

Good corporate governance
and ethical culture:

Is it a choice or dilemma?



Being ethically right is subjective and there is no right or wrong as cultures differ.

Mr Vallo Mutto of **Avicennia Capital** says a good corporate governance process should allow people to decide to make the right decision and the company's structure and culture should guide that process of choosing the right decision.



The role of governance covers legal, regulatory, risk management, compliance, board oversight and any additional responsibilities that may be assigned by the board.

This includes advising on directors' duties, Companies Act and other statutory requirements, board governance principles, implementing board decisions, assisting directors' recruitment and induction including continuous professional development training, monitoring directors' fee and remuneration, administering board committees, ensuring effective information flows between board and management, implementing board terms of reference and directors' handbook, carrying out board performance evaluation, enforcing and monitoring compliance and assisting the company to achieve its vision, mission and strategy.

Protecting integrity and promoting healthy ethical values

One of the important roles within governance is to enforce a compli-

ance framework in order to protect the integrity and to promote healthy ethical values and behaviours within a company.

Depending on the company, the role may hold different titles such as Chief Governance Officer, Company Secretary, Chief Financial Officer, Chief Risk Officer or Chief Legal Officer.

Regardless of experience and educational background or the title, that person will play a significant role in establishing and ensuring the level and quality of the company's ethical culture and practices. These are critical success factors that will drive good governance and assist the company to achieve its vision, mission and strategy.

Ethics differs in cross-cultural and multi-jurisdiction environment

Governance may mean different things to different people.

The general interpretation is that it encompasses subscribing to ethical business values and conduct both in support of the objective of maximising the shareholder value on a sustainable basis and in ensuring equity to other

stakeholders, namely, employees, customers, suppliers, service providers, investors, government and the public or society as a whole. In today's borderless business environment, it will be the wider global society.

Being ethically right is subjective and is compounded by the fact of what is right in one culture becomes totally unacceptable in another. The borderless business environment and the increasing presence of multinational companies ("MNCs"), and even institutions from smaller and emerging economies are going abroad investing regionally and globally, increases the challenges in implementing or adapting to what is ethically right in a cross-cultural and multi-jurisdiction environment.

For example, streamlining the governance standard and implementing a consistent ethical standard across the group companies operating in different jurisdictions, cultures and business objectives, is not an easy task!

Competition and globalisation makes consideration of ethics harder

What can be far more challenging is the consideration or a need to compromise for the adaptability of differing ethical standards.

Although what is ethically or morally right may not always be clear to everyone, the challenges from increasing competition and globalisation elevate the complexity especially with sophisticated international laws, regulations and standards. The consequence of such a mistake or wrong call can place the company's reputation at risk and bring disrepute to its performance, long-term business objectives and ultimately, its existence.

Good governance process should allow for making the right decision

Good governance process should allow people to decide in making the right decision. The company's structure and culture should guide the process of choosing the right decision—what is ethically and morally correct, and what is the right thing to do when faced with governance dilemma?

If you looked back in time, it was about the "haves" and "have nots" where businesses and corporations

exploited the system in the form of slavery and colonisation.

Each of these business practices then reflected the norms of business of their time and these norms and behaviours were questionable and became unacceptable over time.

The business ethics prevalent today evolved from that state because of the general improvement in the level of education, literacy, awareness and supported by professional societies, centres of business ethics, journals, media and so on.

"Gory stories"

Good ethics must be an actionable process of ethical behaviour that must be practiced consistently across the entire system within a company including the supply chain. Good ethics must be in tandem with the support of the right tone from the top management.

We have heard many gory stories involving some MNCs – while they claim to have high ethical values and stands for good governance standards, this may differ significantly compared to what is practiced within their group companies across the globe.

For example, you will remember the story exposed in media in 1992 involving a well-known global brand in sports that, based on its business model, had outsourced the production of its sportswear to contractors in Asia who had abusive labour practices. The sports company was shamed in public that badly tarnished its image and affected sales, although later managed to turn its image around.

In another case, an ex-employee of an aero-engine manufacturer posted claims in the internet that the company had paid bribes (US\$25 million and a Rolls-Royce car) to obtain orders in Indonesia but the company ignored the claim until the UK Serious Fraud Office raised the issue.

The investigation found evidence that the company's agents had paid substantial bribes to influence contract decisions in Indonesia, China and several other countries. The UK Bribery Act 2010 and anti-corruption law prohibits any form of bribery. How will companies deal with countries where bribery is rampant and what would you do if you were in this position?

The more recent example would be in relation to the development of drug cartel in Mexico and other countries

that brought an international bank before US Senate hearing, where the bank was accused of assisting the drug cartels launder money from drug activities (refer to the Report by the US Senate Permanent Subcommittee on Investigation issued in July 2012). As a result, the bank suffered reputational damage, had to pay penalties and its share price fell significantly.

In the cases mentioned above, it appears that inconsistent practices in business ethical standards within the companies will have adverse implications on the performance and investor confidence in the company.

Behaviour at the top must be consistent

As stated by Tricker and Tricker, business ethics concern both behaviour in business and behaviour of business, and decisions at every level in a company will have ethical implications – strategically at the board, managerially throughout the company and operationally in all its activities (Bob Tricker and Gretchen Tricker, *Business Ethics: A Stakeholder, Governance and Risk Approach*, 1st edition, 2014).

In summary, the top management must walk the talk in order for everyone involved with the company to have clarity of the company's values and beliefs. Ethical values and beliefs are not something to be compromised upon and should be practiced with conviction.

The behaviour at the top must be consistent and unwavering, and the implementation of good governance should not be seen as a cosmetic programme. In addition, business objectives that just maximise profits and shareholder returns which compromise ethical values should be avoided at all cost.

As such, the choice or dilemma of doing the right thing should be demonstrated by the top management and practiced consistently across the group companies. Although the choice or dilemma are not always a matter of right or wrong, the final decision should be built around a set of high business ethics with the interest of all stakeholders in mind in order to protect the company's long-term business objectives. ■