

## Cisco Transmits Ethics To a ‘Wired’ Work Force

By Andrew Singer

Companies should not be afraid to be creative with their business conduct codes—or ethics programs generally—says Cisco Systems, Inc.’s Ethics Program Manager Jeremy Wilson.

All too often they are inhibited by the thought that “legal would not like that.” Compliance-related topics are inherently dry, he notes, and companies shouldn’t shy away from seeking new ways “to connect with your code and your employees.”

### Revamping the code of conduct

Cisco launched a new business conduct code in mid-January 2008. The roll-out campaign took two months. Although the code encompasses some 60 pages on a PDF file, the text is not dense—the code would run only 12 pages if it were text alone. The expanded length is the result of art and graphics.

Wilson notes that the previous business conduct code “was already concise.” The problem with that document, which dated from the late 1990s, was not prolixity, but language. It was too legalistic. It was a “static” document, one that “sounded like it had been written by attorneys.”

Drawing on the creative services team from mPower Communications at The Network, Inc. (Atlanta), Cisco’s ethics office brought the text down to an 8th grade reading level—a common standard for business codes of conduct—and added art, graphics and an index.

Cisco then conducted 53,000 ethics code certifications within eight weeks, a fast clip—and one that probably couldn’t be duplicated at a non-technical company where every employee did *not* have a laptop computer, as is the case at Cisco. Initially, the technology company simply e-mailed a PDF version of the code to each employee.

### ‘Ethics Idol’

Cisco hasn’t been afraid to try something new when it comes to raising ethics awareness. The company developed ‘Ethics Idol,’ a cartoon-based parody of American Idol, the television reality show, in an effort to engage employees in ethical decision-making.

*‘Techy’ type employees often like to be approached in a ‘techy’ way, suggests the company’s ethics manager.*

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*If posting actual ethics cases on the Intranet, 'Stay away from things that happened in the last quarter.' Those cases are too fresh in people's minds.*

(Again, the company drew here on the services of the mPower Communications group.)

Featured on Cisco's Intranet, it presented a series of animated ethics scenarios that are evaluated by judges. Cartoon characters sing about different ethics situations—sales practices, procurement issues, and other common dilemmas. Employees also vote, making *their* judgment calls on each ethical situation.

The 'contests' have also been run by DVD in a live setting. Cisco managers use 'Idol' handbooks that explain how to run the contest.

Said Wilson, "Ethics Idol helped raise awareness to Cisco's employees that each ethical dilemma is not always cut and dried, and if they should have any questions to refer to the Cisco Code of Business Conduct for guidance."<sup>1</sup>

Cisco's ethics office was created about three years ago. Earlier, the function had been managed by a lone individual on a part-time basis working out of Cisco's employee relations office. The ethics office reports through internal audit to Cisco's board of directors, as does the company's investigations unit.

At the time of the office's formation, Wilson was tasked with putting together a "world class" program. He had reason to believe he would be supported in this. The company traditionally treats its employees well. "They don't settle for the mediocre," says Wilson.

#### **'Utilizing the technology'**

Manpower, however, would not be abundant. Cisco's ethics office has at any time between two and five individuals working in it—yet it must get the message out to more than 50,000 employees. "We are utilizing the technology to do this," says Wilson, including communication instruments like blogs and discussion forums "so we are not answering the same question 50 times."

Christine Style, who moved to Cisco from the The Network a year ago to become ethics marketing manager,

notes that Cisco has options in regard to ethics communications not available to other companies. Corporations like McDonalds and Starbucks, to cite two, do not usually provide employees with Internet access. Most are working in stores or restaurants.

At Cisco, by contrast, *every* employee has a laptop computer and Internet access. An ethics blog thus becomes a viable communications alternative—one that the company is, in fact, developing.

Prior to the new business conduct code, there had been "some chatter" on the company's finance blog site about the old code. An employee had gone to look for an answer to a compliance question, and he had come up empty. The document was difficult to read. The language was technical and dense. And so on.

Wilson answered the blog. "It's interesting that you brought that up..." He continued to use the finance department's blog for feedback during the developmental phase

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<sup>1</sup>"The Network Wins Stevie(R) Award in 6th Annual American Business Awards(SM)," Business Wire, July, 2008.

of the new code, and also during its roll-out campaign.

“We seeded some questions out there.” At times, the ethics manager sought feedback from blog participants directly. Wilson sent emails to them, “Is there anything else you found lacking?”

An ethics department blog is currently “in the works,” says Style; it should be operating before the end of 2008. It will present actual company cases of wrongdoing with the names of malefactors purged. Ethics has asked the company’s investigations group to submit cases for consideration.

“We have to make it interesting to the average user,” not just someone researching a topic, says Style. They want to make the blog sound like it is coming from ethics manager Jeremy Wilson directly, she says.

People find real cases “fascinating,” adds Style. They already use real case studies in their ethics training e.g., “What was the scenario? How much money did it cost Cisco.” And so on. Style notes that Boeing Company has used this approach successfully in its ethics communications program. (See “Boeing Company’s Ethics Improvements Take Flight,” *Ethikos*, July/August 2006.)

What about the company’s legal department? Aren’t they concerned about this “real case” approach? Could it open up the company to defamation suits?

Wilson said that he has been working “hand in hand” with the company’s in-house attorneys. He had some experience in this area. He worked previously in Boeing’s ethics office. “It goes back to how you sanitize the cases,” Wilson told us. Sometimes you have to tweak the data a bit.

Also, “stay away from things that happened in the last quarter.” Those cases are too fresh in people’s minds—and are more likely to lead to easy identification of the malefactor. Better to use cases from two or three quarters back, says Wilson.

For a blog to be successful there are several tried and true rules, Style adds. It needs to be frequent. (Cisco will seek to change the blog’s content every two weeks, or at least every month.) It has to be compelling. (Hence the actual ethics cases.) “We’re trying to build an audience,” says Style. They also have to archive articles.

The ethics office will manage the blog. It will be open to Cisco employees only. Phase two of the blog will allow people to submit questions.

