Implementing anticorruption programs in the private sector

Recognizing the costs and risks of corruption, companies around the world are implementing programs to combat it.

Although attention has focused on public sector initiatives to fight corruption on the demand side, private companies in every region have developed programs to fight it on the supply side. Policymakers and advocacy groups—such as Transparency International—consider such preventive efforts to be a critical component of the anticorruption toolkit.

All types of firms—large and small, multinational and local—recognize that corruption raises the cost of doing business and should be prevented. The World Business Environment Survey, for example, provides a wealth of evidence on firms' perceptions and behavior—and shows that managers of medium-size firms perceive the problem in much the same way as representatives of international companies.

Most company anticorruption programs rely on compliance systems that consist of a company code of conduct, training, and decisionmaking and reporting mechanisms. This self-regulatory approach was pioneered in the 1970s by U.S. multinational corporations after unethical practices were revealed and in response to the 1977 Foreign Corrupt Practices Act. Until recently this approach was greeted with skepticism outside the United States. Critics argued that efforts to implement U.S. compliance-based techniques would fail in other business cultures. Skeptics also questioned the effectiveness of company anticorruption programs.

But such views have changed considerably in recent years, and compliance systems are being implemented by companies from high-income countries as well as emerging markets. Moreover, anticorruption techniques have become more sophisticated in established U.S. systems.

In 2000 the Conference Board, a global business membership organization, asked companies worldwide about their anticorruption programs. The survey found compliance-style programs in 42 countries, a sharp increase from the exclusively Anglo-Saxon findings of earlier surveys. Moreover, 40 percent of respondents were based outside North America and Western Europe.

To better understand these programs, the Conference Board and the World Bank's East Asia and Pacific Region investigated the efforts of East Asian firms and East Asian subsidiaries of North American and European firms. The research focused on:

- Identifying the state of the art in corporate compliance programs.
- Understanding mechanisms and incentives driving program implementation.
- Creating case studies of 20 companies, two-thirds based in East Asia, as a knowledge base of best practices for training and dissemination on compliance programs.

External and internal incentives

Although bribery is universally prohibited, the most far-reaching anticorruption measures address firms' behavior outside their home countries. Under the Foreign Corrupt Practices Act, U.S. companies can be prose-
cuted for engaging in corrupt practices outside the United States. The Anti-Bribery Convention, issued in 1997 by the Organisation for Economic Co-operation and Development (OECD) and ratified by 35 countries—including non-OECD members—codifies the act’s extraterritoriality principle.

The OECD convention targets not only direct payments but also third party payments, a main channel of corruption. Because the convention makes companies liable for the behavior of their branches and affiliates and, to a significant degree, for the conduct of their business partners, it encourages companies to implement global compliance mechanisms and local ethics programs. Another important provision reflected in corporate codes is a focus on grand corruption. Taking a practical approach, the Foreign Corrupt Practices Act and OECD convention tolerate petty corruption such as facilitating payments (small amounts paid to “get things done”).

Although the Foreign Corrupt Practices Act prohibits certain conduct, it does not offer companies incentives to develop compliance systems. So, in 1991 the U.S. government issued Organizational Sentencing Guidelines, giving companies the carrot needed to develop such systems. The guidelines impose much lower penalties if a company has an effective compliance system and can prove that any unlawful activity was the work of a rogue employee rather than established company practice.

Still, legal pressure does not fully account for the motivation of companies to establish anticorruption programs. Indeed, between 1977 and 1995 the U.S. Department of Justice prosecuted only 16 bribery cases under the Foreign Corrupt Practices Act.

Anticorruption programs are also driven by forces within firms. A growing number of companies do business in complex political and cultural environments, subjecting themselves to greater scrutiny from civil society and nongovernmental organizations. In addition, companies now realize that turning a blind eye to corruption outside the company breeds poor ethics within and increases the risk of internal fraud. Thus compliance systems are often part of comprehensive efforts at risk management that encompass internal and external corruption. The same approach is starting to be followed by companies in emerging markets that desire a global reach.

**Components of an effective program**

Research does not support claims that U.S.-style compliance systems encounter serious resistance in other cultures. Basic compliance systems often require significant adaptation, but they are much the same in companies around the world. Anticorruption programs in companies from all sectors and regions share three components: a clear statement of values strongly supported by top management, training and dissemination grounded in the experience of company staff, and effective information and support systems.

The challenge for companies is to formulate core principles and implement credible procedures adapted to local business cultures. In particular, for companies operating in industries with substantial local ownership (as is common in China), the need to adapt training, dissemination, and information systems to local customs is more than an intellectual exercise.

**Values**

Ethics programs that respond to risk management needs are part of an inclusive process that draws on a company’s collective intelligence and experience. Employees from all regions, businesses, and job categories participate in surveys and discussions to formulate values statements and warning systems. For example, as part of its most recent code drafting process, Merck surveyed 22 percent of its workforce. As part of this dynamic process each component is periodically reviewed for relevance and effectiveness.

