built a Cyber Coach certification program to qualify individuals to be able to support the water utilities and verify that they meet CRI requirements.

Hormel earned much-deserved praise in the immediate aftermath of the [Maui wildfire disaster](#) by sending its Hawaiian customers truckloads of its canned luncheon meat, SPAM. The people of Hawaii have a special relationship with the beloved brand that goes back to WWII, which Hormel acknowledged in a meaningful, genuine show of support through its on-the-ground disaster relief partner, Convoy of Hope.

The **International Energy Agency** reports that ["staggering" growth of renewable energy](#) (solar power and electric vehicles, especially) has given fresh hope that the world might stay within the 1.5C limit on global heating. Meanwhile, the city of London expanded its **Ultra Low Emissions Zone** to the entire city, making it the world's largest low-emissions zone. Since 2019, the

ULEZ has [reduced Co2 emissions by 800,000 tons](#)—the equivalent of 1.1 million flights from London to New York.

The Association of Equipment Manufacturers has warned its members to ["brace for impact"](#) as numerous new emissions reduction standards and regulations from the International Sustainability Standards Board, the state of California, the European Commissions, the Taskforce on Nature-Related Financial Disclosures, and the Targeted Manufacture Rule. However, the AEM says, all of these risks can be mitigated through a compliance-driven tone at the top, establishing a three-tiered compliance strategy (business area, enterprise, internal audit), and linking sustainability policies and procedures to relevant and effective training.

HOT WATER

The high-profile [fraud trial](#) of **Sam Bankman-Fried**—founder of the collapsed crypto exchange **FTX**—began in September and raises a number of questions, not least of which is whether [philanthropy itself deserves a rethink](#), especially when it is used to cover for wrongdoing. Meanwhile, former FTX executive **Ryan Salame** will [forfeit \\$1.5 billion](#) after pleading guilty to criminal charges.

Texas Attorney General Ken Paxton (R) survived a [sixteen-count impeachment](#) trial over allegations of bribery, obstruction of justice, misuse of public funds, and dereliction of duty. Although the Texas House voted 121-23 to impeach Paxton, none of the charges received more than the 14 of 21 votes needed to convict. Paxton also faces

[criminal charges](#) for other wrongdoing associated with his abuse of power.

Luis Rubiales, former president of the Spanish soccer federation and former vice president of the European soccer body UEFA, faces [possible criminal charges](#) after forcibly kissing Spanish soccer player **Jennifer Hermoso** during the medal ceremony that followed Spain's victory at the Women's World Cup this summer. For more on this, check out our special **Ethicast** episode on how Rubiales' misconduct earned him a [culture red card](#).

Swiss investment bank **UBS** will [pay \\$1.435 billion](#) to settle U.S. charges that it misled investors into buying bad mortgage securities leading up to the 2008 global financial crisis. The

news dovetailed with separate reports of a [DOJ probe into suspected compliance failures that enabled Russian clients to evade sanctions](#) that rattled UBS shares. The bank, however, claimed it had not been made aware of any such DOJ action.

The **U.S. Securities and Exchange Commission** broad enforcement action against some two dozen Wall Street firms around their use of WhatsApp and other unapproved messaging platforms, is close to a final settlement. The action has thus far levied more than [\\$2 billion in fines](#). Separately, former SEC and Commodity Futures Trading Commission chairs say the SEC's [broad crypto lawsuits](#) are unlikely to solve the key issues the SEC has with crypto in general.

MEANWHILE...

Ken Polite, head of the DOJ's criminal justice division, [stepped down from his post in July](#) to return to private practice. In his time at DOJ, Polite played a key role in expanding the efforts to make companies volunteers in enforcement and self-disclosure. He drove the DOJ's changes to its [corporate enforcement policy](#), which was announced in January 2023 and [given further context](#) in March. Polite was hailed as a champion on the use of [data analytics](#), especially between agencies as a way to detect patterns of wrongdoing and strengthen corporate law enforcement.

Microsoft officially closed its [\\$69B acquisition of video game giant Activision Blizzard](#) despite almost [two years of legal challenges](#) by competition regulators in the U.S., UK, and EU. The transaction is the largest deal in the history of both Microsoft and the video game industry. For more on Activision Blizzard, check out our interview with Chief Ethics and Compliance Officer Jen Brewer on page 28.

LEGO is halting a prototype program to its iconic plastic building blocks out of recycled plastics because the program [failed to reduce net carbon emissions](#). LEGO says it will continue to pursue efforts to lower its carbon footprint.

A proposed **U.S. Securities and Exchange Commission** materiality rule raises some [interesting implications](#) for ESG disclosure...and concerns that companies might get too much say in determining what to disclose.

As the hit television shows **Ted Lasso** and **Succession** both drew to a close this summer, the **Culture Amp** podcast compared the leadership styles from Ted Lasso and Roy Logan to show

why [the Lasso way](#) works, and the Logan way doesn't. Life imitates art.

The trial of former **Lundin Oil** chairman Ian Lundin and former CEO Alex Schneider gets underway in Sweden, where Lundin and Schneider are accused of [complicity in war crimes](#) committed 20 years ago by the Sudanese army during the Sudan civil war.

Jimmy Fallon is facing a reputational crisis after *Rolling Stone* published an in-depth expose on the [toxic work culture](#) of his television show. Fallon has already [issued an apology](#) to his staff, but the internet never forgets.

The **U.S. Internal Revenue Service** has begun using [artificial intelligence](#) to investigate possible tax evasion among large hedge funds, private equity groups, real estate investors, and law firms, amid a broader [crackdown on wealthy tax cheats](#).

Rolling Stone founder **Jann Wenner** was abruptly removed from the Rock & Roll Hall of Fame board after public comments he made about [Black and female musicians](#). Just as abruptly, the **Planet Fitness** board has ousted CEO **Chris Rondeau** without explanation, sending the company's shares tumbling to [a 52-week low](#).

Automaker **Tesla** revealed in a [third-quarter financial filing](#) that it has received a request for information from the U.S. Department of Justice regarding the company's driver-assistance systems, the range of its electric vehicles, and "personnel decisions" at the company. Tesla noted it is not under DOJ investigation, but were it to fall under one, it would have a ["material impact"](#) on the company's operations. Tesla is currently facing a [federal investigation](#) over whether it used company funds to design a glass house for its CEO, Elon Musk. Tesla is under a [separate federal](#)

[criminal investigation](#) around Tesla's claims that its cars are self-driving, and faces lawsuits over a 100GB data breach dubbed the ["Tesla files."](#)

Cryptocurrency exchange **Binance** suspended access for new users in the U.K. as part of its effort to comply with new [UK Financial Code Authority regulations](#) enacted on Oct. 8 that prohibits nonregistered crypto platforms from marketing themselves in the UK unless they do it in partnership with an FCA-authorized firm. Existing UK users of Binance can still access the exchange's services upon completing a suitable appropriateness test, but will not have access to new products or services during the waiting period.

The **U.S. Securities and Exchange Commission's** Division of Examinations released its [2024 examination priorities](#) to inform investors and registrants of the key risks, examination topics, and priorities that the Division plans to focus on in the upcoming year. This year's examinations will prioritize areas that pose emerging risks to investors or the markets in addition to core and perennial risk areas. The published priorities are not exhaustive of the focus areas of the Division in its examinations, risk alerts, and outreach. The scope of an examination includes analysis of an entity's history, operations, services, products offered, and other risk factors.

In **Iceland**, where tens of thousands of women (including Prime Minister **Katrin Jakobsdóttir**) and non-binary people went on a [24-hour strike](#) on Oct. 24 to protest the gender pay gap as well as gender-based and sexual violence in Iceland and abroad. A similar strike in 1975 ultimately led to the election of **Vigdís Finnbogadóttir**, the world's first elected female president of a country.

SOUTH ASIA ETHICS SUMMIT
ALL SESSIONS NOW ON-DEMAND



The replays from this year's South Asia Ethics Summit are now available on-demand! Hear the great conversations from ethics and compliance leaders from the region talking about pressing issues like ESG, the regulatory perspective on

PoSH and India's Data Protection Bill, measuring ethical culture, the third-party due diligence process, and more! Our stellar faculty included:

- **Ruzbeh Irani**, President, Group HR at **The Mahindra Group**
- **Arpinder Singh**, Global Markets and India Leader at **EY Forensic & Integrity Services**
- **Asif Usmani**, APAC Compliance Head at **Hoya Vision Care**

- **Jon White**, Managing Director at **Omega Compliance**
- **Manu Bal**, Head of Legal & Compliance at **Beam Global Spirits & Wine (I) Pvt. Ltd**
- **Gerald Lam**, Senior Associate at **Baker McKenzie** (Hong Kong)

BELA Members can receive up to five free passes to this event by applying the access code BELA 2023 during registration. [Click here to register](#) and watch these sessions today.

2023 EUROPE ETHICS & COMPLIANCE VIRTUAL FORUM
6 HOUR(S) | NOVEMBER, 7-8, 2023 | 2:00 PM-5:00 PM | CET



Engage with expert leaders within the Global BELA Community and other E&C leaders from around the world in an entirely virtual setting. Learn best practices, cultivate connections, bring your team together to exchange ideas with peers across industries and countries. Topics to be discussed include combatting greenwashing, strengthening human rights due diligence, driving culture

and building trust, and creating policies and guidelines for AI. Our faculty for this event includes:

- **Thomas Pfennig**, Global Head of Compliance & Data Privacy, **Bayer**
- **Lauren Reynolds**, Regional Legal Compliance Director, Europe, **Microsoft**
- **Nathan Prater**, Vice President Global Compliance & Ethics, **Ahold Delhaize**
- **Patrick Rowe**, Chief Compliance Officer and Deputy General Counsel, **Accenture**
- **Bo van Zeeland**, GM, Chief Counsel Compliance,

Trade & Litigation Legal Affairs, **SABIC**

- **Susan Malcom**, Vice President, Chief Ethics and Compliance Officer, Legal, Governance and Security, **Diebold Nixdorf**
- **Nigel Crawford**, Vice President, Corporate Secretary and General Counsel EMEA, **Eaton**
- **Steve Koslow**, Vice President, Chief Ethics & Compliance Officer, **Allianz Life Insurance Company**

BELA Members can receive up to five free passes to this event by applying the access code **BELA 2023** during registration, so reserve your seat today! [Click here to register](#).

BELA ROUNDTABLE: HEALTHCARE (VIRTUAL)

2 HOUR(S) | NOVEMBER, 2, 2023 - | 2:00 PM-4:00 PM | EST

Join your BELA peers for a virtual roundtable for the healthcare industry. Topics will include Health Equity and Collective Action from the Community to Address Disparities, and Regulatory

and Litigation Concerns Related to Data Privacy/Cyber Incidents. This virtual roundtable is intended for healthcare providers and services, pharmaceutical, biotechnology,

healthcare equipment and life science organizations. To register for this free event, [click here](#).

BELA ROUNDTABLE: ATLANTA, GA—HOSTED BY SOUTHWIRE

4.5 HOUR(S) | NOVEMBER, 9, 2023 - | 12:00 PM-4:30 PM | EST

Join your Greater Atlanta-based peers for an insightful conversation on how leading organizations are implementing specific components

of their ethics & compliance program, addressing emerging risks, and how to build best practices around ever-changing regulatory landscape.

There is no cost to attend, and lunch will be provided. To register for this free event, [click here](#).

BELA ROUNDTABLE: HOSTED BY CANON USA & GENERAL MOTORS (VIRTUAL)

2 HOUR(S) | NOVEMBER, 16, 2023 - | 1:00 PM-3:00 PM | EST

Join your peers for a virtual discussion on the building blocks of a successful champion program. Learn how **Canon** implemented a Compliance Liaison Program for

the Canon Americas Group with Kim Santha Manager, Corporate Compliance, Canon USA. And learn how **General Motors** executed their Ambassador/Liaison Program with

Emeka Nwankpah, Senior Compliance Counsel, General Motors. To register for this free event, [click here](#).

ROUNDTABLE: AUTO SECTOR—HOSTED BY STELLANTIS AND THE U.S. DEPT. OF COMMERCE (VIRTUAL)

2 HOUR(S) | NOVEMBER, 30, 2023 - | 11:00 AM-1:00 PM | EST

Join us for a live discussion on compliance in the automotive sector. **Roberto Berry**, VP of Compliance for the Americas at **Stellantis**, will share how they have advanced on their technology and digitization strategy

for compliance. This will include the gamification of training, KPIs for Compliance, data analytics, and more. **Andrew West**, Special Agent – Bureau of Industry and Security-Office of Export Enforcement, **U.S. Department**

of Commerce will lead a discussion on bridging the gap between government and industry as it relates to export enforcement and sanctions. To register for this free event, [click here](#).

BELA ROUNDTABLE: WASHINGTON STATE—HOSTED BY FORTIVE (VIRTUAL)

2 HOUR(S) | DECEMBER, 14, 2023 - | 12:00 PM-2:00 PM | PST

Join your BELA Peers for an in-person roundtable near the Seattle, WA area, as **Jennifer Zerm**, Vice

President, Chief Compliance Officer, and **Brandon Young**, Assistant General Counsel – Compliance, at

Fortive will lead a discussion on Third-Party Compliance. To register for this free event, [click here](#).

2023 ASIA PACIFIC ETHICS & COMPLIANCE FORUM

4 HOUR(S) | DECEMBER, 15, 2023 | 9:00 AM-1:00 PM | CST (CHINA/SHANGHAI)

Registration is now open for the BELA Asia-Pacific Forum! This event provides a unique opportunity for companies to learn, develop, and share ideas that collectively

elevate our field and lead to greater business integrity throughout Asia Pacific and around the globe.

BELA Members can receive up to five free passes to this event by applying the access code **BELA 2023** during registration, so reserve your seat today! [Click here to register](#).

Business Ethics Leadership Alliance (BELA) Member Resources



BELA members receive enterprise-wide access to the [BELA Member Hub](#)—a premier repository of key resources featuring examples of work, presentations, and research provided by BELA companies, exclusive data from Ethisphere's unparalleled data set, program benchmarking, and expert reports, event sessions and other insights.

Be sure to check on the resource hub regularly to see the latest content that addresses some of the most important issues facing the ethics and compliance field today. And if you are interested in showcasing your organization and sharing a resource with the BELA Community, reach out to Ethisphere Content Manager, [Samantha Johnson](#) to learn more.

Booz Allen Hamilton – Ethics Advisor Program Overview



Booz Allen Hamilton shares an internal communication that details their ethics advisor program. The resource includes qualities of an ethics advisor, the process of selecting ethics advisors, responsibilities, benefits of becoming an ethics advisor, and frequently asked questions. It also describes the mission of the Ethics Advisor Program to actively promote

and embed the firm's values and culture, mitigate risk, and serve as an advisory group and providing feedback on Ethics & Compliance initiatives.

Download this presentation from the [BELA Member Hub](#). Need access? Email bel@ethisphere.com.

Community Insights: Managing Stakeholder Expectations Around ESG



Stakeholders are wide-ranging and will vary from organization to organization. Your stakeholders and what they expect can be one of the most powerful drivers for your ESG goals and initiatives. How you manage stakeholder expectations and align them with your business strategy is important. Consider these

tips and advice from panelists at the 2023 Global Ethics Summit when determining how to take stakeholder expectations into account around your ESG goals and initiatives.

Download this presentation from the [BELA Member Hub](#). Need access? Email bel@ethisphere.com.