## **Training**

Cisco has also been developing a computer training module for new hires. The modules conduct a student

*At Cisco, every employee has a laptop computer and Internet access. An ‘ethics blog’ thus becomes a viable communications alternative.*

‘review’ not only at the end of the document, but after each section. The idea is to boost the ‘interactive’ quotient wherever possible.

Cisco is seeking to customize its ethics training, too, by geographic region. “Russia is different from China which is different from the U.S.,” says Wilson.

It’s no secret, for instance, that there is a lot of corruption in the Russian economy. Bribery is often part of how business is done there. This has to be addressed in ethics training for those employees based in that part of the world.

In some Asian countries—including Japan and China—“you do not report things,” says Wilson. It’s a cultural circumstance. It’s often considered disloyal to report wrongdoing. The company therefore devotes more training time in those areas to explaining exactly how its reporting mechanisms work. If they can put a face on ethics in that part of the world, that helps. In China, Cisco employees know that they can call Jason Beck, a senior manager, because he is based in Beijing, for instance.

Cisco is establishing regional ethics councils in places like China. Ethics issues can get bottlenecked; they don’t get out. With the ethics councils, employees can go directly to senior leaders with their ethics concerns. That should help to increase reporting, Wilson suggests.

The ethics office does not do all manner of compliance training. It does not conduct Foreign Corrupt Practices Act (FCPA) training, for instance. Cisco has a decentralized compliance function, notes Wilson. One group does FCPA training, another does insider trading training, and so on. The ethics office itself does more general sorts of training, like that pertaining to the code of conduct.

## **A ‘wired’ work force**

Few corporations have as ‘wired’ a workforce as has Cisco. Wilson is seeking to engage employees in ways similar to how they are already communicating with each other, such as through texting and pod-casting.

Is it fair to say that Cisco senior management is ‘less

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# The Ethics Of Business

## Ethics (Part Two)

By Lori Tansey Martens

*“The Headline Test—Ask yourself if you would be comfortable if your actions or decisions were posted on the front page of the New York Times or a local newspaper.”*

This is Part 2 of an article intended to promote open discussion and dialogue about potential ethics concerns *within the ethics community*.

As we noted in Part 1 (see *Ethikos*, September/October 2008), almost everyone in the field of business ethics is familiar with the headline test, and most companies incorporate some form of it into their ethics training or code of conduct.

But what about the ethics industry itself? Would the ethics community pass the “headline test” if an aggressive and ambitious reporter launched an investigation?

In Part 1, five hypothetical scenarios were presented to ten members of the business ethics field, including consultants, ethics and compliance officers, and academics. Here we present four additional scenarios.

### Scenario 6

You have been begging for resources for years to do a “best practices” program assessment, but have been unsuccessful in getting funding. Instead, you have had to “boot-strap” an assessment that you know is weak and below standard for your industry. Now the company has gotten in trouble and your CEO wants you to prepare a memo for prosecutors outlining how your assessment program “is in line with best practices and consistent with the standard in your industry.” What should you do?

Everyone agreed that the ethics and compliance officer (ECO) could not knowingly misrepresent the assessment to a prosecutor, no matter the personal cost. “How much of your salary have you saved?” asks Oliver Quinn, Vice President and Chief Business Ethics Officer for Prudential. “You have to be prepared to take a stand on principle. If you write that memo, you are putting your professional reputation in jeopardy.”

Most suggested that the ECO could write honestly about the positive elements of their assessment process. According to Talia Horton, Director of Ethics and Compliance for Embarq Corporation, “I would include anything that is possibly good about the assessment, but I can’t just make up why it is industry standard and then hand it over to some prosecutor.”

“This is a real situation,” admits Gretchen Winter, a former ethics and compliance officer and currently Director of the Center for Professional Responsibility at the University of Illinois. “Or maybe they have to prepare a memo like this for the Board of Directors. You should describe what you’ve done accurately, demonstrating how you’ve made changes or improvements to your program over time. But don’t exaggerate.” Winter also suggests circulating a draft report that puts the ECO on the record in his/her own words about the assessment program. “If others recommend changes that distort the conclusions, then that’s their call.”

*‘Ethics, ultimately, is about progress, not perfection,’ says ECOA’s Keith Darcy.*

Lori Tansey Martens is President of the International Business Ethics Institute based in Washington DC.

Of course there is possible good news in this situation, according to a former ECO. “I predict that the money for a “benchmarked” industry-standard assessment program will be forthcoming, and very quickly.”

### Scenario 7

You have just signed a multi-year contract with an ethics and compliance supplier and are delighted with the service and array of products offered. However, at an industry conference, a colleague gives you the “low down” on the firm, claiming that there are allegations of sexual harassment, mistreatment of employees and borderline financial fraud within the firm. What if anything should you do?

Responses to this situation ranged from ignoring the gossip to launching a full investigation. Most, however, thought that keeping eyes and ears open to further information might be the best option. “I might just ask around—but not do a deep investigation,” says Talia Horton.

Gretchen Winter sees the primary issue as whether the allegations are factual, and if they are, how they might “affect the company’s ability to serve you.” Archie Carroll, Professor at the Terry School of Business at the University of Georgia, agrees. “Since you have already signed a contract with the firm, you should just carefully watch and monitor what the firm is doing to make sure its services are not compromised by its questionable activities.”

But others felt action was necessary. Michael Hoffman, Executive Director at the Center for Business Ethics at Bentley College, suggests contacting the President/CEO of the supplier “to make him aware that she [the ECO] has heard certain allegations that cause her to be concerned. And can he help alleviate that concern by assuring her that this is untrue? Bottom line, she can’t just let it sit there.”

For those advocating action, mitigation of reputational risks was a key factor in their decision. This is a significant concern to Megan Barry, Chief Ethics and Compliance Officer for Premier Inc. “I don’t want my company to engage with *any* supplier that will get splashed across the front pages—much less an ethics and compliance supplier.”

George Brenkert, Professor at Georgetown University’s McDonough School of Business, is concerned also about perceptions of the ECO. “I don’t like the idea of working with a supplier that is itself engaged in mistreatment or borderline fraud. Plus, what happens if my company becomes associated with an ethics and compliance supplier who is not ethical—this reflects poorly on me and what I have and haven’t done.”

