STUDIO ETICA
Compliance & Ethics Consultancy

Measuring Ethical Culture

The challenge

When the U.S. Department of Justice recently updated its "Evaluation of Corporate Compliance Programs," [1] the enforcement agency unambiguously underlined how important it is for a company to create and foster a culture of ethics and compliance. But how does a company measure its culture of compliance, and what steps does it take in response to its measurement of the compliance culture?

These are the questions prosecutors will ask when investigating organizations and assessing the effectiveness of their compliance efforts.

For the record, this is not the first time prosecutors and regulators have emphasized the importance of ethical culture. When the U.S. Federal Sentencing Guidelines were amended back in 2004, the notion of ethics was added to the definition of an "effective program" (in addition to having compliance standards and procedures, the organizations are expected to "otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law") [2].

Since then, agencies have emphasized the role of ethics in the prevention and detection of criminal conduct.

"A strong ethical culture directly supports a strong compliance program." [3]

By doing so, prosecutors and regulators aim to look outside the traditional law enforcement toolkit — clearly not sufficient for the complex challenge of dealing with human behavior. Therefore, it is likely evident that addressing ethics is a prerequisite for a compliance and ethics program to qualify as "effective."

Can culture be measured?

Ethical culture is clearly one of the most challenging components of a compliance and ethics program in terms of reliable measurement. Culture of an organization is all about how things get done without people having to think about it or, put differently, how people behave when no one is watching. Therefore, even in cases where a company has not studied or tried to define its culture, the existing norms of behavior silently govern employees' daily actions and judgments.

"Culture expresses shared assumptions, values, and beliefs and is manifested in many ways, including formal rules and myths, norms of daily behavior, physical settings, modes of dress, special language, myths, rituals, heroes, and stories." [4]

Following from the definition, it is evident that culture will inevitably vary across companies. In this case, how can we develop a comprehensive understanding of what constitutes an ethical culture yet versatile enough to accommodate the uniqueness of every organization? Instead of simply surfacing common patterns of behavior, we need to look at the key underlying elements.

Ethical Culture Components

Studio Etica has developed an approach to ethical culture measurement that provides organisations with key performance indicators of a robust ethical culture that can help predict the kind of ethical scandal which could damage their reputation and their bottom line. Based on our expertise in checking and measuring corporate behavior, we have identified **6 key drivers** which determine ethical behavior and underpin sustainable success.

Leadership has traditionally been associated with the ability to influence and motivate others, that's why it plays an important role in the organizational culture. Ethical role-modeling requires constant engaging in ethical conduct, but not only. A focus on inclusion that invites employees to "bring their whole selves to work," together with engaging two-way communication on ethical issues feeds employees' psychological safety. On the contrary, abusive conduct such as yelling, humiliating, backstabbing, etc. fosters toxic culture and incivility at the workplace which may lead to serious compliance violations.

"… in a corrupt culture leadership is complacent and hierarchical." [5]

Achievability of targets, goals, and tasks. The way goals are set affects people's behavior; therefore, a company's goal-setting and incentives structure probably offers the best indicator as to whether compliance is taken seriously. According to recently published research on toxic cultural elements, unrealistic targets and belief in growth at all costs foster the environment of high pressure and stress [6]. To alleviate the strain, employees may respond by violating laws and internal procedures. On the contrary, the better equipped people in an organization are, the better they are able to do what is expected of them.

Moral imagination. Awareness of ethical issues is a necessary precondition of ethical decision-making. Acting morally often requires more than just strength of character – people need to see the ethical dimension of their actions to take it into consideration when solving an ethical challenge. Lack of moral imagination may lead to ethical blindness when employees cannot discern the ethical nature of certain issues. Low moral awareness is also indicative of an organizational culture with insufficient ethical focus.