Bio Rad – “Hello New Manager” Training Program



Bio Rad shares their training module for new people managers. The module covers their localization program, an overview of the role, and communications. The goals of the program are: 1) To raise awareness of who each new manager's compliance & ethics lead is, 2) raise

awareness of compliance tools by linking t relevant C&E assets; and 3) nurturing the ethical environment by reinforcing E&C speak-up messaging.

Download this presentation from the [BELA Member Hub](#). Need access? Email bel@ethisphere.com.

Lifecycle of Investigations Communications



Employees, managers, senior leadership, and even external

stakeholders will have an interest in understanding how a company executes its investigations as an indication of how serious it takes ethical behavior. The way to effectively message key information about investigations will vary for each organization depending on the risks, culture, and management structure of an organization.

This report, created in partnership with the BELA Working Group on Investigations Communications, is organized around communications

before, during, and after an investigation occurs. It covers communicating with employees, managers, and witnesses, normalizing the investigations process, and sharing data and trends of the investigations process.

Download this report from the [BELA Member Hub](#). Need access? Email bela@ethisphere.com.

The Business Case for a Standalone Ethical Culture Assessment



This presentation was developed to arm you in your conversations with internal and external stakeholders about the importance of conducting

a standalone ethical culture survey—either in addition to a broader employee survey, to be used in alternating years, or on an annual basis. You can use this Business Case deck to brief colleagues on the benefits of measuring ethical culture and convince executive leadership through data-driven evidence of the importance of fostering, assessing, and monitoring an ethical culture. Whether using it off the shelf,

customizing the slides with your branding, or embedding content into your existing presentations, we welcome you to use these slides as you see fit. If you have any questions, reach out to culture@ethisphere.com.

Download this resource from the [BELA Member Hub](#). Need access? Email bela@ethisphere.com.

Creating Effective Policies: Tone & Clarity



Written policies should clearly outline expectations for behavior that is aligned with the law and the culture of the organization. The tone and clarity of your writing matters. This one-page guide shares tips and advice for crafting clear

policies that guide employees in doing the right thing.

Download this resource from the [BELA Member Hub](#). Need access? Email bela@ethisphere.com.

ADM – Ethics Toolkit for Managers



ADM shares their Ethics Toolkit for Managers, which covers how managers can lead with integrity, their role as a manager, how to report incidents and access resources, and

how to act ethically when dealing with external parties.

Download this resource from the [BELA Member Hub](#). Need access? Email bela@ethisphere.com.

Creating Tomorrow's Ethical Leaders Today

How the McGowan Fund is making ethical decision-making part of the MBA curriculum

Interview by Bill Coffin

The **William G. McGowan Charitable Fund** is a philanthropic family foundation established in 1993 to perpetuate the philanthropy and ethical leadership of entrepreneur and telecommunications executive William G. McGowan. The McGowan Fund promotes and advances initiatives in education, human services, and healthcare and medical research through a variety of initiatives. One of them is the McGowan Fellows Program, an experiential program that partners with leading graduate business programs to imbue future leaders with a framework for ethical decision-making and to establish an ongoing dialogue with them on the importance of ethical business practices. For McGowan Fund Board Director **Gertrude C McGowan**, and interim Executive Director and Fellows Program Director **Brian Peckrill**, the McGowan Fellows program isn't just a way to make better MBA students. It's a way to advance values-based leadership in the modern ethics economy.

Gertrude, can you tell us a little bit about the McGowan's Fellow Program? It sounds like an amazing initiative for developing ethical business leadership.

Gertrude McGowan: It is an amazing program, and it is currently version two of our attempt to make an impact in higher education. When we originally began, we wanted to have some sort of an impact on individuals who needed financial help in pursuing their education. We had tons of schools and colleges that applied, and we took all comers. They'd get a \$10,000 scholarship and they would be able to choose one or two students who would benefit from the scholarship.

When we looked at the impact of all that, we realized that while we

were giving lots of scholarships and making a lot of people's lives a little bit better, we could be doing more. We wanted to do something a little more in the vein of our uncle, our founder, William G. McGowan. He was just a giant in the telecommunications industry, but he started out with very hardworking, modest roots in an Irish Catholic family. His mother was a teacher. All of his brothers and his sister went to school with some help through the GI Bill or some other kind of scholarship. He graduated from King's College in Wilkes-Barre, Pennsylvania, and then went to Harvard for his MBA, but he could not finish, because he simply ran out of money during his second year of the program. Thankfully, a scholarship known at

the time as the Baker Scholarship enabled him to finish his MBA.

So we decided that we wanted to make a program that might be able to find the next Uncle Bill or give the next entrepreneur or ethical leader a chance. So we modeled the program as a second year MBA scholarship, and we went from there. Through Brian Peckrill's leadership, the McGowan's Fellow Program has become what it is today, an avenue for developing ethical leaders.

Brian, the McGowan Fund and Ethisphere both share a common interest in promoting ethical values-based leadership. How would you characterize the overall state of

values-based leadership today, especially in the business world?

Brian Peckrill: Values-based leadership is in demand. When we look at the Edelman Trust Barometer, we see that trust in institutions has been decaying. Businesses are ahead of public institutions, but not by much. But what we see is that the general public—specifically led by Generation Z—is sincerely driven to work for organizations that have ethical leadership and by products that benefit both businesses and society.

When asked, these same individuals say that they are prioritizing businesses that have ethical leadership ahead of those that support Corporate Social Responsibility or Environmental, Social, and Governance. And to that, I'd say that businesses are hearing this call and they're responding. Everyone knows that in 2019, the Business Roundtable published the [Statement on the Purpose of a Corporation](#), which said, among other things, that businesses must track their societal impact.

When we talk to Korn Ferry, one of the largest corporate search firms in the world, they are considering ethics in their hiring of individuals. So while there's a demand for ethical leadership, I think the corporate sector is starting to respond. And what is clear is those businesses that prioritize ethical leadership are going to succeed and see higher business profits.

One of the most disheartening things to see in today's business integrity environment is someone who appears to have reached a very high position of power, wealth, and success without showing much honesty or integrity along the way. What would you say to someone—especially someone who is at the beginning of their career—who starts to think that maybe honesty and integrity don't matter as much as they thought they did?

BP: That ethics is good for society, but ethics is also good for business. Just a couple of weeks ago, we presented our second [Ethical Leader of the Year](#) award at the Society for Human

Resource Management Annual Conference in Las Vegas. Our winner this year was Ed Bastian, the CEO of Delta Airlines. Since he became CFO about two decades ago, and into his time as CEO, Delta has dealt with many different major challenges. In 2005, they filed for bankruptcy. Certainly that was a low point, but they really hit rock bottom during the pandemic. And what Ed told us is that these opportunities revealed his character. In the mid 2000s, they really embraced empathy, listening to their frontline staff and the challenges that they were facing through bankruptcy. And through this, they developed a generous profit-sharing program.

During the pandemic, they blocked off the middle seat in their rows so that everyone had a little bit more space. Now, of course, this benefitted the customers, but they also did this for the staff so that they could feel safe while they're flying and understand that there could be some level of social distancing on these flights. They became very creative in their approaches to ensure that while they weren't flying and they weren't bringing any money in, individuals could continue to have health insurance during this really trying time.

Ed told us that he obsesses over his people so that they can obsess over the customers. And what we're seeing is Delta's finances are very strong as a result. And on top of all of this, Delta and the airline industry has never been safer. So what we're seeing is that Delta's embrace of ethics hasn't just benefited the people and customers, but it's benefited the investors and shareholders as well.

One of the most interesting things about the McGowan Fellows program is how it takes a truly long-term view of building business integrity by reaching business leaders before they even become business leaders and giving them meaningful support early in their career. In that vein, what advice would you have for ethics leaders with a similar long-term view and who are trying to move the needle within their own organization on ethics and compliance?



GERTRUDE C MCGOWAN



BRIAN PECKRILL

GM: I think a mistake that is made is sometimes we view the business decision-making process as large and our code of conduct or our ethics, as small, and it's actually the opposite. Hiring the right leaders, being the right leaders, having your entire culture be one of ethics and leadership... all of that is as large as it gets.

Uncle Bill would say that he wasn't successful despite his ethics, but because of his ethics. When I mentioned his upbringing before, coming from such a hardworking background, that was foundational. His dad was an engineer on the railroad. His mom was a teacher. And he always tried to do the right thing for the little guy.

because he always viewed himself as the little guy. He often compared himself to the David and Goliath story, when he took on Ma Bell. For him, the success of MCI Communications was wonderful, and pivotal for his career. But when he looked at the monopoly that was there at the time, he thought it was unfair to the common man not to have competition, and to have to pay more to have communications. He just wanted to do the right thing. So while it sounds simple about doing

they are immersed in ethics. And then, ethics become a way of life for them. Truthfully, isn't that how it ought to be?

BP: When we are teaching leadership—and specifically ethical leadership—we're thinking of leadership as three components: direction, alignment, and commitment. Direction is how you set your goals and objectives. Alignment is how you adopt the tactics that will achieve those goals. Commitment is how you establish the guardrails

they have to make challenging business decisions, they will know how it affects others because they will already have had their values challenged and have been forced to encounter problems that are new to them. They'll also have had that experience working in kind of complex, challenging environments that have challenged their values in the past. And that will help to make them better ethical leaders. ■

“From the very beginning of their career, they are immersed in ethics. And then, ethics become a way of life for them. Truthfully, isn't that how it ought to be?”

the right thing, it needs to be broad and penetrate the entire organization.

When we think about future ethics and compliance professionals, how does an early understanding of ethical business practice—whether it's through the McGowan Fellows Program or something similar to it—set up business leaders for success?

GM: That's a great question. The way I think it sets it up is values-based decision-making becomes ingrained in their thinking. It's the very fiber of their training. It's the very fiber of how they're learning. That way, when you're learning your principles of all these great MBA concepts, you're also learning ethics alongside of it.

We have a very practical program, and we immerse its participants in real ethical decision-making experiences in addition to their classroom training. So at the very essence of their being a participant in the McGowan Fellows Program, they are learning to act in a way that is ethical. Hopefully there's no other way for them to act [laughs], but from the very beginning of their career,

for what you are willing to do and what you are not willing to do. We believe that ethics really fits into that commitment piece of leadership.

The problem with a lot of educational models that teach leadership is the paradox is that when leaders need commitment the most, when they need *ethics* the most, is when they are facing problems that they have never encountered them before. And to compound this, these individuals have learned leadership in structured classroom environments where they haven't had to confront these challenges firsthand. So what we've tried to do during the McGowan Fellows Program is to create an experiential engagement. One way we do this is we work with not-for-profits that are active within areas of homelessness and of low income individuals, where one decision might lead to somebody being laid off, one decision might lead to someone losing their retirement savings. We try to create this environment where Fellows engage with these people in ways that will help to develop their sense of courage, accountability, and empathy. That way, when they enter the business world and

ABOUT THE EXPERTS

Gertrude McGowan is a Board Member for the William C. McGowan Charitable Fund. In addition, she is an experienced chief executive within the health care legal, operational, and consulting space, where she currently serves as a Benefits Consultant for Creative Benefits. Gertrude also serves on the Boards of the Osterhout Free Library, the Wright Center for Community Health, and most recently, the Wilkes-Barre Law and Library Association.

Brian Peckrill is interim director of the William G. McGowan Charitable Fund, leading all operations of the Fund. He also serves as the Fellows Program director, where he is responsible for the design and implementation of this forward-thinking, ethics-focused experience for top MBA students, as well as fostering an active and engaged alumni community of young business leaders as they embark on and manage their careers. Prior to joining the McGowan Fund, Brian served as vice president of WorldChicago, a Chicago-based nonprofit organization focused on engaging the world in person-to-person exchange-based, capacity building projects. He has extensive experience developing and managing leadership programming around the world, including Ukraine, North Macedonia, and Japan.

To learn more, please visit the [William G. McGowan Charitable Fund](#) and the [McGowan Fellows Program](#) websites.

The background of the page features a complex, abstract graphic composed of numerous thin, light blue lines that create a sense of depth and movement, resembling a stylized mountain range or a series of overlapping planes. The lines are most dense on the right side and become sparser towards the left. The overall effect is a modern, architectural aesthetic.

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The Pathway to Becoming Chief Compliance Officer

A Career Advancement Toolkit for Corporate Compliance Leaders

**by Jeannine D'Amico Lemker
with contributions from
Marianne Fogerty**

Across industries and companies, the CCO role is one of incredible importance — and incredible diversity. Here, we provide a broad toolkit for emerging directors, AGCs, and senior level compliance professionals to use to chart their own course and build skills to become a CCO.



THE E&C PROGRAM IS AN ECOSYSTEM

CCOs are systems thinkers, looking across a vast landscape of risk, understanding how each element of the program works in harmony, and seeing the “forest” of initiatives that advance ethics and compliance. CCOs are strategic thinkers, often not mired only in day-to-day decision-making, who ruthlessly prioritize their time and attention. CCOs understand people and what drives them to succeed, allowing a unique perspective on building pathways that invite employees to make a responsible decision in the face of

performance pressure, time constraints and working beyond capacity.

Ethics & Compliance Culture: Building Employee Capabilities.

Developing responsible employee decision-making and positively impacting employee behavior.

- Training and communications
- Policy governance, development and operationalization
- Code of Conduct
- Culture surveys or analysis of employee behavior

- Reporting and guidance channels that foster a psychologically safe environment to ask questions, get early answers and raise concerns knowing there will be follow-through

Creating Infrastructure & Systems to Support Employees. Knowledge of—and leadership for—systems and controls that support employee decision making and manage risk.

- Controls design—regulatory or product/services
- Third party risk management
- Performance incentives

What's Ahead and What's Working: Detection and Monitoring.

Programs reassuring leadership that compliance culture and systems are operating as expected and find areas for continuous improvement.

- Risk assessments and catalogs
- Investigations and root cause analysis
- Control design and catalogs
- Testing and data analytics
- Remediation

Speaking with Impact: Reporting.

Tailoring a message to your audience using qualitative and quantitative data with a compelling narrative to report on program effectiveness and needed improvements.

- Board of Directors
- Executive Teams
- Compliance and Risk Management Community
- Business Leadership
- Employee Population
- External stakeholders (e.g., investors, regulators)

UNDERSTANDING AND LEADING THROUGH RISK

CCOs understand how the business drives risk, and they have a pulse on the company's risk appetite. They look beyond the risks they know to those they know less. Become conversant in the company's highest risks and work toward leading others who manage them day to day.

How We Build Things: Research and Product Design Risks. Examples include privacy, University partnerships, theft of trade secrets, insider trading, human rights, biased technologies, accessibility, consumer safety.

How We Make Money: GTM Risks.

Examples include channel stuffing, revenue manipulation, roundtrip transactions, fraud, kickbacks.

How We Partner: Third Party Risks.

Examples include competition, privacy, side agreements, conflict minerals, modern slavery.

Where We Operate: Geo Risks.

Examples include sanctions, trade, export controls, state privacy or healthcare regulations, permitting and licensing, building or plant construction, data localization, social media platform content regulations.

Who Our Customers Are: Public, Private, Non-Profit Risks. Examples include public procurement, government contracting, bribery and corruption, World Bank or similar development bank funding, sanctions.

Our "For Good" in the World:

ESG. Examples include materiality assessments, programs supporting human rights, sustainability, and Diversity, Equity, Inclusion, and Belonging (DEIB).

RELATIONSHIP BUILDERS

CCOs cultivate a reputation as a business partner, curious problem-solver and influencer—both within a company and beyond. CCOs spend time building relationships, trust and credibility through active listening, demonstrating thought leadership and expertise, and selflessly working to build others up.