*‘We don’t do ethical due diligence in the ethics industry; instead we rely on word of mouth or gossip—it has not been elevated to a practice,’ says Premier’s Megan Barry.*

This scenario also raises the question of whether ECOs should be performing some form of due diligence on firms they hire. According to Megan Barry, “We don’t do ethical due diligence in the ethics industry; instead we rely on word of mouth or gossip—it has not been elevated to a practice.”

Oliver Quinn agrees. “We get caught up in dollars and service provisions, but not the kind of due diligence that would uncover something like this, and we should do more of this.”

The key question is how to conduct such ethical due diligence. Gretchen Winter asks, “How would you conduct it? Would these issues surface? Are you going to ask to open up their human resources files?”

George Brenkert suggests talking to the firm’s former employees as one method of possible due diligence. However, the former ethics and compliance supplier employee isn’t sure that this will always uncover problems. “Most former employees wouldn’t be comfortable talking about problems at the firm unless you knew the person extremely well. You might be concerned about confidentiality requirements, or not want to be seen as defaming anyone, or you might be trying to protect the jobs of some of your colleagues who are still at the firm.”

### Scenario 8

Your company and CEO like to trumpet the phrase that the firm adheres “to the highest standards of business ethics.” You’ve always found this expression objectionable because—well, what does it mean? Oftentimes you are asked if a particular matter is legal, almost never whether it’s ‘ethical.’ In fact, the only time you hear senior management use the term ‘ethics’ is when it is convenient for PR purposes. What, if anything, should you do?

Opinions on this situation were mixed as well. Linda Treviño, Professor of Business Management at Penn State, saw the issue as critical. “It’s time to have a talk with the CEO. If the outcome is unsatisfactory, then I’d be polishing

*The fact that a firm is a nonprofit does not mitigate risks. 'Even if it is a nonprofit, conflicts of interest apply,' says Bentley College's Hoffman.*

my resume. How can you be in role conflict? How can you be the ethics officer and deal with an unethical CEO—it's deceptive. Can you do it and feel good about yourself?"

Archie Carroll also has a problem with the language. "It is your job to sell them on the ethics perspective. This includes giving them appropriate language to use as it is warranted. Emphasize to them that white-washing is inappropriate—that they need to be modest and accurate in touting their ethics."

On the other hand, Michael Hoffman doesn't have a problem with the language per se. "I don't object to a firm saying they adhere to the highest standards. The more important fact is that this firm has not come to terms with what it means to be an ethical culture."

Oliver Quinn suggests working with the executives and communication personnel to get better language incorporated in remarks. "Feed the business people language that will resonate in their communities so that it's not a catch phrase but becomes a persistent drumbeat within the culture. And sometimes it's not just going head-on with the executives. Figure out who handles their communications and work at that level to get better language woven in."

George Brenkert also recommends education. "When they ask me, I would try to bring in the ethical perspective and try to educate them. Use their legal questions as an educational opportunity to bring in ethical issues not included in a strict legal response."

### **Scenario 9**

Your company has donated significant funds to a nonprofit ethics and CSR (corporate social responsibility) firm, including serving as an "advisor" (for which you had to pay) for their most recent project. You now wish to hire the nonprofit to conduct an audit and assessment of your ethics and CSR program. Does this present any issues?

Once again, there was a lack of consensus on the appropriate action, with some saying don't use the nonprofit, while others did not see a problem hiring the firm. Talia Horton does see a problem and would recommend using a different firm. "This does present issues because obvi-

ously there is a perception of a conflict of interest. You could get the greatest assessment, but others may ask, 'Is it real? Is there a bias because of a prior relationship and funding?'"

Oliver Quinn concurs. "It raises the question of the objectivity and independence of the audits and assessments—at least from an appearance perspective. And are you putting the nonprofit in the position of biting the hand that feeds it? Ask a different firm."

George Brenkert suggests that it may depend on the planned use of the assessment. "What use is to be made of the audit? Will we represent to others that we've had an 'independent assessment?' This is similar to the situation where Arthur Andersen went easy on audits so as not to jeopardize consulting revenues. There will be a perception that the nonprofit will cast the findings in rosy colors to keep funds coming in. My gut says that there is a problem here."

For most, the fact that the firm is a nonprofit does not mitigate the risks. Michael Hoffman points out that, "Even if it is a nonprofit, conflicts of interest apply."

Gretchen Winter sees the situation differently. "You need a transparent selection process that is open to review and scrutiny and may not include you in the selection or review process. Try and find a way to make this work, rather than just say 'no.' Otherwise, you could exclude good providers and end up having to choose from a group of providers that may not be as experienced and may not provide the best value for your firm."

Megan Barry raises the larger issue about the role of nonprofits in the ethics community. "One of the flaws in the ethics field is that we rely on nonprofits for research—but they still have to raise money, and until we give money with no strings attached, this will continue to be a problem."

### **Conclusion**

The world has changed dramatically with the recent financial crisis, and it is possible that there will be greater scrutiny of the ethics and compliance community in the upcoming months. Keith Darcy, Executive Director of the Ethics and Compliance Officer Association (ECO), agrees that the time for introspection is now. "Indeed it is time that we look into the mirror and ask ourselves if we like what we see."

Says Darcy, "It has been said that 'we are only as well as our deepest secrets.' This is true of individuals, organiza-

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# LA School District Ethics Film: ‘Two Pencils Up!’

By Andrew Singer

Behind every good ethics program lies a scandal, it is said—and the Los Angeles Unified School District (LAUSD) is no exception.

*Its* scandal occurred more than a decade ago. It involved the proposed construction of a \$200 million school building on contaminated land. The so-called Belmont Learning Complex controversy led to investigations, commissions, hearings and demonstrations. It was a public relations nightmare, with allegations of ethics abuse.

In 2002, the district’s board committee created an ethics office.

The ethics office got off to a “rough start,” recalls Yea-Lan Chiang, LAUSD’s Ethics Officer, who was hired initially as deputy officer in 2002 and named to head the office in 2004. The district initially adopted the ethics office’s structure and policies from other government agencies—not really addressing issues specific to the school district. It lacked customization.