Company leaders should be actively involved in values formulation. Board members and managers must participate visibly in code drafting and program design.
Training and dissemination
Consistent with the view that every employee's conduct exposes a company to risk, most compliance programs now require that all employees—not just managers—have some familiarity with company codes and practices and discuss their practical application. Senior executives and employees involved in critical functions such as sales or procurement typically receive more extensive training.

Case studies, often drawing on a company's experience, are invariably part of ethics program discussions. Not surprisingly, the most debated issue is the fine line between facilitating payments and bribes. Sometimes at a company's insistence, and increasingly at their own request, suppliers and joint venture partners engage in these discussions. Companies strongly prefer to use their own senior executives as trainers. Where consultants are involved, it is often to train the trainers.

Information and support systems
Of the three components of ethics systems, warning systems confront the most cultural resistance. But research and company experience have found successful warning systems in most regions and industries, indicating that generalizations about the unwillingness of people in certain cultures to use these systems—lest they be seen as “informers”—are vastly overstated. A company manager based in China, for example, confirmed that whistleblowing occurs there and that about 40 percent of the informants identify themselves. Resistance to whistleblowing may be more rooted in a company's culture than in the country where it is doing business.

Most warning system hotlines evolve from an initial stage where employees call in with every kind of complaint, to a phase where legitimate irregularities are discovered, to a final stage where callers seek advice and are counseled to avoid bad decisions.

Are ethics programs effective?
Company spokespeople say that their ethics programs work. They cite records of participation in training programs and surveys confirming employee interest and involvement in these discussions. An even more important measure may be the use of hotlines. A heavy volume of relevant, serious complaints is a positive sign—but company spokespeople say that the ultimate indicator of success is heavy user reliance on the complaint process for advice rather than to report infractions requiring remedial action.

Whether successful or not, companies are being under growing pressure to assume more responsibility for compliance. Using incentives to encourage self-monitoring can be more cost-effective than sanctions-based public enforcement. Self-monitoring is especially useful in countries with limited resources for law enforcement.

More difficult to assess is the impact of self-monitoring on anticorruption policies in host countries, though there is evidence of companies losing business as a result of a strict stand on corruption. But there are also cases where an adherence to principles delivers rewards: a telecom company regained lost business when political upheaval in an East Asian country voided corrupt deals entered into by a previous administration. The research indicates, however, that companies faced with extortion often prefer to stay silent and not use local anticorruption agencies.

A prerequisite: good corporate governance
Practitioners recognize the link between good corporate governance and effective anticorruption programs. The 1997 East Asian financial crisis showed that weak corporate governance can result in widespread, damaging corruption. The increase in anticorruption programs in the private sector coincides with the recent global focus on corporate governance.

At the operational level this link is straightforward. Because bribery is universally prohibited, it requires “creative” accounting and dissimulation that are incompatible with modern accounting and disclosure standards. This core principle is explicitly recognized in the OECD convention on corruption.

Surveys conducted by the Conference Board since the mid-1980s have shown, in
every region, steadily increasing involvement by boards of directors and audit committees in the formulation and delivery of ethics programs. For example, a 1987 survey found that 21 percent of company boards played a role in ethics programs; by 1999 this figure was 78 percent. Almost one-third of the companies responding to the most recent survey cited “heavy” board participation. Not surprisingly, case studies show that good corporate governance of affiliates is crucial for effective anticorruption programs in large corporations—particularly those operating through joint ventures.

Spreading the good word
Benchmarking and experience sharing are primary mechanisms for disseminating best practices on anticorruption efforts. This kind of information sharing is also used to establish commitment among industries and regions. Associations of motivated executives with international exposure have been key factors in the recent proliferation of ethics programs in Japan through the Business Ethics Research Center. Similarly, the Federation of Korean Industries used U.S. experiences to design its model program.

Large multinational and regional corporations also play a role. Jardine, from Hong Kong (China), is imposing strict ethical requirements on its suppliers. Merck’s Korean branch has been instrumental in promoting a code for that country’s pharmaceutical industry. Anticorruption dissemination efforts can also build on existing networks—such as the Institute of Corporate Directors—dedicated to promoting good corporate governance in emerging markets.

Public regulators increasingly catalyze best practices in the private sector—as with the U.S. Securities and Exchange Commission and the Hong Kong (China) Independent Commission Against Corruption. Combining legislation with incentives for self-regulation is a pragmatic way to combat corruption on the supply side.

Further reading

This note was written by Ronald E. Berenbeim (Principal Researcher and Director, Global Business Ethics Programs, Conference Board, ronald.berenbeim@conference-board.org) and Jean-François Arvis (Private Sector Specialist, East Asia and Pacific Region, jarvis@worldbank.org).
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