Looking Around and Up: Expanding Relationships with Company Peers and Leaders.

Build allyship beyond your core stakeholders while nurturing your E&C and Risk Management relationships; enable a company-wide community. Examples include roundtables, summit sponsorships, offering to partner on pilot projects, loaning your resources

toward a shared initiative, job-sharing, being available as a sounding board.

Looking Outside: Expanding Your E&C Network and Developing a "Brand" as a Thought-Leader.

CCOs are vision-setters, not just internally but also sought out as experts externally. Build momentum in the E&C and regulatory community through your ideas, learn-it-all attitude, offers for benchmarking, speaking, teaching, and inter-company collaborations.

FROM MANAGEMENT TO LEADERSHIP

Defining the Org: Vision, Mission, Programs, Goals, Projects. People need purpose. CCOs step back and reflect on their team's collective contribution to the company mission—and articulate this in a clear and compelling way that includes an evergreen purpose and how today's programs contribute.

Empowerment + Accountability: Moving Away from D2D Work into Strategy. While sometimes comfortable, micromanagement is antithetical to a CCOs role. CCOs lead through conscious empowerment, giving teams freedom to fail or succeed and demonstrating an "I have your back" attitude that shows up in meetings and projects.

Seeing the Future: Shifting Focus to a Longer-Term Horizon. CCOs look far ahead towards success factors that are transformative for the business, not just the compliance program. Springboarding off the empowerment given to their teams, CCOs "see the future" alongside their executive team peers and chart a course for how E&C will support and enable company growth.

Know Your People. This involves building team cohesion, identifying high potential employees, succession planning, and managing headcount.

- **Build Bridges.** Through role clarity, individual and collective public support, and knowledge sharing in standups and team meetings, CCOs foster collaboration in each element of the program, work to resolve misalignment and conflict and be prepared to explain

decisions that outwardly may favor one function over another.

- **Get on the List.** With HR, CCOs identify a short list of successors including the strengths in their team members and consciously chose stretch projects, job rotations, executive engagement opportunities, or other initiatives that build capabilities.
- **More Isn't a Default.** Every new headcount is precious. Consider people, processes and tools needed to move work forward. Practice data-driven business justifications as to why people—versus technology or other solutions—are a necessary choice. "More people" is often not the CCOs initial go-to.

GROWING AND MANAGING A BUSINESS

CCOs model the best corporate behaviors around effective and efficient use of corporate assets. Developing rigor in your own org is a pathway to growing capabilities to appreciate that Compliance is a business unit.

Where Do You Want to Be in a Year ...

Five: Developing an Annual Operational Calendar and Goal Setting. CCOs must draw on the risk assessment, company strategy and objectives, and other key inputs to develop a strategic plan that, with each successive year, furthers the compliance mission and vision, supports corporate goals, and enables growth and innovation at scale.

Defining and Actioning Efficiencies:

Consider your digital transformation strategy, how you sunset programs, and whether you have the right people in the right places.

- **What can you stop doing?**

Periodically review what compliance must do, may do, and hopes to do. In tandem, assess what can compliance stop doing. This give and take brings CCO reassurance that the work being done is the most effective use of time and resources based on the regulatory environment, risk profile and tolerance,

impact of new technologies and controls, and realities around budget and headcount.

- **Leverage Your Team.** Review and assess your team members' strengths and align them with projects where they can have the greatest impact — even if it means moving them outside their core responsibilities or comfort zone.
- **Are There Other Ways?** It's not always more; CCOs conduct cost benefit analyses to see if there are technologies that can take over low value, repetitive or highly manual projects, freeing up personnel for more nuanced projects, whether other teams will take on specific work or whether that work can it be outsourced.

Spending Wisely: Budgeting and the Compliance "P&L":

CCOs recognize the need to engage early with leadership and those involved in the budget process to lay the groundwork for resource requests. Be prepared to tie each line in a budget request to a specific risk, a specific company objective or technology that will reduce the need for further headcount. With data at their fingertips, CCOs demonstrate the efficiencies achieved through the adoption of technology and the sunseting of legacy programs in favor of more impactful initiatives, and the savings achieved from investigations, monitoring and reviews of other programs.

Bringing Others Along: Prioritize change management, business reviews, and informing your team.

- **Change is constant.** CCOs strengthen the company's agility and help ensure that change, whether large or small, is affected efficiently, with controls and process for clear communication, lines of responsibility, cross functional coordination, documentation, and a post-hoc evaluation to identify any learnings and ensure it is working.
- **Compliance is a Team Sport.** Compliance is everybody's responsibility—and as a result, CCOs access and provide input

into company performance metrics and business reviews. A CCO is better equipped to embed this in company culture and better prepared to do their job, through visible engagement in processes that look at how the company is performing against its objectives and what factors are influencing outcomes.

- **Your People are Everything.** CCOs have many tools in their toolbox, none more valuable than the people on the compliance team. Consistent, effective communication and transparency equip and empower team members to carry out the compliance mission and sets them up for growth and success. Lead your own business reviews, hold org meetings, invest in advancing DEIB initiatives and career growth for your people. They will become you one day. ■

ABOUT THE AUTHOR

Jeannine Lemker is a Director on the In-House Counsel Recruiting team of Major, Lindsey & Africa (www.mlaglobal.com). Based in Seattle, WA, Jeannine works with a broad range of global, national, and regional companies, higher education institutions, and non-profits to find and unlock talent to be the next—or first—general counsel, Chief Ethics and Compliance Officer, compliance and ethics professionals, privacy leaders and other high-level, specialized legal professionals. Jeannine has extensive experience building and leading teams in Big Tech and Big Law, and helping lawyers and legal and compliance professionals advance responsible decision-making and policy development.

This article features contributions from **Marianne Fogerty**, an experienced ethics and compliance professional and attorney, former Global Chief Compliance Officer at Twitter, and former Managing Counsel at Mastercard.



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Be That Guy

A Q&A with **Mike McLaughlin**, Dell Technologies (ret.)

Interview by **Bill Coffin**

For nearly 23 years, Mike McLaughlin worked at Dell Technologies (an 11-time World's Most Ethical Companies® honoree), first as an employment lawyer and ultimately as its Chief Ethics and Compliance Officer—a post he held for a decade until he retired in August 2023. Mike spared some time to speak with Ethisphere about the lessons he learned during his career and offers some advice for those whose professional journeys have plenty of road left in them, including with something he tells everyone: “Be that guy.”

What brought you to Dell originally, and how did you become Chief Ethics and Compliance Officer?

I had worked at Morgan Lewis, a well-known law firm in Philadelphia and then went in-house at a company that is now part of Dow chemical company, where I concentrated on employment



and litigation. In 2000, Dell was looking for an employment lawyer and I got the call, but I really wasn't looking to relocate. I had family in Philadelphia, and my roots were there. But Dell was so exciting to me, being part of the so-called New Economy, so I interviewed with them. And let me tell you, I felt like I was visiting another planet. The people I met there, the culture that existed at the company, the excitement, the optimism, the vision of Michael Dell and his leadership team...it just excited me more than any other job I had ever thought about. So when I got the offer, I jumped at the opportunity. And Dell has remained that same exciting place throughout my 23 years there.

Being an employment lawyer at Dell was an absolute joy because Dell is a company that really tries to do the right thing. Look, we're not perfect, and we'll never say that we don't make mistakes. But if a mistake is made, we fix it. I am someone who has actually reinstated employees, which is very unusual for an employment lawyer. But there have

been times when I have gone to the top leadership and said, “Look, I think we made a mistake here, and I think this person deserves their job back.” And we gave them their job back.

Another reason I feel so blessed to have worked for Dell is that even though it is a very big company with many different products and revenue streams, it is very, very streamlined in the way that it is run. We have Michael Dell, who is the founder, chairman and the majority owner of the company. He has an executive leadership team comprised of relatively few people, one of whom is Rich Rothberg, General Counsel, who was my boss. Another is Jeff Clarke, Vice Chair, who acts as Michael's proxy when Michael's not in the room. In my 23 years at Dell, you could get things done with just one meeting, because we are led by people who are really good at making decisions. They're very active and very available. I had Mike Dell's cell phone number and if I needed to, I could call him and he could make a decision, and that was that.

So when you get a company that has a good heart, that you can trust to do the right thing, and that has clear leadership and clear alignment, you can accomplish an awful lot.

Can you talk about how you were tapped for the role of Chief Ethics and Compliance Officer?

In 2010, Rich Rothberg—who at the time was just a very good friend and not yet General Counsel—approached me and said that even though I was doing very well at my employment law job, he thought I could do more. He told me that the top ethics and compliance position was being vacated, and that I should do that job, too. I thought I could do it, but I was nervous. I knew employment law, employment litigation, even ancillary litigation really well and I knew I could succeed at it. I didn't know this other area and I was a little scared of it, so I suggested we take a year to think it over and in the meantime, I'd learn what I felt I needed to learn. Rich told me no. "You're not going to fail." And he went to the General Counsel and told him I should have the job. A day later, I got the call to take it on.

That moment taught me two important lessons. The first is that even though I had been doing employment law for 25 years, and felt really good and secure about it, it was important that I took that risk to do something completely different. The second is that your friends and your colleagues are often your best career advisors. Rich knew my career path better than I did. He was more confident than I was. And it all ended up bring the best thing that happened to me. But I was reluctant, and Rich wasn't.

You describe your method of ethics and compliance leadership as "winning hearts and minds." Can you explain that?

My background is in litigation. And I am a firm believer that trial lawyers win the heart of the jury first and then they bring their minds along with reason. The jury has to believe that your client tried to do good and tried to do right. And that was the only way I could do this job—by talking to our 140,000 or so team



members and winning their hearts. I had to talk to our many thousands of team members around the world and tell them that what matters is that first, they have to do what's right. All the rest of it will follow. You have to believe that this company will always try to be a force for good in the world and that if we mess up, we will admit it and then try to fix it right away. That was the approach I took, and I immediately put it into play.

I had a huge advantage being the lead employment lawyer for the company, because every leader in the company knew me. I either negotiated their entrance agreement, or if they worked for a competitor before coming to Dell, I negotiated that. Some of that involved litigation. So they knew me well. And I went to them and said that we all care about ethics. We care about doing the right thing, and about the company's name. I said I needed their help in making sure that their team members believed in that, too, so I would need time on their calendars in their executive meetings, and in their all-hands. I knew all of these people very well. And they gave me that time to go and speak to team members around the world.

Now, when you have that kind of opportunity, you can't waste your time by being boring. You don't want to talk about rules—these five embargoed countries, and these privacy laws in Europe, and so on. Tell people stories. Tell them the incredible things that are in the news, stuff that they wouldn't even believe. You don't have to look hard to find these incredible stories of money being transferred illegally, brown

paper bags being laid at doorsteps, that kind of thing. There's a famous saying that stories put babies to bed and send soldiers to war, and that's true. People will listen to a good story and remember it, and that is a great way to win their hearts and minds. They have to know the rules too, but you can embed them in the stories you tell. And that's how I started.

But then you took that storytelling approach to the next level in the digital era. Can you talk about that?

I look at digital as two buckets. The first bucket is using digital to enhance the ability to tell stories to exactly the right people in exactly the right way at exactly the right time, and in the exact dose to be interesting. We made great strides there and now we have an app like YouTube or TikTok where we can reach Dell employees on their phones, and they can watch videos on exactly the topic they need. We can push it to exactly the people who need to seem them in three to five-minute clips. And we can localize the content, too. There was one time we wanted to send a compliance message to our sales team in South Korea about following the rules and doing the right thing. We engaged our local employees on this, who were super-creative and incorporated a Korean folktale about the [Nine-Tailed Fox](#) with the messaging. We pushed that out to everyone who worked sales in South Korea, and when we monitored whether people looked at the message, we could see that it really resonated with them.

Something else we did was inject humor into our content. We hired a company to come talk with us, and help us create some funny videos around the stories we wanted to tell. We had some skeptics around that who thought we weren't taking our clients seriously, or that the government wasn't going to like it, or that we were being frivolous. Well, we showed the content to some friends who were either from the government or who were going into the government, and we asked them what they thought of it. We said we thought it was compelling because people would remember it. And they said, yes, that is exactly what you want: for it to be memorable. Whatever the story is, it shouldn't be boring, or forgettable, or just check the box. And if you can make it funny in a way that isn't disrespectful to the subject matter, and make it memorable and story-based, then that's what the government wants.

The second bucket is predictive analytics, which is nirvana for compliance people. We developed a system called CARDS (Compliance and Risk Detection System) that looks at deals and can tell if they are high-risk or not. That name sticks in your head and lends itself to more storytelling. We would say, "Put your CARDS on the table," or "Show your CARDS." Things like that actually got worked into our videos because it is all about transparency. We all know that any kind of corruption carries some of the biggest fines possible. And bribery only happens one way: with money. You need money to bribe, and there are very consistent methods to get it. You look at bribery cases, either someone creates a false company and feeds it money, or they over-bill a company and feed them the money, or they use cheap discounts to orphan funds to use as bribes. CARDS looks for those orphaned funds and deals with deep discounts, or deals with third parties that maybe don't deserve to be involved. It's only just beginning, but just imagine what it will do when the AI and machine learning make it what it can really be. It will be able to look for risks and say, "this discount makes no sense in this country with this partner." And then we can come in and stop it.

We also have a similar fraud detection system that uses data analytics to detect fraud risk and stop it beforehand. The key is not to get too many false positives, and we are probably only halfway to where we want to be on this. But with machine learning I have a feeling that is going to get exponentially better in the next two years as any false positives get fed back into the system to help it learn. I am really excited about what predictive analytics can do.

What would you say was the secret of your success at Dell?

It's tempting to say there is a secret to success, but the truth is there are many pathways to success. For me, finding the right organizational fit was key. The excitement around Dell, and its culture, has always been unbelievable. When I joined Dell, Michael Dell had this vision of democratizing technology and making better machines than other people could make, and making them so more people could afford them, so that people all over the world—including children in school—could have access to them and level the playing field in many ways. That's amazing. And that was a mission and a purpose I was deeply excited about—technology as a way to enhance human growth, development, and even joy. And I got to be a part of that.

It wouldn't have worked if Dell was a slow and plodding company, or if it was difficult to navigate. For example, we did benchmarking a lot. And I'll never forget when I was talking about investigation metrics with someone from another company, and I mentioned how we tried to finish all of our ethics investigations within an average of 30 days. The other person looked at me and said they didn't even start their ethics investigations within 30 days. I couldn't have worked for that company. I found a company that moved at my speed, one that had the same crisp, fast, data-based decision-making processes that I really enjoyed. But most importantly, the thing that was non-negotiable for me was working for a company that was doing the right thing and had its heart in the right place.

I had the privilege to work directly with Michael Dell on many things. And in my entire 23 years, I never once went to him on a matter, and he said, "Let's just do the expedient thing. Let's do the wrong thing. Let's brush this under the rug." Never once. He always said, "What's the right thing to do? Let's do that. But let's do it in the smartest way, and in a way that protects the company. But let's do the right thing first, always." And that was such a joy. I had to have that commitment to doing the right thing, first and foremost, and with Michael Dell and his company, I found that in absolute terms.

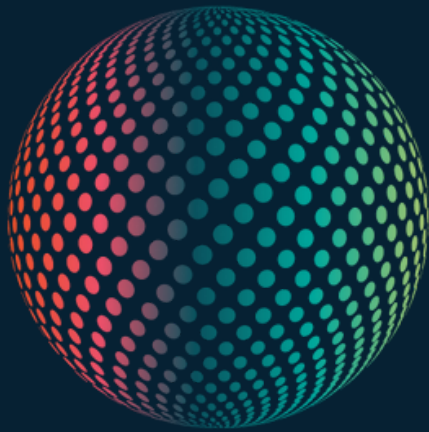
Any final words of advice?