In recent years the program seems to have taken strides in the right direction, particularly in regard to communications. Ethics training has been deployed district wide. Given that the school district has 1,100 locations and nearly 100,000 employees if one includes part-time employees and substitute teachers, ethics training represents a considerable logistical challenge. To date, 36,000 employees have been trained.

## ‘The Gray Zone’

The centerpiece of that training is a 43-minute film called “The Gray Zone” that the office developed for only \$25,000.

Written and developed internally by LAUSD staff, the film features four vignettes illustrating ethical dilemmas encountered by school officials. It was created with the dual goals of supporting ethical-decision making and raising awareness of the impact that adults have on the behavior of children. More than 30 volunteer actors participated in the making of the film, including LAUSD teachers, administrators and students.

The film explores concepts like conflicts of interest, nepotism, and the proper use of resources. It also uses mock commercials to provide humor while reinforcing key ethics messages. “It’s a reality-showish concept with mock commercials,” says Yiang. As the school district noted in one of its press releases:

One commercial features a student as “Jenny”, a young girl speaking before her class who says of her future: “In eight years, I will be highly unethical. It will start with some white lies. Maybe I’ll copy an assignment then cheat on a test. Then maybe I’ll lie on my resume to get my first job. You gotta start small and build your way up.” The segment ends with Jenny asking rhetorically, “Look out for number one, right?”

The Gray Zone has introduced a new term into the vocabulary of the district’s employees conversation, according to Chiang. Workers now ask, “I wonder if this is in the gray zone?”

*‘The Gray Zone,’ the training film, features four vignettes illustrating ethical dilemmas encountered by school officials.*

*Regarding the district's ethics character education initiative—'This is an important way for the business community to partner with schools.'*

All sorts of people have responded to the film. A professor was reportedly using the film in one of his university courses. The "When I Grow Up, I'm Going to be Highly Unethical" segment was featured as the closing highlight of a recent Ethics and Compliance Officers Association (ECO) conference. Rochelle Montgomery, with the district's Office of the General Counsel, evaluated it: "Two Pencils Up!"

"It's not the norm yet" to have ethics offices in public school districts, notes Chiang, but her office has helped the San Diego school district develop materials in this area, and she has received calls from other school districts.

### **Training senior managers**

It was only last year that the office received the commitment of the board to roll out ethics training throughout the district, including training of senior managers. "If senior people are not involved, then people are not sure of the commitment" to ethics of the organization, says Chiang. It has to go beyond teachers, cafeteria workers and bus drivers.

Thus, Chiang now conducts one-on-one, 90-minute ethics training sessions with LAUSD's eight local district superintendents. Each superintendent might oversee 100 school principals. Chiang provides the superintendents with an overview of the ethics program, including policies, procedures and the training message.

They don't call this ethics training, however. It is referred to as an "ethics briefing."

Chiang has only three people in her office, so providing the ethics message for a district with 76,000 full-time employees is something of an "operational challenge."

(They are still trying to figure out the best way to reach the part-time employees with ethics training.)

### **The helpline**

Like most corporate ethics programs, LAUSD also has a helpline. Many ethics helpline calls deal with communications issues. Someone might call not knowing how to work through an issue with a manager—how to raise an issue in a way that is respectful. The office will encourage the

individual to go back and talk to the manager. They might help the individual with some of the dialogue, e.g., "I'm sorry, I may have misunderstood, but I thought *this* was the issue—but maybe I missed something," etc.

An issue arose recently with regard to credit cards. An LAUSD school principal needed to purchase some educational items. For whatever reason, he said he could not purchase the items on his own business credit card. He asked his assistant principal to use *his* credit card.

This presented the assistant principal with a dilemma. It wasn't that he didn't trust the principal, but he knew that every manager in the system was held responsible for his or her own credit card. He called the ethics office. They discussed the situation. In the end, the assistant principal himself settled on a solution. "I'll say, 'Put it [the purchase] on hold, and I'll go pick it up myself—so I can vouch for the card.'" (This way there was no chance the principal might be charging for personal landscaping services or some other questionable activity—not that he didn't trust the principal....)

It's "about building trust," says Chiang. While it behooves public officials to be fiscally responsible, they also have to demonstrate confidence and trust in one another.

The office is focusing initially on LAUSD *employees*, but beginning next year it will also focus on character education—raising ethical awareness among *students* in the district, a different sort of enterprise. They aim to do more to support middle managers within the school system, too.

As noted, the ethics office has received calls from other school districts. "It's still new," but everyone recognizes more can be done. New York City has had a school ethics office longer, says Chiang, but that office is run through the Mayor's office and it is part of the way the city does ethics generally.

By contrast, the LAUSD program was conceived as an ethics office specifically for a school organization.

### **Learning from business**

Chiang has learned from the way that *corporations* have marketed ethics training. In a recent interview, she cited BP, the British oil giant, as one company whose program that she had learned from.

LAUSD hosted the premier of The Gray Zone last summer at the Superintendent's Opening Meeting on August 24 at the Los Angeles Convention Center. By unveiling it before senior executives, they attempted to "give it a buzz," said Chiang.

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# Managing Ethics and Compliance In Times of Economic Turbulence

By Gabe Shawn Vargas

Few companies remain untouched by the current market downturn. Your company may simply be in a slowdown posture, putting off investments and not hiring until prospects improve. Or it may be in a more crisis mode, laying off employees or looking to sell off assets. Or, if the lines of credit are drying up, it may be working to raise capital or attract a white knight.

Alternatively, it may be contemplating more drastic survival options or already be under creditor protection. To ethics and compliance professionals there is a constant in each instance: No matter how cloudy or distressed its financial situation, the company is not relieved from its ethical obligations or from those legal and regulatory obligations that continue to apply to it.

In fact it is not difficult to argue that during tough economic times a company needs to give ethics and compliance *even more* attention. After all, if your corporation has taken a financial blow, the last thing it needs is an ethics or compliance hit.

Such an occurrence could bring it to the tipping point, possibly eliminating any chance for a recovery. Customers and investors may offer some sympathy to companies that have fallen on hard economic times; they often offer no sympathy to those that compound their troubles with ethics or compliance shortcomings.

