

any companies recognise the importance of high-level management commitment in the development and implementation of an effective compliance programme, as evidenced by the repeated emphasis on establishing the 'tone from the top'.

Without clear demonstration of CEO and board-level dedication to promoting a culture of integrity within the firm, the statements and procedures communicated in a code of conduct or internal policies will bear little resonance among employees and external stakeholders – or law enforcement and regulatory agencies in the case of a breach.

Despite the widespread and increasing enactment of anti-corruption compliance and ethics programmes, however, firms continue to face corruption challenges that can severely

## William Nero examines the role of leadership in driving a collaborative and sustained fight against corruption

hamper their operations in certain markets. It is in this context that anti-corruption Collective Action has emerged as an additional tool for companies seeking creative and collaborative solutions to mitigate bribery and corruption risks, while concurrently promoting a level playing field and a corruption-free business climate. By working with competitors and other stakeholders in civil society, government, or even other industries, Collective Action takes compliance and ethical business practices beyond a firm's own internal policies and procedures and instead seeks to raise standards among all market participants.

Forward-thinking CEOs and boards are

encouraged to adopt this clear shift towards business-driven integrity. For, as in the case of an anti-corruption compliance programme, strong leadership is a vital component towards the success of Collective Action.

## Anti-corruption Collective Action

Variously defined as a 'catch-all term for industry standards, multi-stakeholder initiatives and public-private partnerships' or as 'a collaborative and sustained process of cooperation amongst stakeholders (that) increases the impact and credibility of individual action, brings vulnerable individual players into an alliance of like-minded organisations and levels the playing field between competitors', Collective Action initiatives can be sector-specific or multi-sector based and can involve participants beyond the private sector.

They may be differentiated by the level of enforcement applied to the commitments made by the firms involved, whether it be a signed





Top management

declaration committing all stakeholders to operate free of corruption or more complex varieties that include ethics boards, external monitors or

commitment is very important

to a firm's involvement in the

mechanisms for sanctioning non-compliance. A number of Collective Action initiatives have taken shape over the past two decades and across a number of sectors, including banking, energy and transportation, extractive industries, aerospace and defence, as well as multi-sector initiatives. Civil society representative Transparency International has long supported Collective Action through its Integrity Pacts, a tool developed to improve transparency and prevent corruption in public procurement. The B20 recommendations from Los Cabos in 2012 highlighted the importance of Collective Action and encouraged business involvement. The recommendations led to the creation of the B20 Collective Action Hub, a repository of anticorruption Collective Action initiatives and tools, hosted by the Basel Institute on Governance through its International Centre for Collective Action (www.collective-action.com) which also develops and facilitates initiatives.

Although there is no 'one-size-fits-all' approach, several elements have been observed that contribute to the successful establishment and operation of a Collective Action initiative. Facilitators from civil society can support the initial creation of an initiative, which, as a business-driven undertaking, should be led by companies. This is often easier when taken up by a leading player within the industry, though it is not essential. The involvement of facilitators also mitigates anti-trust issues and enables a neutral basis from which to identify issues of common interest. Allowing time for companies to develop trust and understanding are also important to the success of an initiative.

Underscoring all of these elements is the support of senior leadership, as this will bolster the chances of success and exemplifies business-driven integrity.

## The importance of top-level commitment

Senior management is attuned to the company's reputation risks and business goals and has the power to command support for driving a Collective Action initiative. In practice, the general counsel, chief compliance officer and the CEO are likely to be the decision makers when it comes to initiating or joining a Collective Action as they know where the firm's corruption risks lie. Having decided to pursue Collective Action, senior management must then delegate suitably experienced and senior persons to represent the company at the discussions to develop the Collective Action. By establishing a clearly articulated vision of where

anti-corruption Collective Action fits within the company, its anti-corruption compliance and in relation to its competitors and business environment, management is on a good path towards contributing to the initiative's success.

Appointing the right people to represent the company and to sit opposite peer companies and competitors will contribute to the initiative's chances for success and show management's clear commitment to the initiative, both internally as well as to the other companies represented. Equally, the representatives of the participating companies will be empowered by the knowledge that their efforts have the complete support of top management. This is critical due to the length of time required to develop consensus and build trust. Should the participants during the course of the discussions have doubts as to the internal reasoning behind or commitment of their firms' engagement, this could create hurdles that hinder its effectiveness or lead to its breaking down. In sum, top management commitment is very important to the firm's involvement in the Collective Action initiative, thus contributing to its potential for real impact.

As a facilitator and incubator of Collective Action initiatives, the Basel Institute on

Governance has witnessed how senior management commitment influences the contours, direction and ultimately success, of a Collective Action. In 2004, under the World Economic Forum (WEF) and in partnership with Transparency International, the Basel Institute served as a founder of the Partnering Against Corruption Initiative (PACI), which brought together CEOs from engineering and construction, mining and metals and the energy sector. This initiative of now nearly 100 companies is a leading global voice on anti-corruption and transparency. Further bolstering its CEO-driven agenda, PACI has recently established the PACI Vanguard, a CEO community from within WEF and PACI members that aims to further direct the PACI strategy through sustained and high-level business-government engagement with particular emphasis on anti-corruption Collective Action.

In an industry sector example, one group of companies to whom the Basel Institute has served as a facilitator demonstrates how the support of top management has been critical to the progress made by the companies involved. In this initiative, the representatives at the table themselves come from the highest levels of compliance and legal areas within their respective firms. At times during the discussions, the representatives have stressed to their counterparts that the work that they are doing together to develop the Collective Action is fully supported by their respective CEOs, with whom the representatives have direct contact. This has allayed concerns that have arisen and contributed to the trust between the parties. Conversely, a different industry group is represented by more junior level compliance personnel who continually have to revert to their managers, thus hindering the discussions and hampering progress towards any common goals.

## Moving Forward

With enforcement actions against companies engaging in bribery continuing to increase, top management is becoming more aware that it makes business sense to work with other stakeholders to remove corruption from the business environment. This relationship between top management, the tone from the top and Collective Action is further reinforced by government authorities.

The UK Ministry of Justice's Guidance on the 2010 UK Bribery Act makes explicit reference to this in Principle 2, entitled 'Top-level commitment'. Section 2.3: "Internal and external communication of the commitment to zero tolerance to bribery" states that demonstrations of this commitment can include reference to an organisation's engagement in Collective Action against bribery.

Collective Action should remain at the forefront for CEOs and boards looking beyond risk mitigation and towards improving the overall business environment and levelling the playing field. Their commitment and leadership role will play a key part in the chances for success of these endeavours.