If you Google Dell, you'll find all kinds of news stories about the awards we have won, and about our culture. But if you look around 2013, you'll find an article in the Milan Press where there was an attempted bribe. One of our employees came forward about it, and we stopped the bribe. We went to the Italian government and told them, and they fired their bad guy, we fired our bad guy, and that summer, we were in the local news for helping to clean up the government. It was just one person in one position, but we were in the news for helping to clean up the government.

I have told this story in every speech I gave at Dell, and I always ended it by telling people: Be that guy. Be that guy in all the things you do for this company. You will never, ever, do something that helps the company more, no matter what you invest, no matter what you create, no matter what you do, no matter what customers you help, than what that guy did. Because the price a company can pay for corruption can go into the billions. That's an awful lot of technology to sell. So always, be that guy. ■

ABOUT THE EXPERT

Mike McLaughlin *retired from Dell Technologies in August 2023 after serving the company for nearly 23 years, most recently as Senior Vice President, Chief Ethics and Compliance Officer.*



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How Corporate Compliance Builds Value

A new academic paper shows how consumers value strong compliance over product features

Interview by Bill Coffin

There has been a long running effort to establish compliance as a value creating function within the enterprise, but the data for that has been very hard to come by. **Todd Haugh** and **Suneal Bedi**—both professors at the Indiana University Kelley School of Business—are changing all of that with their forthcoming *Iowa Law Review* article, “Valuing Corporate Compliance,” in which they provide groundbreaking empirically sound, direct evidence that corporate compliance can—and does—create positive, revenue-enhancing value for companies. By understanding this truth, companies can gain a more complete and strategically useful understanding and measurement of compliance's true value for corporate stakeholders, regulators, and legal scholars.

What was your impetus for conducting this study and were there any conclusions that you were setting out to prove from the very beginning or were you testing a method in order to see what results were going to come from it?

Todd Haugh: This is one of those really fun things that happen in academia every once in a while, which came out of a hallway conversation between Suneal and I. We were talking about corporate compliance and business ethics, and I was lamenting the fact that one of the biggest problems in corporate compliance is identifying its true value. There's a lot of debate about exactly what that is and how to quantify it, and Suneal has incredible background both in business ethics but also in marketing and branding research. He immediately said, “Oh, wait a minute. I've got a method for that. We can do that.” We started talking about that method and that sort of launched the whole project. It was just one of these moments where two ideas came together and launched a study.

For those audience members who are not familiar with choice-based conjoint analysis, can you describe what that is and why is it so important to the study that you've authored?

Suneal Bedi: Choice-based conjoint analysis comes from the marketing realm, particularly branding literature. What it tries to do is figure out what are the consumer preferences about a given product or service. The way you do that is you give consumers hypothetical products and you ask them to choose which one they prefer the most. Each of these products vary on different characteristics, so you might have a cell phone that has a really nice camera or a bad camera, or is blue or white, or has this much storage, this kind of GPS navigation, whatever it may be. Through an empirical method of choice-based conjoint and surveying a lot of people, we actually can distill which preferences or which things that customers care about for a given product. It's really relevant for us because what we sort of internalized was compliance can be viewed as a type of characteristic of a product. Now it's not about the product itself, but it's about the

company that's producing the product. So the question was, do consumers care about buying from a company that actually has a robust compliance program? And choice-based conjoint can help us answer that question.

Your study makes a pretty compelling link on that regard between organizations that have a strong compliance program and a greater consumer willingness to engage with that organization in the marketplace. Is this a function of the consumers are noticing the compliance function itself within an organization, or is this part of a broader correlation between companies that tend to value compliance, also tend to value things that are more directly customer facing and might also impact a customer's decision to do business?

Bedi: The answer to your question is “yes”. The idea is both those things are happening. One is what we focus on in the paper. So what we focus on in the paper is sort of the former of what you said, which is if someone's buying a product and they don't really know much about the company,

but they do know that the company engages in robust compliance, are they willing to pay more for that product? Do they want that product more in comparison to the same product, where a company *isn't* engaging in compliance? And we answer yes. Now, that's not to say that companies also don't have sort of brand equity. We didn't really study that particular aspect in our study, but it's very possible that consumers start internalizing the fact that certain companies care more about consumers, care more about employees, and that sort of internalization allows them to express their preferences by buying from that company. So certainly is a possibility that's going on in the marketplace. Our study's focused on the former though.

There's a fair bit of commentary around how Gen Z is driving values-based consumer decisions, mainly how Gen Z consumers aren't really that fond of doing business with companies that they feel don't align with their own personal values. Do you see any kind of generational difference amongst consumers in the data from your study? Or, do you see that there is a potential for development in your findings over time as Gen Z itself gains more earning power in the marketplace?

Haugh: I think there's a lot of aspects of the study we could take further. So one might be sussing out some of those generational differences. Others might be adding different elements of compliance programs. So we only focus on three different ones because we just have only so much space in the particular study. We'd want to think about maybe field studies down the road. So there's a lot of places to take this, but we did have some indications from comments that participants made that gives a little bit more insight as to what they were thinking, generational or otherwise.

Bedi: In our paper, we don't really go into any generational differences. I looked back at our data and we saw some differences by generation, not necessarily statistically significant differences, but that's not to say that

those don't exist. Sort of just in the sample we recruited, we didn't see that we did see some other sort of interesting differences. We saw some gender differences. We also saw some education differences. The idea here is that various customers are going to care more or less about compliance part of the process. And this is what we're hoping to do is encouraging managers, marketing, whomever it may be at the company, to start segmenting the market and understanding how consumers care about compliance.

What are some proof points from all this that you think are worthy of further exploration, whether it's you or the discipline at large?

Haugh: I just want to talk about what we found and the importance of that and then maybe we can think about where we would look in the future. There are three big takeaways from the paper.

The first is that consumers are willing to pay a premium for products that come from companies that have a robust or well-established compliance program. We could identify that consumers will pay more for a product that comes from a company that has a robust compliance program. That's a really big finding. The reason that's so important is because until now, compliance has been talked about or thought of as a liability-avoidance mechanism. If that's the case, what managers have to do then is think about, how much do I want to invest in order to avoid this potential liability down the road? That isn't the most inspiring way to build a compliance program because it's always looking externally and it's trying to judge the prospects of something that is very hard to determine, such as the likelihood that a regulator or a prosecutor or a civil litigant down the road is going to hold you accountable for something that your employees did. That's really difficult.

What the compliance community has done in reaction to that is to think about the business case for compliance. And what folks have tended to say is, "Well, compliance leads to a bunch of positives in the marketplace," but there hasn't always been great



TODD HAUGH



SUNEAL BEDI

empirical validation of that point. So what our study set out to do is to look for a better way to determine if there actually is a revenue-positive way to look at corporate compliance. That's the first main takeaway, that consumers are going to pay more. That means you're going to get a revenue benefit.

We think that's really, really important because no matter what you say about business, the bottom line is that managers care about revenue that's going to be their first touchstone. Yes, they want to avoid liability and cut costs, but if you can demonstrate that you are a department, your business department is going to be revenue positive and it's going to contribute

directly to the bottom line, that is a huge thing for a manager. And that is a way to get support for any project within a company, whether it's compliance or anything else.

The second thing is that consumers are going to value products that come from companies that have compliance more than they value other types of attributes of those products. What we found is in certain instances, consumers will pay more for a product that has a robust compliance program than they would for a feature that companies market to their consumers. Whether that's the color of a phone or something else, we find that consumers actually care more about compliance than they do some of these other things. Again, that's a really important finding within a company because it puts compliance on the same footing, possibly, as some other departments in an organization, such as branding or ops or something like that. It raises the status of compliance because now compliance can say, "Hey, wait a minute, we're just as important as branding because what we do actually drives consumer value as well and will drive revenue.

And then the third thing we found—and this was really interesting, because we weren't necessarily expecting it—we also found that if you link a compliance program more directly to the product itself, there's a natural connection there. Consumers will pay more for that product. So for example, if you're selling a cell phone and you can market a consumer privacy program—a compliance program—to that consumer, they will pay more for that cell phone. Another example is when we were looking at a manufactured product, if we looked at employee health and safety, which is more something you would link to manufacturing, we saw that there was a price increase. So by linking those two more directly, we see that also companies can get a price premium for the product.

So those are kind of our three main takeaways, and I think that's our launching point for future work in this area.

Bedi: It would be really cool to see business scholars and more traditional marketing management scholars come into this debate and start saying, "Okay, how are we actually going to go about effectively communicating these things?" That's not necessarily a legal question. As legal academics, we can only push this so far. It would be nice if more traditional business-oriented scholars took our findings to the next stage.

As educators, you are both in a privileged position to see tomorrow's business leaders as they are getting ready to start their own careers. From the perspective of career development in ethics and compliance, what would you say are some of the implications of your paper in terms of how professionals can think of ethics and compliance as a profession to join, or in terms of how current professionals might value their own role and responsibilities within an organization?

Haugh: I teach primarily MBA students these days, and I see increasingly students are interested in making a positive impact in the world. They want to work for companies that are ethical, they want to work for companies that comply with the law, but they also have—at least at the Kelley School—they have incredible skills in the finance, accounting, data, and quantitative realms. So one thing that this paper does is allow to join those two. You can think about, "I want to be a manager in a company and use these skills that are going to help the company's bottom line while also doing good." And there's a way that this paper connects that because you see students who say, "I want to do good, but I want economic value out of that in some way, and I want some proof that that's going to work," because they're data minded generally. The paper allows them to do this.

I'll also say that as we were working through finding a publisher for this paper, we got a lot of comments from law students who had worked in compliance in one way or the other before they went back to law school, and they were just overwhelmed with this paper. They saw it as that missing piece of the puzzle that, when they

were in compliance, they wished they had so they could have shown it to their boss or manager and prove the value proposition of compliance. So it's been a really fun thing to think about how the paper's going impact people going forward, but also where its niche or its need is currently. ■

ABOUT THE EXPERTS

Todd Haugh is an Associate Professor of Business Law and Ethics, and an Arthur M Weimer faculty fellow at the Indiana University Kelley School of Business. Todd's scholarship focuses on white collar and corporate crime, business and behavioral ethics, and federal sentencing policy. His work has appeared in top law and business journals, including the Northwestern University Law Review, Notre Dame Law Review, Vanderbilt Law Review, and the MIT Sloan Management Review. He is often quoted in news outlets such as the New York Times, Wall Street Journal, Forbes, Bloomberg News, and USA Today.

Suneal Bedi is an Assistant Professor of Business Law and Ethics at the Indiana University Kelley School of Business. His areas of expertise include intellectual property, marketing, ethics, and brand strategy. His work has been published or is forthcoming in the Vanderbilt Law Review, Harvard Journal of Law and Technology, Alabama Law Review, Indiana Law Review, the Journal of Business Ethics, and *Mind Your Marketing*. He has written for the New York Times, San Francisco Chronicle, Forbes, US News and World Report, and the Washington Post. He has assisted with patent and trademark disputes providing theoretical and empirical analysis, and he provides ongoing branding and ethics consulting.

To read Todd and Suneal's forthcoming Iowa Law Review article, "Valuing Corporate Compliance," [click here](#).

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Serious Fun

A Q&A with **Jen Brewer**, Activision Blizzard King

Interview by Bill Coffin

Activision Blizzard King (ABK)

is one of the world's foremost producers of video games such as *Call of Duty*, *Guitar Hero*, *Diablo*, and *Candy Crush Saga*. The company's recent \$68.7 billion acquisition by Microsoft was the largest ever for both Microsoft and the video game industry itself, making Microsoft the world's third-largest video game publisher. As a publicly traded, highly scrutinized, highly public company, ABK's immense ethics and compliance expectations require a special approach that balances best practices with its own unique creative and cultural elements. That's why for **Jen Brewer**, ABK's Chief Ethics and Compliance Officer, driving an enterprise-wide mission, set of values, policies, and procedures at a company that's all about playing games isn't just serious business. It's serious fun.



In your job title, ethics comes first. Why is that?

Adding "ethics" and putting it first was very intentional. Compliance is not a word that means much to most employees, and the entire focus and mission behind our program is connecting with individual employees. Ethics, on the other hand, means something to almost everyone, and it also goes above compliance. If compliance refers to remaining compliant with all laws, ethics requires more than that—it pushes us beyond

meeting the letter of the law to asking what the right thing is in every situation.

What are some of the unique challenges and opportunities within ABK that you face, and how do you solve for them?

In addition to having a global footprint globally, we have a unique structure of business units, studios and cultures. Activision Blizzard grew by acquisition, significant ones like Blizzard in 2008 and King in 2016, but there were also lots of other studios along the way. That

means you have employees in different business units and studios who really identify with their local studio or their business unit more than the larger organization. There is great benefit in those unique cultures that oftentimes reflect the games they make, but it can also be challenging when delivering consistent messaging or policy.

We start from the premise that every employee, whatever their level, location, or job, is our priority. To meet every employee and make sure they are included, we need to make sure our program speaks to the unique cultures within our regions, our business units, and studios and amongst varying types of employees—creative and technical folks within our studios, corporate employees, and more. Seeing things through that lens is our priority, and everything flows from there.

For example, when we closed the King acquisition, we didn't just roll out our policies and code to King; we flew to London and spent time getting to know them, collaborating with them to create a new Code and new policies that would reflect our global employee base. We leveraged some of what they did best, too, such as adding color and graphics to our policies and incorporating their voice when drafting them. Did it take more time because we did it that way? Sure, it did. But if we had rolled out policies without bringing them along, they wouldn't have had an impact.

We also spend a huge amount of time and effort on our ethics and compliance road shows, intending to visit in person every location around the globe to provide training and support, but also to hear from them and to understand what they do so we can bring back an understanding of their needs, successes, and challenges.

[Way2Play](#) is the internal branding for our ethics and compliance program, and our Way2Play Heroes program is one of the things I am most proud of. It is our local ethics and compliance champions program, which launched in 2018 with a 3-day summit in Barcelona. We have over 140 heroes today, reflecting every location and function around the

ACTIVISION BLIZZARD

globe. They provide feedback to us, they champion speaking up, they serve as a resource within their locations. This program that truly empowers the voices from every location and team around the globe was a huge step forward in our work to bring together all pieces of the ABK world.

When it comes to our policies and our communications and training, this too is top of mind—having policies that speak in approachable, understandable language comes before legally and technically exact, we prioritize translations and communications that speak to employees and explain the why. We also talk to our heroes before we roll out any policy at all.

For you and your team, what does success look like at Activision Blizzard?

Success from my lens looks like continuing to relentlessly pursue progress in all areas. The work we do is always about the journey and not the destination—we are always pushing forward better and more approachable policies; more transparency, accountability, understanding, equity, integrity; more impactful training, programs and infrastructure that meet employees where they are and with what they need. Success means earning and maintaining trust and credibility, that we remain a trusted resource for all employees, for leaders, for business units, for every function. It also means

that our data reflects our efforts, and that we leverage it to determine where our next efforts must go. We want to see employees continue to speak up and share concerns they have; we want to see consistency across the business for accountability with concerns and how they are handled; and we want to be able to act quickly and proactively whenever data appears to show a trend.

We have done a lot of things that I am very proud of in all areas of our program—policies, training, investigations, Heroes, road shows, data, and more. But we must continue to drive forward on all things, because success is achieved one day at a time and one conversation at a time, every time an employee feels comfortable enough to speak up.