"Moral awareness is a person's recognition that his or her potential decision or action could affect the interests, welfare, or expectations of the self or others in a fashion that may conflict with one or more ethical standards." [7]

Communication. As Muel Kaptein points out in his **book** *Why Good People Sometimes Do Bad Things*, the more room employees have to talk about moral issues, the more they do this, and the more they learn from one another [8]. And it's not only about speaking up on ethical breaches — openness to a discussion of viewpoints, tasks, emotions, and dilemmas, in general, is a prima facie indicator of the organization's ethical focus. Obstructed communication, when employees are afraid to speak out because there will be no response or, even worse, they fear retaliation fosters the culture of silence squarely at odds with ethical orientation.

Organizational justice. Although organizational justice is commonly associated with personnel-related decisions (pay, rewards, evaluations, promotions, assignments, and dismissals), whether employees are treated fairly tends to be a high marker of ethical culture as well. Just as the perception of organizational justice promotes positive attitudes to job satisfaction and performance improvements, it fosters the atmosphere of trust and greater willingness to 'do the right thing'.

"When applying double standards is a regular practice, employees are likely to experience some level of corporate cognitive dissonance." [9]

This 'hypocrisy' could cause cynic attitudes and lead to unethical conduct. On the contrary, management walk the talk and consistent follow through on ethical violations in a fair manner will send a strong signal – your justice expectations are taken seriously. This is an impactful motivational factor to respect the agreed-upon rules and procedures.

Accountability. Clarity as to what constitutes desirable and undesirable behavior together with a willingness to take responsibility, especially if things go wrong, is another important "qualifier" of a company's ethical culture. [10] The clearer the expectations, the better people know what they must do and the more likely they are to do it. Commitment to shared values by directors, managers and employees pays off, as there will be less tendency to shift the blame to "bad apples" or "rogues," assigning responsibility for ethical lapses to individuals. That would allow addressing the broader organizational elements that have sustained the misconduct and strengthen the company's ethical focus.

Methodology of surveying

From these drivers we have identified 25 key culture statements which are used to undertake an Ethical Culture Assessment. Employees are asked to respond to the statements on a 1 to 5 scale (strongly agree, agree, don't know, disagree, strongly disagree). The types of surveying include the following methods:

Leadership Interviews

Because of the importance of the role of leadership in defining and maintaining a strong organizational culture, understanding their perceptions using a structured interview process is a cornerstone of culture assessments.

This may include interviews with members of the Board of Directors, the senior management team, subject matter experts and others who, because of their responsibilities, can provide valuable insights & perspective.

Each interview should be scheduled for approximately 45-60 minutes. Telephonic interviews, though not ideal, may supplement in-person interviews, if necessary.

Online polling

The major advantages of online surveying include its cost-effectiveness and efficiency. They are easy to organize and run and provide analytics that allow company leaders to

identify areas of organizational strength, opportunities to improve, and trends over time, while the anonymity of respondents is guaranteed.

On average, the whole process takes 6 to 10 weeks and starts with a kickoff meeting to discuss objectives, process, and project timeline. Then the survey template is reviewed for demographic criteria, custom data points and actual questions. If applicable, survey and communications are translated, and then QA'ed and tested for deliverability. If everything works fine, the survey is released to employees. Default run time is 3 weeks with targeted reminders. In the end you get the findings.

Focus Groups

Focus groups enable you to learn about employee perceptions of ethical culture qualitatively, and to understand the cultural and attitudinal underpinnings of effective leadership efforts. They also provide the opportunity to do a "deep dive" into a location, function, risk area or business unit as needed.

Many companies use surveys to address these types of questions, and surveys have great value. Management in most organisations is very interested in rigorous quantitative information. Surveys, however, often raise as many questions as they answer. Why do 62% of employees fear retaliation? A trained assessor can probe for reasons behind each answer and make a much more comprehensive report to management about how to respond to any negative results.

For this reason, we recommend using focus groups as a complement to any survey processes or to conduct intensive analyses into areas of special concern for the company. Understanding the underlying reasons for employee perceptions is as important as understanding the perceptions themselves.

One of the biggest concerns we hear about focus groups is that employees will be fearful of attending and will not talk. On the contrary, employees often say afterwards that they were surprised to find they enjoyed the session and were pleased that the company wanted to hear their opinions.

