
Business Ethics: How the Code of Conduct's Superficiality Can be Combated by Supplementing Decision-Making with Internal Advisors

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Abstract

This paper examines how internal advisors can enhance ethical decision-making beyond the scope of a corporate code of conduct, using a case from a major Dutch financial institution. The case study explores a decision involving a loan request for selling laughing gas, where the internal advisors' assessment went beyond legal compliance to consider ethical implications, potential consequences, and stakeholder interests. The analysis highlights the use of ethical theories such as consequentialism, deontology, and stakeholder analysis, demonstrating how internal advisors can provide a human and interactive dimension to ethical decision-making. Ultimately, the paper underscores the importance of integrating internal advisory roles with corporate codes of conduct to foster comprehensive and ethically sound decisions.

Introduction

A corporate code of conduct can best be described as an instrument used by employees to govern their behavior and for the organization itself to establish a responsible culture that fosters ethical decision-making (Erwin, 2011, p. 535). They are also frequent on national and international levels in fields such as consulting, e.g. the Dutch OOA code (2022). This could well be because of the moral concerns about consultants, often criticized for being rationalizers and neo-imperialists (Sturdy, 2009), but also due to the rising importance of ethical reputation (Poulfelt, 1997). No matter the level, the aspirations of such initiatives are to help employees act in a more ethical way, by clarifying some basic rules of the game.

However, codes of conduct are often criticized for being too superficial and mechanical to adhere to the real world (Allen & Davis, 1993, p. 456), while tending to make individuals responsible rather than the organization itself (O'Mahoney, 2011, p. 105). The superficiality could well be because they are voluntary, not to be confused with concrete laws to adhere to, meaning their importance depends solely on organizations choosing to integrate and use them. To even out the responsibility, a vast amount of larger organizations, specifically in consulting and financial services, have established the usage of their own internal advisors with the goal of obtaining a human and interactive dimension to the art of making ethical decisions, that a code of conduct cannot provide on its own (Green, 2017, p. 417).

This essay will explore the question of “how can internal advisors supplement the code of conduct in making ethical decisions?” by exploring a case example from one of the biggest financial institutions in the Netherlands.

The Case

The case presents an exemplary usage of how the internal advisors facilitated an ethical decision that not only adhered to their code of conduct but also included and encouraged other considerations, counting a bad gut feeling.

In 2017, a Customer Due Diligence Analyst was approached by a client, a bar owner, who wanted to loan money so he could sell laughing gas to his younger clientele. Laughing gas had just been legalized in 2016 for recreational use in the Netherlands, and the bar owner saw a business potential that could give his bar a competitive advantage. With this loan, he believed he could keep his clients for the whole night, as he could offer them more than just alcohol. Although it legally was allowed to sell the drug, the Customer Due Diligence Analyst had a bad gut feeling and shared their worry with the internal advisors.

The internal advisors gathered together to figure out what was of most importance in this situation – the law or the gut feeling? The bar owner making a profit on something legal yet controversial, or the potential contribution to the bad statistics? With an evaluation of the consequences of laughing gas, a thorough balance of what is right and wrong, and an assessment of the involved stakeholders, finalized with a sheet of arguments for and against the financing, they supplemented their code of conduct and eventually decided that the rationalized gut feeling triumphed and declined the bar owner's request.

What strengthens the ethical decision-making in this case, is the fact that the Dutch government in 2023 realized they had made a mistake, and as a consequence chose to de-legalize the recreational use of laughing gas because of the addictions it fostered. Had the financial institution merely adhered to the law, the minor decision could have ended up being major, putting their reputation at stake.

Let us further explore the methods performed by the internal advisors related hereto.