What makes ABK's approach to compliance and ethics unusual or unique?

Our driving focus and principal goal—and I mean this as a goal for our whole function as well as a goal for each individual member of my global team—is people first. That means in everything we do, whether it is training, or policy, or investigation, or communications, or data, we prioritize people first. So rather than beginning with the legal or regulatory requirement or the issue at hand, we begin with the people always. That changes the lens through which you see everything. That doesn't



It is fair to say that we have many employees who are deeply passionate about the industry and have clear views. That has meant we received a lot of feedback. And that is the one thing that my organization needs to really be effective. So we took that and said "let's go!" This is quite honestly the inspiration for the Heroes program. We had people with powerful voices and loads of integrity, so leveraging them and making them part of our team enabled us to do more and have a bigger impact than we ever expected.

I think almost every perceived challenge is an opportunity when looked at from the right lens, and having employees who care deeply and are vocal is exactly what gave us the feedback, insight, and framework to build out what we have today. Way2Play isn't a corporate voice—it is made up of all of our voices around the globe. To build that meaningful connection, we apply and practice a few core principles: 1) Listen, 2) Play fair, 3) Be authentic and transparent, and 4) Encourage speaking up and model doing the right thing.

Ethics and compliance is increasingly seen as a way to do more than just manage risk. How would you say your work is helping to build value at Activision Blizzard?

To consider ethics & compliance as a risk mitigation function is to sell it short. Done right, a fully empowered ethics function can change the direction of a company, build credibility and trust, help root out friction and problems in businesses that impede value. It can bring more life, more connectivity, and a common language to a global population. People can come together in these spaces and that can directly benefit the business. This goes well beyond risk mitigation and have a direct impact to the value of the business and the culture and trust of our workforce.

When we first brought together Way2Play Heroes, we had no idea all the ways they might integrate and partner with us and with each other, and what happened vastly exceeded our expectations. Teams from various parts of the company began partnering

mean we don't prioritize the legal or regulatory issues, of course, but we do put the human lens on everything first. There are big examples of this focus, like our Way2Play Heroes program that trains and empowers heroes from around the globe, or our Road Shows, or our extensive live training commitments. But there are also smaller examples of this too.

For example, when we were getting ready to launch a global training this year, we received feedback from certain international locations that they didn't feel the training content was really reflecting their local voices, language, culture. So we hit pause, retooled the training entirely, canceled sessions

for several weeks and launched the training after we had taken all that input and had something that would work better for those regions.

Another example is that we look at cycle times for concerns. We do that because the employee experience has to be our priority through an investigative process. When we see cycle times that we want to improve, we will go to process and streamline whatever we need to in order to make that change.

Gamers are a deeply opinionated bunch. How do you turn that challenge into an opportunity insofar as making a meaningful connection with your client stakeholders?

to elevate and address challenges and issues that impacted them all, rather than siloed teams working separately to solve similar challenges. They were able to partner and fast track and solve challenges once. Sometimes conversations initiated by Way2Play can raise topics to the surface that otherwise people have a tendency not to bring a lot of awareness too.

By starting those conversations and connecting people, we solved problems and created value well beyond what we ever set out to do. Also, when you address concerns on a team quickly, transparently and with accountability, you are able to handle with care and resolve issues that often leave a team working together with more trust and more effectiveness.

Through our Heroes program and through our other Way2Play channels we receive feedback well beyond the topics that people might consider us responsible for. Being able to get that feedback to the right place directly and quickly has enabled solutions to challenges all over the world and well beyond our scope. The Heroes themselves have become a sounding board for teams and leaders throughout the business.

We develop language driven by what we must do to foster supportive cultures, rather than just dictating what people can and can't do. No one likes being restricted and controlled; implementing supportive communication networks that facilitate new ways of thinking is key to a company's successful evolution. As a result, we don't just send messages out from the corporate office. Instead, we work collaboratively to begin organic conversations with one another. Action without collaboration can often be tone deaf or ripe for misinterpretation. Collaboration without action is just wheel-spinning.

What are some of the most important career lessons you learned that you can share with your fellow ethics and compliance colleagues, especially when it comes to things like working with the C-suite,

employee engagement, and measuring program effectiveness?

This is a marathon and not a sprint, so think of everything as the long game, not the short one. It's about building relationships all around, understanding the business and employees. You can't change everything all at once, and it takes a journey to move the things that really matter. So drive hard, but be patient and choose your moments wisely.

Always take a call from employees, partners, or leaders in need—never be too busy to hear a concern from anyone. Pick the things that matter most and will have the most impact. Be prepared to change directions. Be prepared to learn from employees and the business and go a new way that makes sense for all.

Trust and staying true to your word are foundational in this role and in building trusted relationships and a support network. Trust your instincts and remember you don't have to go it alone; you can tap into your trusted support network as a source of strength.

Nothing changes if nothing changes. A lot of times it's easy to get overwhelmed by how you'd like things to change. Taking even a small step in the right direction can be the catalyst for bigger positive changes. Sometimes that takes more courage than you think you have—but showing up that way consistently is what the role requires.

Resilience is learned (both personally and professionally). Few people have had an easy path in life, so give yourself some grace. There will be hard days ahead so stay focused, keep doing the hard work each day, measure your progress, and be honest about the work that still needs to get done.

Sometimes as ethics and compliance folks, we can be a little self-righteous and think we know what is best. But humility is essential as is being prepared to learn from the business and employees. And if some days, it feels like too much and you have lost all patience and feel like nothing is working, get a good night sleep, take a

walk, disconnect, and see how things look the next day. As my daughter once said to me on a Saturday night at 11:30pm as I feverishly worked on an urgent matter, "Mom you are making a choice! This is a choice. ... You are not a police officer or a doctor.". And you know what? She was right. Some of my best ideas have come in those moments where I take a beat and step back to be with my family, be in nature, and remind myself what really matters.

Video games have received a lot of criticism over the years. But for many people, video games have been a therapeutic or cathartic experience as well as a positive social one. What are your thoughts on how a games company like Activision Blizzard helps make the world a better place?

This is one of the things that most drives the people who make games and the people who make up the company. There are so many positives that come from games—connecting with other people being one of the big ones. We saw this ever so clearly during the pandemic. Gaming was one way people connected together, whether it was kids who couldn't see each other at schools or adults who were simply stuck at home. This can be a hard thing to understand from an outside perspective, but you really need to watch the magic happen for yourself. I get to see that through my kids and their friends, watching these teenagers connect, problem-solve, face challenges and get through them and laugh and learn speaks for itself. ■

ABOUT THE EXPERT

Jen Brewer is the Chief Ethics and Compliance Officer for Activision Blizzard King, one of the world's top computer game publishers. Jennifer assumed the role of CEO in 2022 and has been with the company for more than 10 years.

Ethics & Compliance Is a Laughing Matter

Interview by Bill Coffin

Trying to engage people on ethics and compliance is tough work—just ask anyone who has ever had to come up with ideas for their next training or communications campaign. But for **Tyler Dean Kempf**, Creative Director of Second City Works, the secret is to make business integrity something that is genuinely funny. Tyler is an award-winning Second City-trained improviser, writer, director, and learning facilitator who's been teaching the tenets of improv to business leaders around the world for over a decade. Tyler is one of the comedy masterminds behind **Real Biz Shorts**, the world's largest collection of comedic short videos dedicated to risk areas in ethics and compliance.



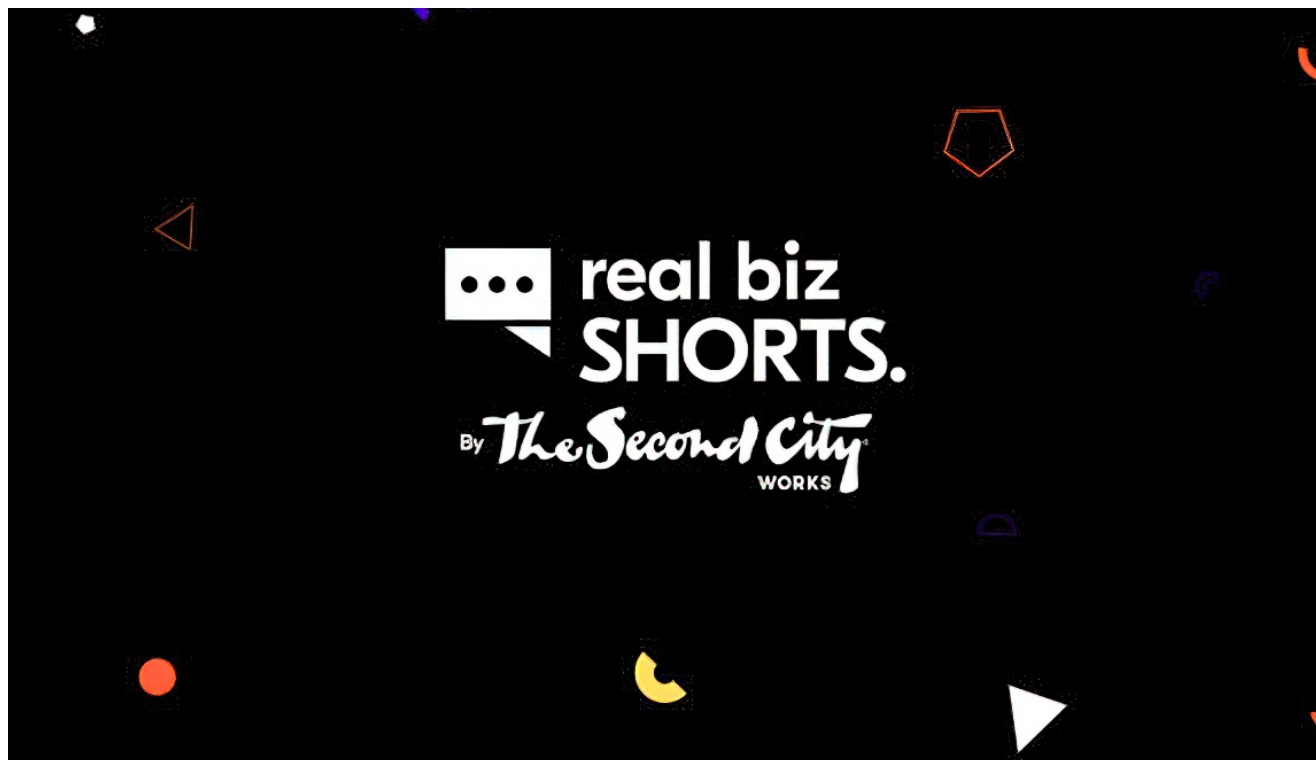
TYLER DEAN KEMPF

We don't see many Second City-trained comedians in the ethics and compliance space, so could you tell us a little bit about your role as Comedy Mastermind at Second City Works?

Tyler Dean Kempf: "Comedy Mastermind." I think I'm going to add that now to my byline on anything that I do. *[laughs]*

My role as creative director of works is very widespread. I oversee all of our creative content and talent on our

client-facing programming in learning and development, entertainment, and video production. We travel the world and bring these skills of improv to people at their places of work. We do those virtually as well. We will provide entertainment for big corporate events, live improv shows, custom written sketch, comedy reviews, even original musicals we've done in the past. And then, we also create custom content for clients as well as for our own library of videos that we call Real Biz Shorts.



Click on the image to watch a Real Biz Shorts preview in a new browser window.

One of my favorite descriptors of Real Biz Shorts is that they're not just *work* funny, they're *funny* funny, which is true. We all know that laughter is a great way to make messaging and learning stick, and we have all experienced how something funny stays with us in ways that it may not otherwise. But can you explain why that is?

Kempf: There is behavioral science that supports this idea that when you bring humor into a learning environment, the participant or the student is more receptive to the message. When we laugh, it's the most vulnerable that we can be in any space. So if we're laughing, and we're receiving that information at the same time, it's going to stick with us so that down the line, when we find ourselves in a situation that reminds us of something that we learned in the past through that comedic lens, it is triggered very quickly and we know what to do in that moment based on what we learned.

At the 2023 Global Ethics Summit, you and your colleagues demonstrated how to co-create content with a live

audience that was really engaging and impactful—the audience loved it. How does that process work, and why does it work so well?

Kempf: It's tried and true with the Second City way. If you were to come see a Second City show, when we are in

the middle of what we call *process*—the development of a brand new Second City review—our third act of our show often is fully improvised. That's actually a space that we use to try out brand new material in front of the audience. So we're getting suggestions from the audience. We're immediately



Click on the image to watch a Real Biz Shorts preview in a new browser window.



Click on the image to watch a Real Biz Shorts preview in a new browser window.

implementing them into scenes and creating scenes in the moment. And then the next day in rehearsal, we may take that scene and attempt to do it again in a different way based on the direction from our director. So if you come see a Second City show when we're developing a new show, what you laugh at and what you don't laugh at absolutely informs what scenes make it into the final show.

When we create content for Real Biz Shorts, and we have an opportunity to work with folks in the ethics and compliance area, that is such a treat for us because that is our audience. Those are the folks that we're trying to connect with. When we know what they're laughing at, it lets us know when we're headed in the right direction.

Are there any particular challenges or opportunities that you have noticed with using this human-based approach to learning and messaging with ethics and compliance professionals? Or to put it less delicately...does this profession have a particularly good sense of humor?

Kempf: *[laughs]* It depends on the company. But to be honest with you, it's a delicate line. There are some topics that we're covering that are ripe for hilarity. There are others that are pretty darn sensitive, and we never want to make a victim—or really anybody who

could feel victimized—feel like the butt of any joke whatsoever. Something that we've been working on in the last couple of years when we're developing this content is what we call the Ted Lasso Effect. We want to make sure that every person who is watching these videos can relate to the scenario and not feel like they themselves are being poked fun or being shown as the example of what not to do.

Often times, in these newer videos that we've been doing, if there's any character that at any point is doing something in the wrong way, we try to pivot and show them having that "Aha!" moment and learn from it, so that nobody feels like they are essentially becoming the villain or being villainized in the sketch.

That being said, there are some topics that we've covered in the past that just do not invite humor into that space. We have animated videos on human trafficking and also on looking into your third-party partners to see if they in any way participate in modern slavery. That's not funny. Nothing about that is funny. But we are master storytellers, right? We understand how to tell a story here at the Second City, so we feel comfortable creating informative videos in a very accessible way to an audience on subjects that really aren't funny in any way.

When you're creating content like this, how do you balance the pursuit of comedy with the pursuit of messaging around topics that ordinarily kind of defy humorous presentation, and how do you make sure that you don't sacrifice one in service of the other?

Kempf: For us, message matters more than anything. When we are getting together in our writer's room to develop the content for our next round of videos, the first thing that we do is dive deep into the topics that we know we want to cover into the different nuances of those particular areas and what lessons our customers have told us they want to teach their employees within their organization. That is at the core of what we do. So at Second City, if you come see one of our shows and we're doing satire, at the core of any satirical sketch is what we call a point of view—a one sentence statement about society or politics. We take that same concept of point of view, and when we're developing our videos for Real Biz Shorts, the point of view of our scenes is the lesson that our clients want their employees to learn. So we make sure that is at the core of everything that we write around, that the scenarios that we come up with and the different ways that we can exemplify those behaviors in the workplace...they're all supporting that particular point of view. We can find humor in any scenario, but the skeleton has to be rooted in the lesson that we are teaching. ■

i ABOUT THE EXPERT

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MICHAEL SCHRIER

Reacting to DOJ Emphasis on Compensation Clawbacks

Suggestions for Implementation and Navigating State Employment Laws

by Cormac T Connor and Michael Schrier

How should companies set up compensation packages so they meet Department of Justice clawback expectations without also violating federal, state, or local employment laws in the process?