Yet to continue in the current environment to manage an ethics or compliance program as if business were “as usual” could itself be irresponsible. If your company is adjusting to unkind economic times, so must you. But the test here is not just one of flexibility or solidarity. It is a test of leadership and sound management. Tough times call for higher levels of leadership and managerial smarts. It is easier to be an ethics and compliance leader when the company agrees on the importance of your task and makes time and resources readily available to you. It is a greater test of leadership to be effective when your company is occupied with survival, when there is fierce competition for scarce internal resources, and management and the board can offer you little attention.

During economic crises six key areas require particular focus and recalibration. These are shown on the table on the next page. A few additional thoughts may help provide context.

## Devise new ways to influence

As shown on the table, a first challenge for the ethics and compliance leader of a company facing financial challenges is to continue to be heard. Even in companies where regular ethics or compliance reporting is a standing agenda item for management or board meetings, pressing financial and strategic discussions could easily lead to such reporting being (a) reduced to a simple written submission (which is almost always less effective), (b) postponed, or (c) given less time.

Those experienced in working with boards know that even when a company is not

*An ethics and compliance function has an intergenerational duty: its obligations are to the company and its stakeholders, present and future, not just to current management.*

The author is senior advisor to a regulatory body in Europe. He has held senior corporate legal positions with major multinationals in the U.S. and Europe, including as global head of compliance and corporate responsibility.

under financial stress, “time squeezes” during board meetings are not uncommon. The ninety minutes one thought one had to provide an update and lead a discussion on an important regulatory matter requiring board action could come to be cut to a mere fifteen minutes.

When an enterprise’s focus is on economic survival, time pressures are even more acute. It is important thus to devise other ways to inform and influence. For example, if your formal compliance reporting has been slowed up or reduced, work to get on task forces with senior managers and use the face time there to accomplish what you would have accomplished through other means.

If there is an all-employee meeting where management is updating on business developments, negotiate to get a slot there in exchange for having to postpone the compliance training that no longer fits the new budget constraints. If you get bumped off the agenda of a board meeting, arrange a phone call with the chair of the board or of the audit committee to keep the dialog fresh, even if, from a governance standpoint, you still need to wait for the next board meeting for the formal briefing or board action.

The point is to be creative not just to get your “reporting in,” but to continue to have influence and impact, and to ensure that corporate values and compliance considerations are not overlooked as the company scrambles to cope with the harsh new environment.

**Understand the pressure and pain**

Sales and other employees who are under intense pressure to deliver commercially don’t need compliance preaching. But they may need reminders and support. While it has become standard fare to say that management, not compliance officers, owns compliance, this will hardly be an uplifting message when a sales manager is under the gun to produce. Show your empathy for his or her predicament and ask how the compliance team could help. The dialog may be helpful not just to reinforce that compromising on ethical or compliance obligations is never the wise course, but to help the ethics and compliance team review its own priorities and practices. Are there any compliance policies or processes that are unduly bureaucratic? Can any be trimmed to save time and money, but without decreasing effectiveness?

Area	Challenge	Considerations	Possible Responses
<b>1. Corporate Attention</b>	Board and management are in a survival mode; their focus is on the financial.	Particularly important time to show compliance leadership and to step-up.	Demonstrate why enterprise-critical compliance activities need to continue and why a compliance or ethical lapse could undo the company’s financial recovery efforts. Volunteer for the crisis management and turn-around teams. By being part of initiatives now most valued by the company, you may be able exert ethics and compliance influence on critical corporate decisions, even if you are no longer getting as much formal “air time” as before.
<b>2. Commercial Pressure</b>	Sales, finance, and other functions are under the gun to produce.	Calibrate your compliance activities to this environment.	Seek out those in positions under special pressure to offer your understanding and your ethics and compliance support. Identify the values and legal obligations that may come under particular stress in this environment. Develop training scenarios that capture the real dilemmas people will face. Review compliance procedures for streamlining potential. This may help make them more cost effective and reduce their claim on management and employee time.
<b>3. Budget</b>	Company-wide budget cuts.	Show your understanding. Do your part.	Be transparent with your team members. Ensure they understand the company’s pain and the imperative to be fiscally prudent. Inspire your team to do more with less. Prioritize and give up or postpone the nice-to-haves. Brainstorm for alternative ideas that cost nothing or little to implement. But remain steadfast if you genuinely feel a budget or personnel cut you are asked to make will put the company under unacceptable compliance or ethical risk. Thriftiness does not trump integrity. Use your Board access if management fails to appreciate this risk. Monitor your expenses against budget diligently. Renegotiate terms with vendors and outside counsel. Make full use of the standard grace periods for paying bills (but do pay on time; your external providers are also likely facing arduous times). Reduce your overhead. Most companies charge internally for office space, number of phone lines, printers etc. Can you consolidate and live with less?

Similarly, if your company is laying off employees, reflect on what extra or different efforts may be called for. The compliance officer's *risk and control compass* is, of course, needed to ensure that disappointed employees do not cause the company harm as they are forced to exit. But the *ethics compass* is as critical in such times.

No greater homage can be paid to your company's values statement and to the compliance function than to be able to note that departing employees were treated to the very end with respect and dignity. Work with your human resources department on this. If you do compliance exit interviews, check if their approach or wording could use revamping and ensure that those doing such interviews are experienced professionals who can conduct them with the right kind of understanding and sensitivity.

**Support fiscal responsibility as a value**

An economic crisis can place strain on a company's values but it can also serve as an opportunity to strengthen their application. However your company's values may be formally expressed, it is likely that they offer some support

for the goal of managing nimbly and spending responsibly. After all, isn't this also part of the fiduciary duty to protect the interests of the company and its stakeholders? Even if your company's formal values don't reach this far, take up the challenge to support this principle. Work to find ways to make your compliance program more efficient, fiscally prudent and business wise. This is important not just to help the company's bottom line but to lead by example.

Following the events of September 11, 2001, and in the aftermath of the collapse of the New Economy, I had to think long and hard in early 2002 whether to go ahead with a meeting that I had planned for my senior global leadership team. As the company's head of compliance, I had judged a face-to-face meeting indispensable to keep the momentum going on some critical group-wide governance and compliance initiatives.