Results and Analysis

Survey questions are developed based on our 25 culture statements with responses made on a scale from 1 to 5. The quantitative data set resulting from the surveys is analyzed to provide a net score. We aggregate responses and apply statistical color coding using a continuous scale from red to green. This provides a benchmark against which a company's ethical culture can be judged good, average, or poor.
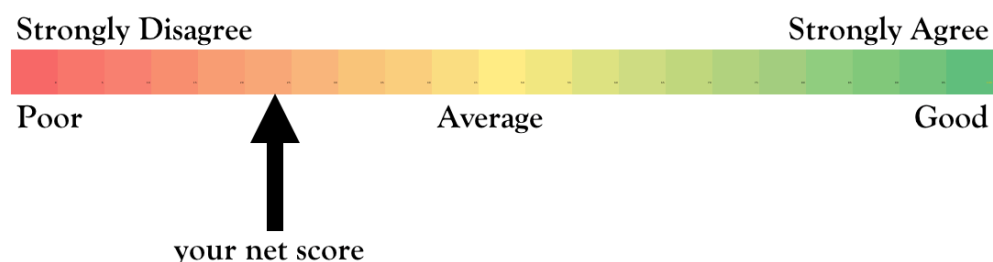
Typically, providing written reports and/or PowerPoint presentations summarizing your results will provide the key basics. The survey is anonymous but asks for

demographic characteristics. This will enable you to slice and dice the results of your Ethical Culture Assessment in multiple ways including:

- by culture component;
- by question;
- by employee seniority;
- by function/department/division;
- by office location.

Addressing ethics is a prerequisite for a compliance and ethics program to qualify as effective for regulators –recent guidance from DOJ has once again confirmed this understanding. The regulator is expecting organizations to proactively measure and manage the culture of compliance and ethics, and the good news is that the body of research in the field offers a wide range of instruments to do that.

Choose the one that fits best with your organization. Whether you are running a culture survey or commit to in-depth leadership interviews and employee focus groups, be sure to measure the key underlying ingredients of an ethical culture instead of surfacing common patterns of behavior. Only that would yield useful insights.

To learn more about **Studio Etica** and our solutions, tailored for various compliance stakeholders, please visit our website: www.studioetica.com

Endnotes

[1] US Department of Justice Criminal Division, Evaluation of Corporate Compliance Programs, 2019, p. 9, 15

[2] US Sentencing Commission, The Federal Sentencing Guidelines, 2018, Chapter 8, Section B2.1

[3] Criminal Division of the U.S. Department of Justice and the Enforcement Division of the U.S. Securities and Exchange Commission, A Resource Guide to the FCPA U.S. Foreign Corrupt Practices Act, 2012, p. 57

[4] Linda Klebe Trevino, Managing Business Ethics: Straight Talk about How to Do It Right, 2016, p. 159

[5] Alison Taylor, How Understanding Organizational Culture Can Help Us Assess Compliance Programs, (Accessed 20 December 2019). https://wp.nyu.edu/compliance_enforcement/2019/02/12/how-understanding-organizational-culture-can-help-us-assess-compliance-programs/#more-6315

[6] Benjamin van Rooij, Adam Fine, and Judy van der Graaf, Detoxing Corporate Culture: How To Assess Toxic Cultural Elements, https://wp.nyu.edu/compliance_enforcement/2019/02/04/detoxing-corporate-culture-how-to-assess-toxic-cultural-elements/ (Accessed 20 December 2019).

[7] Butterfield, K. D., Trevino, L. K., and Weaver, G. R. (2000). Moral Awareness in Business Organizations: Influences of Issue-Related and Social Context Factors. Human Relations, 53, 981-1018.

[8] Muel Kaptein, Why Good People Sometimes Do Bad Things: 52 reflections on Ethics at Work, 2012, p. 7-8.

[9] Benjamin van Rooij, Adam Fine, and Judy van der Graaf, Detoxing Corporate Culture: How To Assess Toxic Cultural Elements, https://wp.nyu.edu/compliance_enforcement/2019/02/04/detoxing-corporate-culture-how-to-assess-toxic-cultural-elements/ (Accessed 20 December 2019).