In September 2022, Deputy Attorney General Lisa Monaco announced that, when investigating and resolving corporate criminal investigations, the Department of Justice (“DOJ”) planned to begin to require corporate defendants to demonstrate that bonuses paid to culpable employees could or would be clawed back. On March 15, 2023, DOJ’s Criminal Division launched a three-year initiative known as the Compensation Incentives and Clawbacks Pilot Program (“CIC Program”).¹ Under the CIC Program, “when entering into criminal resolutions, companies will be required to implement compliance-related criteria in their compensation and bonus system and to report to the Division about such implementation during the term of such resolutions.”²

But what does that mean for companies that are *not* under investigation? Are clawbacks of employee compensation expected in every case? How should companies set up compensation packages so that they meet DOJ’s expectations in the event of an investigation that may never occur but that does not violate federal, state, or local employment laws in the process?

OVERVIEW OF DOJ’S CLAWBACK POLICIES

Monaco announced that DOJ’s clawback program would have two general components. First, she announced that the “Criminal Division will now include a requirement that the resolving company develop compliance-promoting criteria within its compensation and bonus system.”³ Second, Monaco announced

that the "Criminal Division will provide fine reductions to companies who seek to clawback compensation from corporate wrongdoers."⁴ These two policy announcements focus on consequences *after* criminal conduct has been investigated, identified, and acknowledged (if not also admitted) by the corporate defendant. DOJ's manual entitled *Evaluation of Corporate Compliance Programs* (the "Compliance Guidelines"), provides guidance to prosecutors and, indirectly, to corporate compliance professionals regarding the elements and features of a corporate compliance program that federal prosecutors look for during corporate criminal investigations. Although the Compliance Guidelines, which were last updated in March 2023, do not include the term "clawback," the Compliance Guidelines describe compensation structures that enable a company to recoup money paid to employees who are later found to have broken the law:

Prosecutors may consider whether a company has incentivized compliance by designing compensation systems that **defer or escrow certain compensation tied to conduct** consistent with company values and policies. Some companies have also enforced contract provisions that **permit the company to recoup previously awarded compensation** if the recipient of such compensation is found to have engaged in or to be otherwise responsible for corporate wrongdoing. Finally, prosecutors may consider whether provisions for **recoupment or reduction of compensation due to compliance violations or misconduct** are maintained and enforced in accordance with company policy and applicable laws.⁵

The Compliance Guidelines help compliance professionals understand what effective compliance programs should look like: something that will either prevent criminal misconduct or demonstrate to DOJ investigators that any employee misconduct that does happen should not be fully imputed to the company itself. Monaco's more

recent policy announcements regarding clawbacks describe the types of features a company should expect to see in a criminal resolution, whether or not the company's compliance program already enabled the company to clawback employee compensation. A pre-existing compliance program, therefore, that creates an expectation

wage protection laws will impact the ability of a company to implement a clawback program. This is because many states prohibit employers from requiring repayment of "wages", even when the employee agrees. The state's wage laws, and definition of "wage" will impact what compensation, if any, may be contractually clawed back by

Companies attempting to restructure and implement recoupment or clawback regimes for executive or employee compensation need to be wary of state wage laws.

that compensation may be clawed back or recouped by the company if the employee is later found to have engaged in criminal misconduct will help the company earn credit with DOJ for having an effective compliance program and, in the unfortunate event of a criminal investigation, help the company recoup or clawback funds from culpable employees without also violating employment laws. Indeed, if a company claws back funds from an employee only to have that employee initiate a lawsuit, then the company arguably loses much—if not all—of the benefit it gained by recouping those funds.

OVERVIEW OF EMPLOYMENT LAW PROVISIONS THAT MAY IMPACT ENFORCEABILITY OF CLAWBACK PROVISIONS

Companies attempting to restructure and implement recoupment or clawback regimes for executive or employee compensation need to be wary of state wage laws. For example, employee salary is typically considered "wages" under state wage protection laws, whereas certain commissions and discretionary and incentive bonuses may not enjoy the same statutory protections.⁶ How a state defines "wages" and enforces its

an employer. When crafting clawback policies and contracts, careful attention will need to be paid to what kinds of compensation would be considered "wages" and what kinds of compensation would be excluded from any applicable definition of "wages" under state wage protection laws. Otherwise, the effective reach of any clawback policy will be limited by state wage laws.

In New York, for example, wages include an employee's earnings for labor or services, regardless of whether the amount of earnings is determined on a time, piece, commission or other basis.⁷ Executives are included under the term "employee" for purposes of the state law, and they receive wage protections.⁸ New York law prohibits an employer from making "any deduction from the wages of an employee" unless permitted by law or authorized by the employee for "insurance premiums, pension or health and welfare benefits, contributions to charitable organizations, payments for United States bonds, payments for dues or assessments to a labor organization, and similar payments for the benefit of the employee."⁹ Bonuses and incentive compensation based on the success of the business overall and bonuses that are completely discretionary are not considered wages and do not have

protection under the law.¹⁰ A clawback policy and/or contract provisions that focus on these forms of compensation as being subject to clawback have a greater chance of being enforceable in New York under applicable state law.

Meanwhile, California has a broad definition of the term "wage." Under California law, the term "wage" includes "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation."¹¹ The term includes bonuses and profit-sharing plans as well.¹² The law explicitly forbids employers from collecting any part of wages paid to an employee.¹³ California extends these wage protections to highly compensated executives and salespeople in addition to hourly employees.¹⁴ The protections are nonnegotiable and may not be waived by parties. State law mandates that "once the right to compensation has vested, it has been earned and cannot be recouped." As such, it may be difficult to craft a clawback provision that could be enforced under California law and careful attention will need to be paid when attempting to draft any such provisions.

Massachusetts law requires an employer who fails to pay an employee all "wages earned" to be held liable for three times that amount plus interest and attorneys' fees.

The Wage Act in Massachusetts also offers strong wage protections but includes a narrower definition of wage than in California. Massachusetts law requires an employer who fails to pay an employee all "wages earned" to be held liable for three times that amount plus interest and attorneys' fees.¹⁵ Wages are defined as compensation that is "(1) related

to an employee's work, (2) earned through the performance of such work, (3) free of any materially unsatisfied contingencies, (4) non-discretionary in nature, and (5) subject to an express obligation to pay upon termination of employment."¹⁶ The term encompasses commissions but not payment based on over-all success of the business or profit distributions.¹⁷ Executives may be considered employees under the Wage Act, and they cannot exempt themselves by contract or otherwise from the provisions of the Act.¹⁸ Therefore, depending on how an executive's bonuses and discretionary compensation and related clawback provisions are structured, it is possible for such categories of compensation to be clawed back.

Virginia materially differs in its approach as compared to the other jurisdictions listed above. In Virginia, a trial court in *Geneva Enterprises* explicitly left open the possibility that a company could implement a clawback program with a contract.¹⁹ The court stated many times that an employer could only recover salary, bonuses, and other compensation from a period of an employee's wrongdoings if there was a contract that provided for this relief.

As the foregoing demonstrates, whether and how to structure clawback agreements will vary greatly depending on which state law applies. Companies should consult with counsel familiar with the law of each applicable jurisdiction in order to structure any clawback agreements appropriately.

FIXING THE ROOF WHILE THE SUN IS SHINING

DOJ has long emphasized compensation programs as a significant component of a strong corporate compliance regime: investigators look for compensation systems that use financial rewards to encourage compliant behavior and monetary penalties as a way to discipline violators. With the Criminal Division's more recent emphasis on clawback provisions, companies that lack the ability to recoup or clawback bonuses or other types of financial compensation from employees or executives who are found to have violated corporate compliance policies or broken the law should consider ways that they might promote the company's compliance culture by building recoupment or clawback provisions into their compensation packages. The details of these recoupment provisions will necessarily vary by industry and company and, of course, based on applicable state employment laws. That said, the cases listed above provide examples of concepts companies may consider:

- Right to recoup [x] months or years of compensation (discretionary bonus payments are more likely to be subject to recoupment under state laws, but some states may permit non-discretionary compensation to be clawed back as well) based on certain types of compliance or legal violations and when the misconduct occurred;
- Eligibility for bonuses contingent on the individual's or department's compliance record for a defined previous time period;
- Specifying right of company to terminate employment "for cause" if employee is found to have violated certain policies or if a department or group for which an executive is responsive fails certain compliance metrics; and/or

- Making the distribution of deferred compensation packages contingent on a strong compliance record.

Again, the viability of any or all of these options must be analyzed against the context of each potentially applicable state's wage laws to determine the best ways to structure or define the compensation packages in employment agreements and the conditions precedent for payment and clawback of such compensation in such employment agreements.

RECOUPMENT PROVISIONS AS MITIGATING FACTORS IN INVESTIGATIONS

DOJ has a long history of scrutinizing corporate compliance programs during criminal investigations, evaluating how the structure and operation of the programs fostered or detracted from a culture of compliance within the organization. The recent emphasis on a company's ability to recoup or "claw back" compensation previously paid to employees or executives provides a strong signal that DOJ wants to see that companies are taking reasonable steps to enable the organization to hold individuals financially accountable for non-compliant conduct. Implementing appropriate compensation recoupment provisions now, *i.e.*, before an investigation begins, can pay dividends by making it clear that there may be financial consequences when employees violate company policies or break the law. The contours of any such recoupment provisions will depend on applicable state laws but variances among state legal requirements should not dissuade companies from including them. ■

This article was written with assistance from Sydney Sznajder and Emily Loftis.

ENDNOTES

1. DOJ announcement, *The Criminal Division's Pilot Program Regarding Compensation Incentives and Clawbacks* (Mar. 3, 2023), <https://www.justice.gov/criminal-fraud/file/1571941/download>.

2. DOJ announcement, *The Criminal Division's Pilot Program Regarding Compensation Incentives and Clawbacks* (Mar. 3, 2023), <https://www.justice.gov/criminal-fraud/file/1571941/download>.
3. DOJ press release: Deputy Attorney General Lisa Monaco Delivers Remarks at American Bar Association National Institute on White Collar Crime (Mar. 2, 2023), www.justice.gov/opa/speech/deputy-attorney-general-lisa-monaco-delivers-remarks-american-bar-association-national.
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5. DOJ Crim. Div., *Evaluation of Corporate Compliance Programs* (last updated Mar. 2023) (emphasis added), www.justice.gov/criminal-fraud/page/file/937501/download.
6. *Int'l Bus. Machines Corp. v. Bajorek*, 191 F.3d 1033 (9th Cir. 1999) (holding that stock options were not wages for purposes of the California wage payment law); *Int'l Paper Co. v. Suwyn*, 978 F. Supp. 506 (S.D.N.Y. 1997) (holding that incentive compensation dependent upon the financial results of the employer are not wages for purposes of New York's wage-payment statute); but see *Hartman v. Baker*, 766 A.2d 347 (Pa. Super. 2000) (stating Pennsylvania wage law protects incentive compensation).
7. N.Y. Lab. Law § 190.
8. *Pachter v. Bernard Hodes Grp., Inc.*, 891 N.E.2d 279, 281 (2008)
9. N.Y. Lab. Law § 193.
10. See *Truelove v. Northeast Capital*, 95 NY2d 220, 224, 738 N.E.2d 770, 715 N.Y.S.2d 366 (2000); *Ferrari v. Keybank Nat'l Ass'n*, 2009 U.S. Dist. LEXIS 160, 2009 WL 35330 (WDNY Jan 5, 2009).
11. Cal. Lab. Code § 200.
12. *Neisendorf v. Levi Strauss & Co.*, 143 Cal. App. 4th 509 (2006).
13. Cal. Lab. Code § 221.
14. *Davis v. Farmers Ins. Exchange*, 245 Cal. App. 4th 1302, 1331 (2016) ("The Labor Code's protections are 'designed to ensure that employees receive their full wages at specified intervals while employed, as well as when they are fired or quit,' and are applicable not only to hourly employees, but to highly compensated executives and salespeople.")
15. Mass. Gen. Laws ch. 149, § 148.

16. *Mui v. Mass. Port Auth.*, 32 Mass. L. Rep. 567, 2015 Mass. Super. LEXIS 38 (Mass. Super. Ct. 2015).
17. *O'Connor v. Kadrmas*, 135 N.E.3d 226, 238 (Mass. App. 2019).
18. *Stanton v. Lighthouse Financial Services, Inc.*, 621 F. Supp. 2d 5 (2005) (Company president's base salary constituted "wages" under the statute and his agreement to defer wages was void under Mass. Gen. Laws ch. 149, § 148. The president was an employee for purposes of Mass. Gen. Laws ch. 149, § 148).
19. *Geneva Enters., LLC v. Bavely*, 107 Va. Cir. 249 (Fairfax Cnty. 2021) ("the clear principle is that forfeiture is disfavored, and unless a contract expressly provides for forfeiture, a court will not permit that remedy").



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Cormac T. Connor is a partner at Husch Blackwell LLP. A former Assistant United States Attorney with substantial experience in private practice, Cormac defends individuals and corporations facing criminal and civil investigations including fraud, False Claims Act, criminal antitrust, and Foreign Corrupt Practices Act claims.

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Addressing Ethical Dilemmas in AI

A rundown of some of the biggest ethics risks facing AI today...and the strategies to counter them

by **Giovanni Gallo**

As artificial intelligence (AI) continues to gain steam as a transformative and disruptive business technology, will the ethical risks that come along with it make this new tech more trouble than its worth? **Ethico** co-CEO and Chief Technology Officer **Giovanni Gallo** provides some valuable perspective on what it will take to harness AI for your business without letting a digital fox into the henhouse.



From Netflix suggesting a movie you might like to Google recommending a trip to the country you want to visit next—artificial intelligence (AI) has become a part of our lives today.

Likewise, AI has spread its roots far and wide in the world of business. According to the *2022 Data and AI Leadership Executive Survey*, [91% of companies](#) today want to tap into the power of AI. While the thought of AI paints a picture of an intense sci-fi movie scene in our minds, AI is ultimately just a tool.

Like any technology, AI can be used for good or bad reasons. As AI systems

take on more complex forms, it is more important than ever for organizations to take an ethical approach to its usage.

What Ethical Dilemmas in AI Exist? Aside from expanding the scope of a business's success, AI also comes with several ethical dilemmas that must be addressed immediately. These include:

Bias and Fairness. Although AI has the potential to perform seemingly complex tasks with ease, let's not forget it is designed by humans. The most common source of AI bias often comes from the data we feed into it.

Georgia Tech recently conducted [research](#) into object detection in self-driving cars. The results revealed that pedestrians with dark skin were hit about 5% more by self-driving cars than those with light skin. Why? Because the data used to train the AI included about 3.5 times more examples of light-skinned people, allowing AI to recognize that skin color better.

Biases in AI will exist as long as humans do. They not only create an atmosphere of unfairness in the way the businesses operate but also come with legal and financial implications of non-compliance. Businesses must invest time and effort to ensure the data fed into AI systems remains free of biases.

Transparency. AI transparency is largely concerned with the data used to train AI; the set of practices and tools deployed to understand the AI model; the type and number of errors and biases in the training system; and the methods of communicating these issues with users and developers.

As AI models become more evolved and powerful, their inner workings begin to get more mysterious. As the new models become harder to understand, the inner mechanisms get buried in what is called a "black box." Without transparency, businesses can find it challenging to detect biases or privacy concerns surrounding their AI models. This is why AI transparency has arisen as its own field, and why highly regulated industries that use AI must also develop their own AI transparency skills, policies, and procedures.