Yet I was aware as well of the costs of such a gathering. The solution our team agreed on was to go ahead with the meeting but to do it on a truly shoe-string budget. Soon within the company it got around that the compliance team

<b>4. Head-count</b>	Company reduces or freezes hiring or begins layoffs.	Seek creatively sensible options.	<p>Piggy-back off other functions. Can someone from the Finance department help with your anti-money laundering efforts? Can Communications allocate someone to help with your compliance Intranet?</p> <p>If you can still add resources, focus on quality rather than quantity. One talented hire at a high salary but with greater horsepower may be worth more than two average hires at lower rates. This may be a particularly good strategy when there are limits on full-time employees.</p> <p>If there is a hiring freeze, consider trainees, interns, students, and temporary staff. Make astute use of external vendors or counsel to fill gaps.</p> <p>If employees are being laid off, work with management to ensure it is done in a manner consistent with your company's values. Show special sensitivity toward affected employees and during compliance exit interviews.</p>
<b>5. Communications and Training</b>	Mainly discomfiting financial news is dominating the company's "airwaves"	Fine tune compliance messages and activities for this environment.	<p>Recognize that employees likely feel apprehensive and concerned for their future. Normally effective happy, upbeat compliance messaging may come off as insensitive or ill timed when the company mood is less than buoyant. Readjust to be more straightforward, capturing gravitas as necessary while avoiding adding to the gloominess.</p> <p>Avoid initiatives that smack of extravagance for the times. A multicolored ethics brochure on expensive paper with pull-out features may be an effective communications tool during prosperous times. During bad times it may come off as an improvident luxury.</p> <p>If employees are under time pressure, study how you can make your ethics and compliance training more time effective or how you can combine it with other scheduled training.</p>
<b>6. Risk Assessment, Monitoring and Controls</b>	Changing Risk Landscape, Potential Temptations to Get Around Controls	Prioritize external and internal monitoring. Discuss your concerns. Seek partners.	<p>Monitor legal and regulatory developments. New economic times may bring some added regulation but also some regulatory relief (e.g. the recent SEC change easing up the requirements on company repurchasing of its own shares).</p> <p>Intense financial pressures may increase the temptation to cut legal corners or get around compliance controls. Openly discuss this concern with managers and employees. Such a discussion may help deter temptations but also assist you in pinpointing the critical areas for redeploying or strengthening controls.</p> <p>Do more scenario planning and stress testing to increase the preparedness of your company to cope even with the less plausible of circumstances. □</p>

*No matter how distressed its financial situation, a company is not relieved from its ethical obligations.*

had done more than its share of belt-tightening, even voluntarily giving up its right under company policy to a business class fare in order to make it possible to gather and work intensely on some critical enterprise-wide action items. This was no minor gesture for those coming from different continents who had to fly up to 12 hours on economy and start the meeting on the day of arrival.

While a personal inconvenience to us, our small action earned good will, saved the company money, and allowed us to advance our corporate culture and compliance priorities during a tumultuous economic period.

#### **Think and act as a financial manager**

It is not just one time expenses or big ticket items that require financial discipline. To most compliance officers, the word “monitor” conjures up the need to have oversight mechanisms for tracking if risks are being properly identified and managed, and if policies and procedures are being observed. During trying economic times, it is particularly important to apply this concept also to the compliance program’s own budget, ‘cash flow,’ and expenses. These too need regular monitoring. Just as the company does not wish to surprise the market with unexpected losses, you will want to ensure the compliance program causes no internal fiscal surprises either.

The challenge is not just to avoid going over budget, it is to demonstrate to management and the board that you too are taking steps to manage your shop more efficiently and to optimize it financially, even on smaller or more routine cost items.

Show that you have renegotiated commercial terms with vendors. Explain that you are using up the full permit-

ted payment cycle to settle your external bills while still paying on time.

Volunteer to reduce office space, overhead, and energy consumption. If you have delegated the financial management of the compliance program to a junior person or a secretary as being something “administrative” and of lower priority to you, this is the time to reclaim it. Financial stewardship is also a key part of being a responsible and effective ethics and compliance leader.

#### **Don’t lose the long-term perspective**

One last thought. A company may be in a crisis mode but it does not mean that the only thing it has to manage is the crisis. To facilitate a recovery, a company has to continue delivering its products, servicing its clients, and innovating for the future. Managing the business itself cannot stop.

So too for an ethics and compliance program. It has to adjust, adapt, calibrate, and operate more leanly as suggested above. But it also has to continue functioning. It too has to continue providing its essential ‘products’ and services to protect the company from the current risks. And it also has to look toward the horizon. Recall that as a defender and driver of the company’s values, an ethics and compliance function has an intergenerational duty: its obligations are to the company and its stakeholders, present and future, not just to current management. Hence a salient duty during an economic downturn is to prevent the reversal of previous ethics and compliance accomplishments. Don’t lose sight of your long-term strategy. Work hard to retain your best talent. Keep your enthusiasm up and your creative juices going.

Companies that draw the right lessons from past mistakes and labor diligently to address their financial challenges with the right level of equanimity and optimism will likely emerge stronger from the current crisis. So too will those ethics and compliance programs that make the right adjustments now, while remaining steadfast on their larger mission and principles. □

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#### **LA School District. . . Continued from page 8**

Has she learned from the U.S. *business* ethics movement generally? “Absolutely.”

“The ethics community has been wonderful.” LAUSD has made The Gray Zone available to the wider ethics community as a “way to give back” for the support and help that they have received, she says.

There’s been much discussion recently about partner-

ships: how to draw on private sector resources in a way that supports public agency needs—by donating products and services to the schools, for instance, or some other form of educational support.

In Chiang’s view, business could play a role as the district embarks next year on its ambitious ethics character-education initiative. “This is an important way for the business community to partner with schools.” □

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# Building an Internal Marketing Program Around Ethics and Compliance

By Joel A. Rogers

In our efforts to create ethics and compliance programs that help to promote a culture of ethics and legal compliance within our companies, most practitioners understand the need to distribute a properly constructed and designed code, deploy appropriate training programs, and operate a robust practice of audits and investigations. Perhaps less well understood is how “best practices” programs make significant advances toward a culture of ethics by developing marketing-style ethics communications programs.