[10] Muel Kaptein, Why Good People Sometimes Do Bad Things: 52 reflections on Ethics at Work, 2012, p. 7-8.
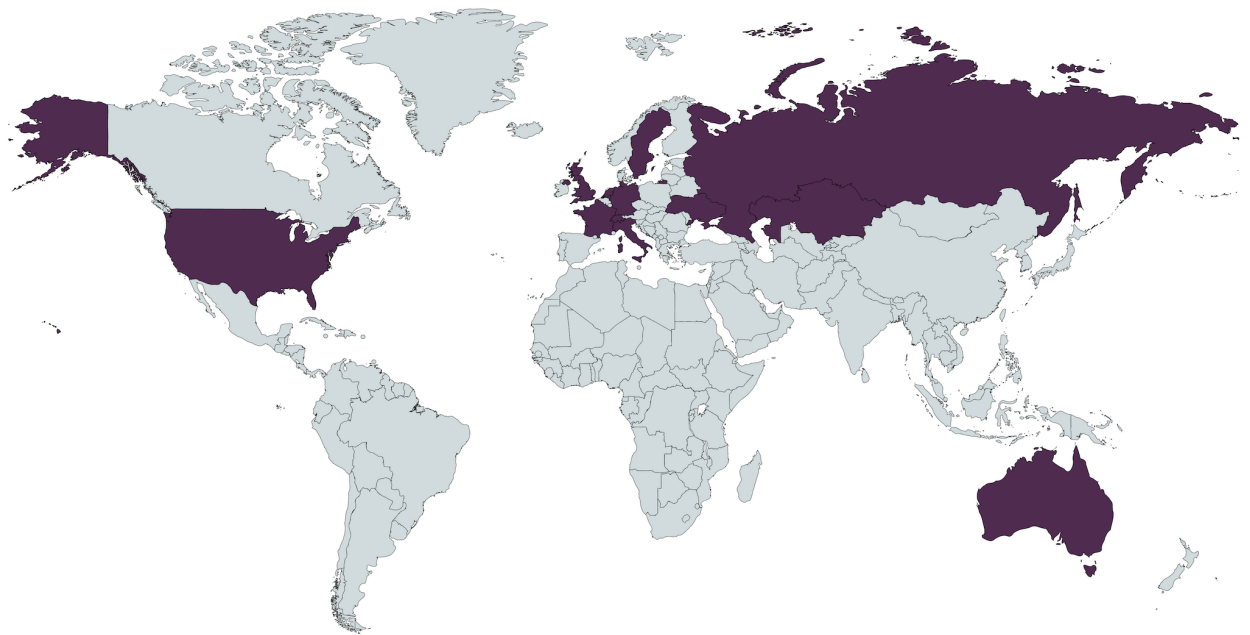
About Studio Etica

Studio Etica is a boutique consultancy that provides advice on corporate ethics and compliance programs to companies around the world. We are dedicated to working with our clients to design, maintain and optimize world-class programs with a focus on a strong, values-based culture. **Studio Etica** focuses on helping organizations achieve cultural transformations that not only drive legal compliance but lead to enhanced integrity and positive behavioral change. We are convinced that ethical culture is central to the meaningful compliance program that delivers actual results.

About the Author

Vera Cherepanova, a former Regional Compliance Officer and author of 'Compliance program of Organization' is the founder of **Studio Etica**. Vera's background includes working on-the-ground in Eastern Europe, CIS and Russia, one of the key emerging markets. Taking her experience in addressing cross-cultural challenges of ethics and compliance, Vera currently consults with international corporations, non-profits, wholesale and retail establishments, and small-to-large businesses, advising them on E&C programs.

Vera is an experienced speaker in the compliance profession and a regular contributor to prominent ethics & compliance blogs, including FCPA Blog, Corporate Compliance Insights, and SCCE Compliance & Ethics Blog. An accomplished compliance professional, in 2011 and 2016 awarded for "Best Compliance officer" at the International Compliance Association in Compliance Awards. Vera speaks Russian, English, French, and Italian.

Where we have worked

United States	France	Switzerland
Russia	Ukraine	Germany
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