Accountability. Once developed, AI models are capable of making decisions on their own. This, in turn, raises questions of accountability. Case in point: when an AI system generates an erroneous outcome or begins to have the potential to cause harm, it becomes paramount to determine who is responsible. This dilemma becomes stronger when AI systems fail to offer absolute transparency in the way they work.

Businesses investing in AI models must first ensure that their decision-making

processes and AI algorithms come with the highest degree of transparency. Transparency can open up access to valuable human oversight. This, in turn, can cultivate trust in the system and ensure maximum accountability.

Privacy and Data Security. One of the most pressing issues surrounding AI lies in privacy and data security. Privacy is a fundamental human right and AI models (unfortunately) come with the potential to threaten it.

From surveillance cameras to smartphones to the internet, technology has made it endlessly easier to accumulate personal data. The goal of this data is to help brands create personalized experiences for their customers, as consumers are more likely to buy from brands

controls in place and comply with ethical privacy regulations surrounding AI.

Hiring and Onboarding. Deploying AI during onboarding and training opens many doors for biases and unfairness. Take Amazon's flawed [AI screening framework](#), for instance. The AI software Amazon created to screen job candidates ended up favoring male candidates because the data used by their AI tech included their hiring patterns from the previous decade (when the tech industry was majorly dominated by men).

Due to a lack of human touch, AI may also end up disregarding the worthiest candidates. Or, it may shortlist candidates who it "thinks" meet the company's criteria even though they're not suited for the position. Biased and

As AI models become more evolved and powerful, their inner workings begin to get more mysterious.

that offer personalized experiences. But what happens when companies gather this data and fail to disclose how it's collected and stored?

When companies (whether knowingly or unknowingly) monitor users without their explicit consent, they run the risk of entering unethical AI territory. A lack of solid data sanitization protocols can also raise the potential of having the data processed and sold to third parties who can then use it for unintended purposes. Those same third-parties are just as vulnerable to data breaches and cyber-attacks as the organization from whom they procured the personal data in question—if not more so. The risk of this personal data falling further into the wrong hands cannot be overstated.

Before deploying any AI model, businesses must put adequate ethical

discriminatory AI systems can negatively impact a business's compliance efforts and result in heavy losses. Before deploying an AI hiring and onboarding system, businesses must ensure it runs fairly, accurately, and ethically.

Regulatory Compliance. When not analyzed and tackled with care, biases, data breaches, privacy concerns, and dilemmas surrounding AI can result in serious instances of noncompliance. This can cause businesses to suffer heavy legal, financial, and reputational losses. As AI digs its roots deeper into the world of business, several new laws and regulations will begin to break onto the shore. This will require businesses to become more fluent in their compliance language and adhere to complex (and yet to be explored) compliance requirements.

The Role of Leadership With the mountain of challenges AI brings, business leaders may be left wondering, "What's the best way to mitigate risks each time my organization implements a new AI solution?" Here are a few best practices leaders can implement for ethical AI use in business:

Control AI Biases. To glean the ethical benefits of AI and mitigate biases, leaders must take a human-first approach. Countless biases control the results AI churns out. For instance, the software programmer demographic in the U.S. is approximately [62% white and 64% male](#). Businesses that don't prioritize inclusivity and diversity often lose out on valuable ideas that can help pave a faster and more solid route to success.

Start with ensuring the data fed to your AI systems is not biased. Next, make the data more inclusive. Understand that people who create AI algorithms have the power to shape the way society works—in a positive or negative light. By making your hiring processes more inclusive, you can ensure your team prioritizes diversity over bias and ethics over easy profits.

Prioritize Transparency and Security in AI Use. Although your customers would prefer a personalized experience, they will not want to stay in the dark about what you do with their data. Educate your users about the way you store and use their data and how it can benefit them. By being transparent, you not only commit to ethics in business but also build trust with your customers.

Being transparent with your AI use can replace restrictive regulation with a positive customer sentiment. Remember, transparency breeds trust. It creates loyal customers and equally loyal employees. If you use AI frameworks to hire, onboard, and train your employees, let them know your process works to build a long-term, trust-based relationship with them.

Deploy AI Training Programs. Your business's AI training shouldn't just be limited to its technical borders. Make sure you take the legal, ethical, and

societal impact your AI framework may have into account. Help your software developers understand that they aren't just acting on their individual values. Instead, they have a role to play in terms of impacting the broader society positively.

Today, AI has crossed the realms of creating basic product lines with minimal social implications. Instead, it comes with the power to distort the way we think. As a leader, it's your responsibility to ensure this power is used for the greater good.

Craft Policies and Procedures Surrounding AI. To ensure your business deploys AI in an ethical manner, establish a solid foundation with policies, procedures, and a code of conduct for ethical AI. Aside from developing comprehensive policies, offer the right training to ensure your workforce always puts ethics first. To boost sensitivity toward the entire spectrum of ethical issues surrounding AI, make sure you build diverse teams. Finally, check in regularly to ensure procedures are followed and objectives are achieved.

Build Trust in AI Systems. Your organization's HR, communications, marketing, and customer service departments must learn to educate users about the ethical use of AI systems. This can help build their trust in your AI framework and empower them to have more control over it. To strengthen this trust further, leaders must also encourage proactive communication surrounding AI issues—both internally and externally.

Over to You! AI is deeply embedded into our everyday life. It is a valuable part of almost all business operations. Although, of course, AI comes with the potential to cause harm, a growing number of businesses have ethical mechanisms in place to prevent malicious use of AI.

As long as businesses follow the best practices for ethical AI use, this technology can bring oceans of benefits to businesses of all shapes and sizes. Leaders must pay special attention to who creates AI models

for their organizations to ensure an ethics-first approach. They must also constantly question how AI could impact their employees, their customers, and the world at large. ■

RESOURCES

- [The role of corporations in addressing AI's ethical dilemmas](#) (Brookings, 2018)
- [Artificial Intelligence: examples of ethical dilemmas](#) (UNESCO, 2023)
- [Great promise but potential for peril](#) (Harvard Gazette, 2020)
- [The Ethical Dilemma of Artificial Intelligence \(AI\): Navigating the Intersection of Technology and Morality](#) (Mayank Kumar, 2023)
- [AI Ethics Are a Concern. Learn How You Can Stay Ethical](#) (G2, 2022)
- [Why addressing ethical questions in AI will benefit organizations](#) (Capgemini, 2021)
- [Top Nine Ethical Issues in Artificial Intelligence](#) (Forbes, 2022)

ABOUT THE AUTHOR

Giovanni Gallo is the Co-CEO of **Ethico**, where his team strives to make the world a better workplace with compliance hotline services, sanction and license monitoring, and workforce eLearning software and services. Growing up as the son of a Cuban refugee in an entrepreneurial family taught Gio how servanthood and deep care for employees can make a thriving business a platform for positive change in the world. He built on that through experience with startups and multinational organizations so Ethico's solutions can empower caring leaders to build strong cultures for the betterment of every employee and their community. When he's not working, Gio's wrangling his four young kids, riding his motorcycle, and supporting education, families, and the homeless in the Charlotte community.

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Generative AI and Compliance: The Two Can Co-Exist

Why and how AI and compliance don't have to be mortal enemies



KELLY LANGE

The potential regulatory and civil risk around the business use of artificial intelligence (AI) is at a fever pitch, but that is no reason for why it must fall to Compliance to forbid its use within your organization. In fact, Compliance can create the framework that unlocks AI's potential for your organization while also managing its potential downsides.

by Kelly Lange

As generative AI has grown in popularity across industries, many companies are facing some challenging questions. Questions such as how can we adopt the new technology safely, can we use or leverage it at all, how do we keep data protected and promote responsible use, how do we mitigate risk of biased or discriminatory outcomes?

Compliance officers may be faced with helping their companies answer such questions and along with some of their oversight partners, be viewed as the "no" department(s). If this scenario sounds all too familiar to you, this article is here to help. It aims to provide some guidance on getting to a reasonable "yes", all while sustaining an effective compliance program. Innovation can be complemented by compliance and the two can co-exist. Arguably, those that get this right, will have a competitive advantage.

There is no doubt there is value in the responsible use of generative AI. Generative AI can help drive scale, the pace of work, cost reductions, customer experience and elevate business models. In the healthcare industry in particular, providers have great opportunity to leverage AI in managing patient care delivery. Payers can take advantage of automation in processes like preauthorization, for example. Compliance and audit teams can automate logic in more routine or transactional claims testing and focus on more complex reviews. The potential is quite astounding!

Just as with any innovation, new uses or tools should be coupled with process for success. Those who get this balanced recipe right will reap the rewards and be able to turn their

attention to more complex business processes and customer needs.

Below are some tips to consider as you develop your recipe or pathway to get to mutually beneficial, innovative yet compliant outcomes.

Know the rules. Partner with your data, legal, and information security teams and have a proactive process that seeks industry inputs, rules, including any public cases on misuse and government guidance.

For healthcare, the rules continue to emerge but include and are not limited to the U.S. Department of Health and Human Services Section 1557 non-discrimination rule, HIPAA federal and state safeguards, and anti-kickback laws. The [Federal Trade Commission](#) also continues to comment on AI use. They have publicly warned companies that AI tools can be "inaccurate, biased, and discriminatory by design and incentivize relying on increasingly invasive forms of commercial surveillance."

As the FTC and other entities sustain protections of consumers, be sure to heed their guidance and findings. Have a process that proactively ingests regulatory information and confirms your company is aligned.

Set guardrails. Look outside to regulators and other corporate innovators across industries and apply the learnings to your organization through guardrails or AI standards. Setting internal guidance early, educating on the expectations, and confirming the workforce understands how the Code of Conduct, data privacy and security policies set the foundation of your AI framework is foundational.

Calling out AI usage within existing policies or standards enables your workforce to make the connections. There may be a standalone AI policy as well, but it is important that the workforce sees the linkage to the other existing company commitments and controls in place and how they all relate.

Educate your workforce and your vendors. Integrate AI examples within training mechanisms as appropriate so the workforce can make the connection to existing safeguards. Highlight any AI expectation nuances and emphasize reaching out for help from oversight areas such as Information Security, Data Governance and Compliance. Keep the training simple yet effective. Ask your audience for feedback on these two objectives.

There is no better way to educate and confirm understanding than to use a knowledge check test question or poll and gauge results for opportunities. Consider targeted education for your development teams that goes a layer deeper and partner with your IT leadership on that. Be sure your vendor contract administrators are also adequately trained to have substantive conversations with their vendors who may be using AI. The goal for contract admins is to understand the usage and align on risk appetite expectations. If possible, consider using vendor attestations on appropriate usage that aligns with security, data, fair, and responsible use. Integrate AI questions in due diligence and security reviews.

Although a slightly separate topic, incorporate AI cyber threats awareness and how your workforce can be the eyes of the company to identify misuse of AI. This is important as your workforce is your first line of defense for control failure, cyber threats, and ongoing appropriate data usage.

Present the generative AI approach to your governing bodies including your appropriate boards to demonstrate the discipline and control being applied.

Adopt risk assessment protocols. The AI risk assessment can leverage existing scales of high, medium, and

low but should integrate evaluation for discrimination, bias, appropriate and accurate use of data and conclusions. The rubric should be applied to achieve consistent results and to drive mitigation.

The National Institute on Standards and Technology (NIST) organization is paving the way with frameworks and a playbook to guide organizations through risk and control. Be sure to tap their resources and adopt some common industry risk levers and methods.

Consider contractual language. To further enhance your understanding of vendor or partner use, imbed language that requires contractual transparency and aligns usage with your company's expectation on fairness, accuracy, and appropriate data usage.

Live and apply the learnings. As with all innovation, be sure to have a feedback loop on use cases and build from those. Set expectation that usage needs to deliver successes and learnings that can be shared and imbedded into future practices. Use the examples in training as appropriate.

Establish a common and centralized way to inventory AI usage through business cases and process.

Knowing what the generative AI usage inventory is and establishing controls to keep it accurate is essential. If you don't know what you have, how can you manage and monitor it?

An inventory will drive organizational transparency, appropriate controls, and audit readiness. Setting an inventory process early drives long term benefits such as ongoing monitoring. If one thing is certain, it is change, and what was once compliant or functioning a certain way can evolve over time. An inventory helps keep the pulse on this.

Set governance at the working level as well as executive level to drive consistent process. Setting and communicating process generates enterprise understanding and know-how. Consider a simple process for workforce submission of use cases, vetting and approval and communicate that well. Avoid process surprises.

Test, test, test. Any new and innovative technology should be well tested, and this includes AI. Be sure to integrate data accuracy, data sharing and use, along with bias within the testing and as required gates before production use. Above and beyond typical testing, the test plan should consider:

- Is machine learning generating the right conclusions through experience?
- Are decisions made through the logic accurate? Is data output accurate?
- Is it appropriate to use the data in this way or release certain information to the user?
- Is there bias in the data based upon assumptions or other sub-detail that could be driving an unfair conclusion about an individual or population?

Develop an organization toolkit. Lead your workforce where you want them to go. Include standard definitions, governance model, the process and quality gates prior to production, just as you would with an IT change management model. This will drive consistency and set due care for how the company is adopting AI technology.

In conclusion, compliance can co-exist with innovation. It takes the cultural commitment to an effective compliance program, one that invests in process, continuously improves and learns, all while upholding stakeholder confidence and trust critical to your brand. The companies who perfect the balanced recipe will be positioned to reap the benefits of responsible generative AI long-term and will stand out in the industry. ■

ABOUT THE AUTHOR

Kelly Lange is the vice president within compliance and is the Privacy and Medicare Compliance Official for Blue Cross Blue Shield of Michigan, Blue Care Network and its Medicare Advantage joint ventures.

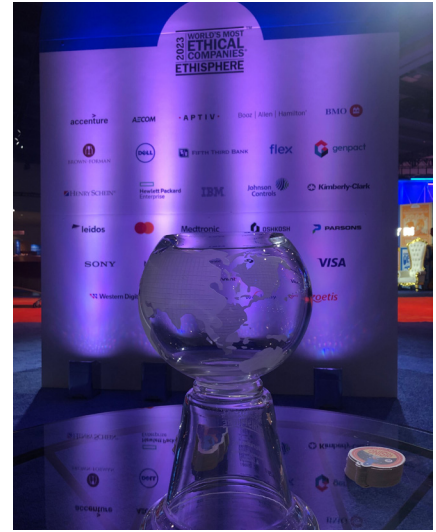
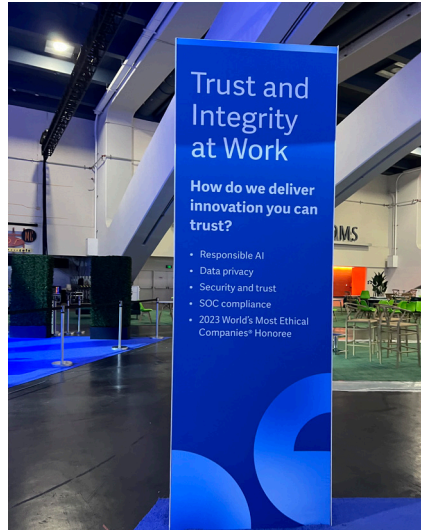


Photo Gallery

At Workday Rising, The World's Most Ethical Companies® Makes a Guest Appearance

On Sept. 26-29, **Workday**, an on-demand financial management and human capital management software vendor headquartered in Pleasanton, California, hosted its annual Workday Rising conference for some 15,000 attendees from customers, partners, prospects, and members of the greater Workday community.