A well designed ethics and compliance communications program will thoughtfully and systematically cycle through ethics messaging in a way that keeps the corporate environment saturated with concepts and images that, over time, start to become fundamental—though perhaps subconscious—aspects of *the way we do business at our company*. While it may be possible to teach employees basic information about your company’s code through an annual training program, it is almost certainly not possible to have this kind of deep impact on the every day psychology of your workforce without such a constant and sustained campaign.

It is useful to think about ethics communication in terms that are well known to product marketers. These are the people, after all, who know so well how to change behavior that they can get us off the couch and down to the car dealer to drop \$40,000 on a new SUV. Marketers know, for example, that exposing the average consumer to a second product message helps to increase product recognition and the believability of the original message by almost 30 percent; but a third exposure to that message can increase it by as much as 100 percent!

## The simple act of repetition

The key is that the simple act of repetition can massively alter the degree to which a message is perceived as important and true. Marketers know, further, that it takes between nine and 21 “impressions” before a consumer is ready to purchase a product.

We can co-opt this wisdom for our purposes by ensuring that we approach ethics communication in the same repetitive fashion. This requires not only communicating our particular ethics and compliance messages as often as possible, but also doing so through multiple communication channels, and through a variety of modalities that will resonate with a range of learning styles within our target audience. This specifically means exploiting the existing communications channels at your company (newsletters, magazines, bulletin boards, internal TV networks, intranet sites) and providing a range of messaging styles including text, visual art/image focused, audio/visual, virtual messaging, etc.

Think of any robustly marketed commercial product and what the elements of the marketing plan might include. A public relations piece is always essential for adding journalistic credibility to any ad campaign. You might also expect to see print (magazine ads, billboards) and television advertising as well as product placement in popular films and TV shows. There would be dealer meetings and new product promotions, appearances at trade shows, and face-to-face as well as web and email sales strategies. Note that no one of these elements by itself would represent a sufficient marketing strategy, but taken together they form a holistic web of messages that have been proven to influence behavior in predictable ways.

*The simple act of repetition can massively alter the degree to which a message is perceived as important and true.*

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*Within a defined period of time—say one business quarter—focus on a single value, ethics concept or compliance risk topic.*

Even though we all know this to be true of product marketing, it does not necessarily occur to us that effectively communicating ethics and compliance concepts can be achieved using the same approach. Of course, the approach has to be adapted for marketing to an internal audience. For example, companies may not have an internal public relations function per se, but they can certainly run articles in company magazines and newsletters. They may not do internal “print advertising” or put up billboards, but it is relatively simple to establish a bulletin board space within work areas where regular posters are placed. Posters, in turn, provided they are not over-designed with complex detail, can be shrunk down to serve as quarter-page ads in company publications, thus tying together small format print images and those that employees see every day on the bulletin boards.

Television advertising can be achieved with a simple video of the company’s CEO speaking briefly, in an extemporaneous fashion, about how important ethical culture and values are to the way the company does business. Run this short clip at the top of each hour on internal TV networks between training videos, etc.

Additional simple tools can be developed to fulfill the requirements of the internal marketing plan. Introductory or compliance risk-focused brochures should populate new employee orientation packets, serving a “product placement” function; messages introducing the company’s code of conduct should figure here as well.

Simple PowerPoint programs on compliance topics designed to be delivered to managers can take the place of dealer meetings. Managers, after all, are the most critical “dealers” of the ethics and compliance mindset of the company, and must be regularly brought along in order for this to work. Face-to-face sales strategies can, in turn, be approximated by asking those same managers to conduct simple monthly or quarterly discussions with their direct reports, helping the message to penetrate all the more deeply.

### **Setting up a kiosk**

Trade shows don’t make sense in the ethics marketing context, but how about setting up a kiosk or table at company events to help employees connect with the human face of ethics and compliance at your company and to provide an unthreatening forum for them to ask simple, informal questions? Having plenty of copies

of the code and other brochures to give out in that environment can add substantially to the marketing effort.

Lastly, web and email messaging can be utilized in ethics marketing just as in any product marketing plan; this is one area where many companies have already made some progress, albeit modest in many or most cases.

Once we’ve established what all of the elements of a program might look like, there are two keys to integrating them into a single, holistic program. The first is branding. Find a “theme” (e.g. “Know the Code!”; “Principles and Progress”; “Values. Integrity. Success.”), and brand each marketing element with an identifiable logo, color palette, etc. This is a simple but critical way of tying each element to every other. The psychological impact of this is that the integrated whole becomes greater than the sum of its proverbial parts. In other words, you not only communicate a specific, explicit message, but you also achieve a meta-communication when the recipient makes the connection between this and all other like-branded messages.

The second key is that the messaging contained in all of these seemingly disparate communications should be, to the extent possible, all on the same topic. When a car manufacturer wants to advertise its SUV, it does not put out TV ads for the SUV but print ads for its sedan and radio spots for its minivan. Rather, the objective is to create a variety of communications that will, together, achieve a single goal—in this case to get people to buy the SUV. The analog in ethics and compliance marketing is that messaging within a defined period of time—say one business quarter—should all be focused on a single value, ethics concept, or compliance risk topic. Move on to a new topic, using all of the same tools and channels, in the next quarter.

In other words, don’t hang up antitrust posters, run an article on insider trading, and assign manager/staff training sessions on conflicts of interest all in the same quarter. The point is that every element of the marketing program should resonate with and reinforce every other element so that, again, the whole can be much more powerful than each of the individual parts taken separately. The other reason this is so important is that creating tools around one topic allows you to leverage whatever research you have done on the topic to write your article, design your poster, construct simple training modules for delivery to and by managers, etc. Focusing on multiple topics would cost you all of that efficiency.

Even so, constructing all of these communications tools may seem daunting. Some compliance offices with minimal resources may not be able to do all of this. In full disclosure: providing such tools to clients is a core component of my company’s ethics and compliance practice. Nonetheless, with a small amount of planning and discipline it should be possible for most companies to create a systematic and workable communication plan. Moreover, it is almost certainly true that in the absence of such a plan, your ethics marketing initiative will end up taking a back

seat to more pressing issues within a quarter or two.