The Code of Conduct

The financial institution's code of conduct serves as a compass with four guiding principles of being client-driven, cooperative, professional, and taking responsibility (Compass, 2023). When looking through the content of the compass, it's clear that the compass' values complement the inherent values proposed by the internal advisors in the decision-making. Under client-driven, the main focus states that "in our relationship with customers and stakeholders, we strive for openness" accompanied by "I carefully weigh the interests of customers, the bank and society" (p. 4). In cooperative, solving problems needs to be "in line with laws and regulations" (p. 5). Being professional fosters that "risks and dilemmas are discussed openly" while they "weigh up risks and opportunities carefully" (p. 6). Finally, responsibility is taken by "reflecting on indications and findings and acting on them" (p. 7). As the guiding principles have been settled, we now explore the case in ethical theories.

Consequentialism

Consequentialism is an ethical theory that judges what is right or wrong solely by its consequences. It builds upon the doctrines of utilitarianism, utilizing what is right by the good it brings (Sinnott-Armstrong, 2023). Although the law advocated for laughing gas, the internal advisors adhered to the factual consequences of the drug when evaluating whether the bar owner could get a loan for his competitive advantage; "Addiction and accidents, that were the main problems. Well, it was not seen as a real problem then, it was only considered to be minor" (P.c. interviewee). Here, laughing gas' vital role in traffic accidents and it being highly addictive balanced out the rightfulness of the law. It is also worth noting that although it was only considered a minor problem back then, the internal advisors still deemed the consequences to be more damaging than good, and made a decision to not contribute to future statistics related hereto. This is the essence of consequentialism – "what is best or right, is whatever makes the world best in the future, because we cannot change the past" (Sinnott-Armstrong, 2023).

Deontology

Deontology, on the other hand, is also an ethical theory but it judges what is right or wrong based on virtues such as principles and values (Thomson, 1985). As people come from different backgrounds, it can be more complex to deem what is right or wrong from a deontological view (Larry & Moore, 2021).

A way to combat this notion by the internal advisors was by conducting an “argumentation column” (Dutch Banking Association, 2020, p. 3), balancing out the right with the wrong. Although to many people’s inner compass of values it might be inherently wrong to luxuriate on drugs, the law at the moment stated it was rightful which the internal advisors acknowledged; “For instance, well, this bar owner should be free to do everything he likes. Or he can make a profit from it” (P.c. interviewee). Opposingly, the gut feeling, consequences of laughing gas, and targeting of younger people proved as wrong, outbalancing the right present.

Being able to see the dilemma from multiple perspectives leads us to the final ethical theory that can be combined with the internal advisors’ decision-making in this case.

Stakeholder Analysis

What the internal advisors also did was look at the dilemma through the stakeholders as the primary unit of analysis, automatically giving the dilemma a dual perspective deriving from the client always being right. Additionally, this theory suggests that a code of conduct cannot be enough on its own (Krehmeyer & Freeman, 2012), which takes into consideration the internal advisors conducting the argumentation column.

There are several stakeholders in this case: the financial institution, the client (the bar owner), the prospective clients of the client (younger people), the internal advisors, the society as a whole, the government as a legislator, and the role of the media, all of which were considered in the decision-making. What is interesting to note is that even though society and media are “hidden” stakeholders in this case, the majority of the information gathered originated from these two. This shows how beneficial it can be to broaden the view when making decisions, weighing the interests out equally, as described in the compass.

Conclusion

Concluding the question “how can internal advisors supplement the code of conduct in making ethical decisions?”, this case highlighted the importance of adhering to the financial institution’s internal code of conduct, but also showed how it can be supplemented by various components prosing to discuss whether the law could be trusted blindly. By acknowledging which consequences are related to laughing gas, the deontology of what is right and wrong, and the different stakeholders’ presence, the internal advisors conducted a comprehensive argumentation column built upon the four guiding principles of their compass, resulting in rejecting the bar owner’s request.

What is equally the moral of the essay is the courage to speak up if something doesn’t feel right, even though it objectively should. Had the Customer Due Diligence Analyst not shared their worries, who knows how many addictions and fatalities the bar owner and the financial institution could have on their conscience?

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