During the event, the ethics and compliance team for Workday—a 3-time World's Most Ethical Companies honoree—hosted events for fellow honoree companies, gave out customized Cotopaxi backpacks, and organized a photo opportunity with their well-earned trophy.

To learn more, check out our [Ethicast episode](#) with Christina Won, Leader of the Learning Center within the Legal, Compliance, & Corporate Affairs at Workday.



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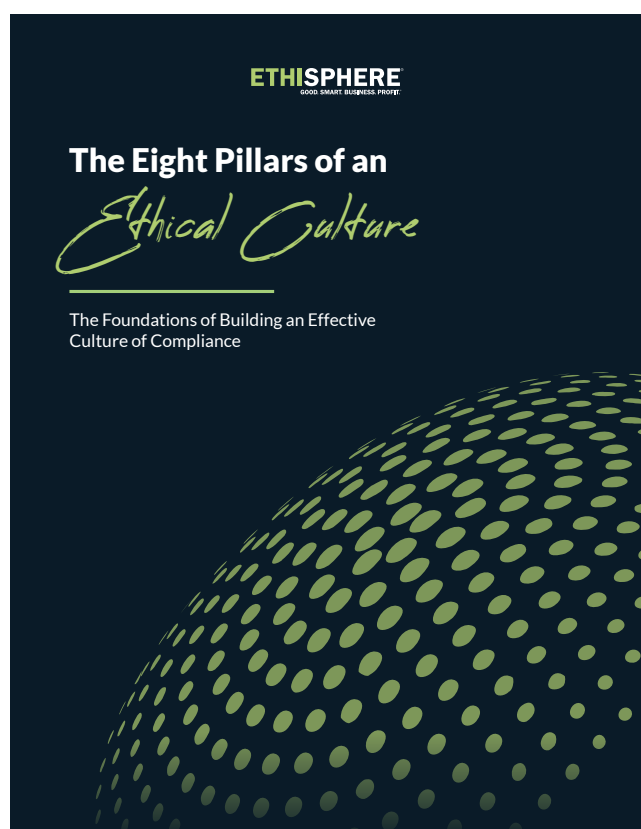


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In the Queue

There have been a number of interesting new books published in recent months that speak to the ongoing challenges, opportunities, and evolutions occurring within the ethics and compliance space, as well as in the general business integrity ecosystem. Here are just a few that have crossed our desk.

THE EIGHT PILLARS OF AN ETHICAL CULTURE The Foundations of Building an Effective Culture of Compliance



This popular eBook has long been a touchstone for E&C professionals—both within and outside of the author organization—as a blueprint for creating a culture of ethics. In October, Ethisphere released an updated edition with fresh data, a new layout, and more. The insights highlighted in this eBook showcase input from ethics and compliance leaders from the Business Ethics Leadership Alliance (BELA), as well as from guidance by international organizations and regulators. The eBooks' various data points draw from the Ethisphere Culture Quotient assessment—a survey that has been used by top global companies to determine employee perceptions of the organization's culture of compliance—between Q3 2020 and Q2 2023 and represents the views of 1.5 million responses across 192 organizations.

The result is a concise and powerful explanation of the eight core concepts that define the key metrics of a strong ethical culture:

- Pillar One Awareness of the E&C Program and Resources
- Pillar Two Perceptions of the Function
- Pillar Three Observing and Reporting Misconduct
- Pillar Four Pressure
- Pillar Five Organizational Justice
- Pillar Six Perceptions of the Function
- Pillar Seven Perceptions of Leadership
- Pillar Eight Perceptions of Peers and Environment

Each pillar gets its own section that addresses how that aspect of ethical culture is measured, what topics are covered in the Culture Quotient assessment and why they matter, what the data says on that topic, how Ethisphere clients have used data and insights from that section, and top tips for how to implement best practices into your program.

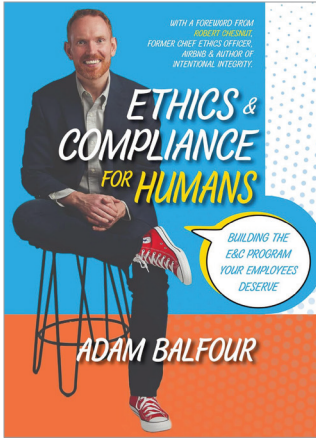
"Ethical culture matters—to employees, investors, and all stakeholders. Companies that have strong values-based cultures are better places to work and well-poised for long-term success," writes **Douglas Allen**, Vice President, Data Strategy for Ethisphere in the introduction. "There are many benefits to fostering a culture in which employees feel supported when they speak up. Not only will you reduce people-driven risks, but your organization will also hear from a range of voices—sharing new ideas and other ways to make the company more successful."

To get your copy of *The Eight Pillars of an Ethical Culture*, [click here](#).

ETHICS AND COMPLIANCE FOR HUMANS

Building the E&C Program Your Employees Deserve

by Adam Balfour



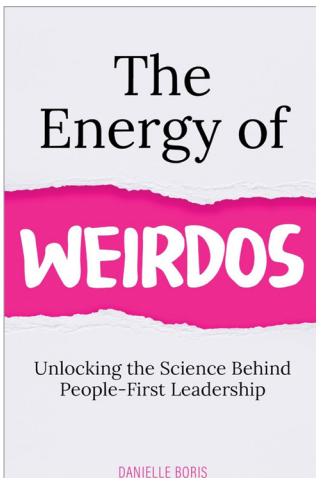
Ask any ethics and compliance expert, and they'll tell you: humans are complex creatures that are often unpredictable, emotional, and irrational. Few people grasp that quite like Adam Balfour, Vice President and General Counsel for Corporate Compliance for Bridgestone Americas. His first book is an insightful call for organizations to design and implement people-centric ethics

and compliance programs that employees will find to be relatable, relevant, engaging, and useful. Come for the clear-eyed takes on compliance and ethics, but stay for the enormously entertaining ways in which Balfour draws upon storytelling and pop culture references to illuminate E&C concepts. Seriously, check out the ethics quiz about the Jedi Council and understand that when it comes to building a great E&C program, do, or do not. There is no try. | [Amazon](#)

THE ENERGY OF WEIRDOS

Unlocking the Science Behind People-First Leadership

by Danielle Boris



Everyone is at least a little bit weird. And that's okay, because the things that make us weird are authentic aspects of our total identities. And if we can't bring our full selves to work, then we can't do our best at work. That's the compelling thesis statement by Danielle Boris, host of the **Unboxing Humans** podcast and founder and CEO of the talent management platform Sandbox Together. In *The Energy of Weirdos*, Boris crafts a compelling narrative about the power

of authentic identity, and people-first leadership. "Successfully engaging our workforce isn't about happy hours, ping pong tables, or free cold brew," Boris writes. "Engagement is about aligning what we love with what we spend our time doing. It's fundamentally human, and it's the key to creating a thriving and inclusive organization." Indeed. | [Amazon](#)

WHAT TO DO ABOUT BLAME AND SHAME

DESTROYING YOUR CULTURE

Psychological safety is crucial to an organization's success. Here's how to implement that atmosphere

by Erica Salmon Byrne



This short but impactful read from Ethisphere's Chief Strategy Officer and Executive Chair, Erica Salmon Byrne, dives into how workplace cultures

tend to veer from internally facing accountability to externally facing accountability and back again. The key isn't picking one over the other or obsessing with whom accountability lies. The key is taking a fresh look at accountability itself and what it's really supposed to do to drive success. | [Read](#)

COMPLIANCE KIDS

Being a Compliance Officer is Awesome!, Speaking Up is Awesome!, and Galactic Integrity

by Tom Fox



It's never too early to learn about doing the right thing. Tom Fox—a fixture in the ethics and compliance space perhaps best known as the host of the **Compliance Podcast Network**—is also a prolific author, having penned numerous books on corporate compliance. His latest efforts, however, are a little bit different, and very much worthwhile. His series of children's books about compliance, *Compliance Kids*, chronicles the crew of a band of intrepid kids in space as they rescue alien dogs in need and learn valuable lessons about the challenges of



bribery and corruption, the importance of playing by the rules, why it is important to speak up, and more. Book 1 dropped last December and Book 2 dropped in August. Book 3 is forthcoming, and to be honest, we can't wait to see it. | [Amazon](#)

Do you have a book, podcast, or video to share with the ethics and compliance community? Let us know at magazine@ethisphere.com. Ethisphere does not receive any compensation for showcasing external media.

By the Numbers

THE MENTAL HEALTH AT WORK INDEX RELEASES ITS INAUGURAL QUARTERLY BRIEF

The [Mental Health at Work Index](#)—a data-driven assessment of workplace mental health programs and practices developed by a partnership between [One Mind at Work](#), Ethisphere, and the [Columbia University Mental Health + Work Design Lab](#) has released its first Quarterly Brief, which shows that although leaders are paying more attention to mental health than ever before, organizations are still struggling to see impact. Work is not working for too many of us.



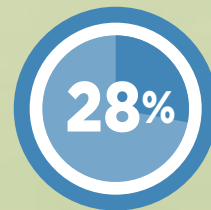
of respondents state that they include provision of access to resources, benefits, and services in their strategy



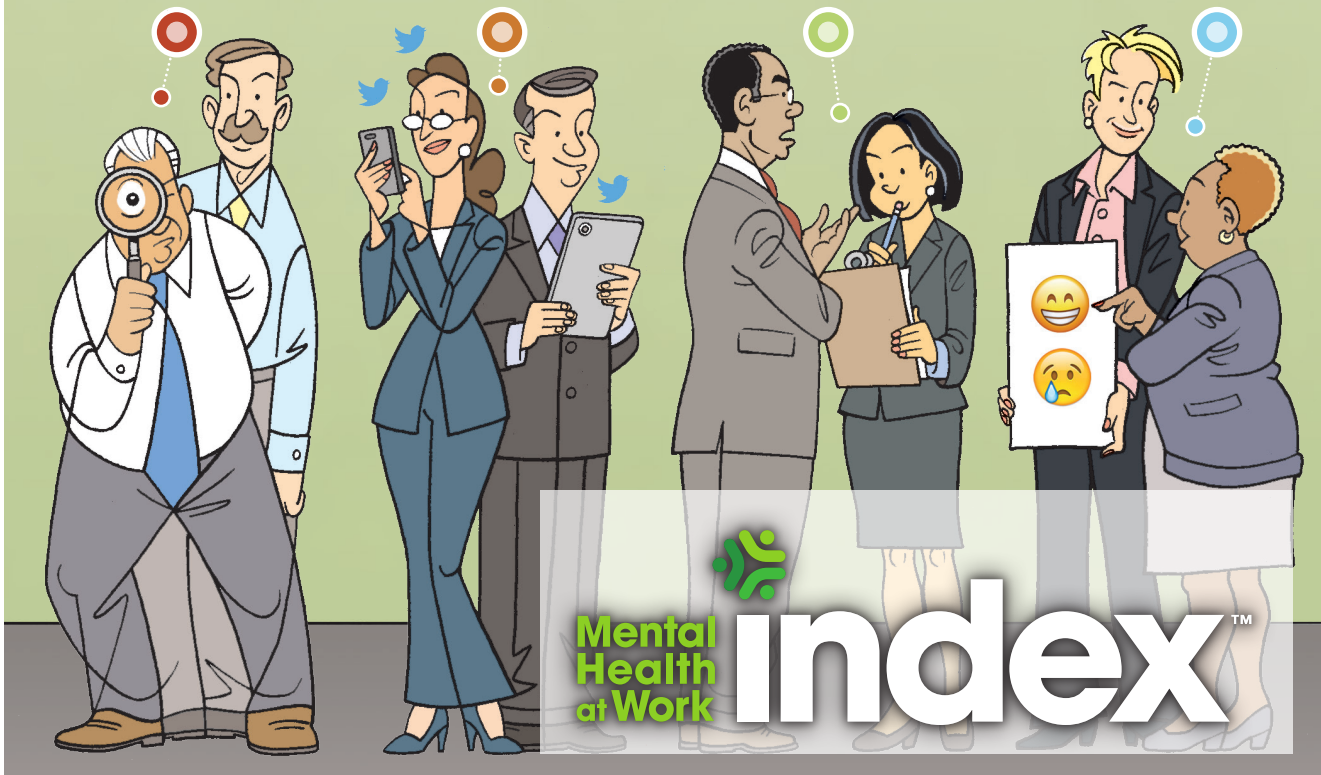
report including promotion of psychological well-being in their strategy and less than half (43%) say protection of worker mental health is part of their strategy



of respondents assess the effectiveness of their mental health efforts to eliminate hazards and minimize risks that negatively affect workers' mental health



of respondents say senior leaders hold their direct reports accountable for advancing and supporting workforce mental health in their teams



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**INVESTIGATIONS,
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The Final Word

Press X to Continue



by **Bill Coffin**

In 2009, I lost my brother Tom to suicide. At the time, he was living in Atlanta, GA, and I was living in New Jersey. We primarily stayed in touch through the chat function of *World of Warcraft*, a massively multiplayer online role-playing game published by Blizzard. We played WoW together almost every night for three years before he died. I played the game without him for another two after he was gone.

The tragic circumstances of my brother's death made 2009 a missing year for me as I processed my grief. It was not easy. And as time went on, I became more and more fixated on the fact that the character my brother played in *World of Warcraft*—the avatar by which I visually identified him so many times—was in a kind of digital limbo now that nobody would ever log into his account ever again. I knew my grief journey would not progress until I transferred his character to my account.

To transfer the WoW account of a deceased family member requires both paperwork and knowledge of the account. I had the first, but not the second. Suddenly, Blizzard's excellent track record of protecting customer data put a roadblock before me. As I spoke with Blizzard customer service reps to explain my problem, I was struck by their enormous empathy and professionalism as they tried to help me get my brother's account without violating their own data privacy standards. Eventually, we found a compliant way to transfer my brother's character. The day I logged on and found Meester the Troll waiting for me, it was like walking into a room and finding my brother there, alive and well. I burst into tears. My healing had begun.

I share that story with people whenever Activision Blizzard comes up in conversation. When I got my opportunity to interview Jen Brewer, Activision's Chief Ethics and Compliance Officer, for this issue (see "'Serious Fun' on page 28), some of my gamer friends who had pointed opinions about the company challenged me. Why should I give Activision Blizzard a platform, given its history of toxic workplace allegations? Fair question.

The answer is easy. No company is perfect. Activision Blizzard isn't. Many companies have dark moments they must work through. Activision Blizzard does. But when organizations are genuine and passionate about using the painful lessons they have learned to build a better culture for everyone—as I believe Activision Blizzard is—then that story deserves to be told.

Activision Blizzard is in the business of making games. And games are a funny

thing. They provide entertainment, but they can also make the world a better place. *World of Warcraft* wasn't designed to help people grieve any more than *Tony Hawk's* was designed to save lives—which it has—by making helmet use during skateboarding look cool. *Call of Duty* and *Overwatch* weren't designed to help people stay close to each other during the COVID-19 lockdown. But they did. Some game Activision Blizzard publishes in 2025 won't be designed to help some player deal with a major life struggle. But it will.

It's easy for us to judge an organization that has fallen short of our ethical expectations. It is more important, however, to judge them on how they use their opportunity to do better. Everything we do matters, however small or unintentional it may be. Whatever business we are in, somehow, it is the business of changing lives. And if somebody is trying to do better at being better, the helpful thing isn't to sneer at them. It is to ask them how it's going, and what we can do to help.

A stylized, handwritten-style letter 'B' with a period below it, serving as a signature.

BILL COFFIN
Editor in Chief

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