Proper communications planning can help provide a roadmap for creating an effective program. It can help you define your company's communications channels, and help focus you on those communications tools you will regularly deploy. It will also, perhaps most importantly, keep you on track as you work through your plan.

### Getting started

The first step in putting such a plan in place is identifying available communications channels. (See the table below.) In this exercise, I have put myself in the position of the compliance officer of a hypothetical company and have identified all of the key communication channels of which I am aware that the company uses. I know we have a newsletter, a company magazine, an ethics Intranet site, bulletin boards, etc., and I have listed them in the left-hand column. I have also identified the frequency with which each of the channels is available (the newsletter runs weekly, while the magazine is published only once per quarter).

Next I have learned who is responsible for each of the channels, and what the deadline is for participating in each.

Once I have identified the channels, I am in a better position to decide how to leverage each of them for maximum impact, on a quarterly (for example) basis.

A plan for a single quarter might focus on the topic of conflicts of interest. Here I might run a column I call "Ask the Ethics

Officer" in our bi-weekly newsletter. This could be formatted as simple Q and A's that have the appearance of inquiries posted by employees. (Even better, of course, if they *are* actually inquiries posted by employees, as long as they know their questions will show up in print).

I might also run one article with an accompanying cartoon to speak to readers of different learning styles in the company's quarterly magazine, and reprint both items on my Intranet site. I also plan to issue a conflicts of interest poster, and a mini training session. Also planned is a short presentation on conflicts of interest to all human resources managers, and a conference call on the same topic for, say, top management and the compliance liaison for each business unit.

Again, all of this can seem like an overwhelming task, but remember that the content for each of these elements will have been generated only once, probably when I wrote my conflicts of interest article for the company magazine. Every other component of my plan will be built around that first element.

I strongly recommend planning the entire year's quarterly programs in advance, mostly to make sure that the program remains consistent quarter by quarter, and that you don't one day look around and realize that all of your posters are faded and torn and that in fact you haven't refreshed your plan in several months.

Is there an order of priority in all of this? Well, perhaps. It is probably a good idea to start on the smaller side. Pick a couple of elements you know you can accomplish—say, a quarterly article

Communication Channels			
Your Company has the following communication channels for distributing ethics related communication:			
Channel	Frequency	Responsibility	Comments
Company Newsletter	Weekly	Public Affairs	Deadline for publication is ...
Company Magazine	Quarterly	Communication	Deadline for publication is ...
Email	On-Going	IT	Segmented by Managers and Non- Managers
Ethics Intranet Site	Updated Quarterly	Ethics Office	
Regional Manager's Meetings	Quarterly	Function Specific	30 minutes allocated on agenda for key issue discussion
Ethics and Compliance Summit	Yearly	Ethics Office	Key Ethics and Compliance Officers
Facility Bulletin Boards	Updated Quarterly	Communications	Send files email and have printed locally
Facility HR Directors	On-Going	Direct	
Key Department Heads	On-Going	Direct	

and an accompanying poster. But once you've mastered that kind of a simple plan, it's not sufficient to rest there. Remember that the objective, ultimately, is to mount a program that will truly impact behavior, and will meaningfully

promote a culture of ethics and compliance with the law. An ethics communication program that does less than move hearts and minds in the direction of accountability and integrity will not do the trick. □

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**Ethics of Business Ethics . . . Continued from page 6**

*'I don't like the idea of working with a supplier that is itself engaged in mistreatment or borderline fraud,' said Georgetown's Brenkert.*

tions and even society. We cannot grow unless and until we reveal those secrets and understand them."

Both the Ethics and Compliance Officer Association and the Society for Corporate Compliance and Ethics (SCCE) have promulgated standards of conduct for ethics professionals. The SCCE Code is fairly new, having been introduced only last year. Joe Murphy, Compliance Systems Legal Group, and Rebecca Walker, Kaplan & Walker LLP, led the initiative for SCCE.

Rebecca Walker identified both the young age of the

profession as well as its rapid growth as key factors that led to the development of the SCCE Code. "The ethics and compliance field is still nascent and comprised of folks from lots of different professions—it is still defining itself. Promoting standards is important as the industry grows and more money is at stake."

Walker also notes that while a professional code could prove helpful in the future, neither the ECOA nor the SCCE code has been widely adopted yet.

"It could be time," suggests Keith Darcy, "to write something on a coordinated basis." Neither Darcy nor Walker favors enforcement mechanisms whereby violations of the standards would be subject to investigation and sanctions. Both are, however, in favor of further dialogue, training and education on the topic.

"Ethics, ultimately, is about progress, not perfection," says Keith Darcy. It remains to be seen, however, how much of a priority the ethics community will place on achieving progress in an area which hits very close to home. □

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**Cisco Systems. . . Continued from page 3**

uptight' than managers at other companies?

"They embrace new ideas quickly," answers Wilson. Many senior managers themselves have blogs. CEO John Chambers hosts monthly 'birthday breakfasts.' Anybody who has a birthday that month gets to quiz him (as part of a group) for an hour and 15 minutes. The company is constantly seeking feedback from employees, says Wilson.

As noted, every Cisco employee has a laptop computer. Does that change things significantly when it comes to business ethics?

"Hugely," answers Wilson. At Hilton, where he also worked previously, few employees had laptops. Many employees, after all, were doing things like cleaning hotel rooms. When they had a new training module they had to mail DVDs to the employees' homes. Some employees ran the DVDs in the hotel rooms where they were working. If something required online access, however, it would be viewed by those at corporate headquarters—and a few

others.

Here it's different. 'Techy' type employees often like to be approached in a 'techy' way, suggests Wilson. Ethics

*Cisco's ethics office has at any time between two and five individuals working in it—yet it must get the message out to more than 50,000 employees.*

marketing manager Style notes that with the Ethics Idol program, "Senior management allowed us to do something a little edgy." In the ethics sphere, the firm has "led the effort to be creative, to do something out of the box." Technology just multiplies the possibilities.

Adds Style: "I'm thrilled. We can get an e-mail to every single employee....this is the wave of the future." □