Business Integrity: Maintaining Transparency and Accountability Through the COVID-19 Crisis

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“As countries face undeniable emergencies, concentration of power, derogation of rights and freedoms, and as large amounts of money are infused into the economy to alleviate the crisis, corruption risks should not be underestimated,” said Marin Mrceia, the president of the Group of States against Corruption (GRECO), an anti-corruption monitoring body that is part of the Council of Europe.

The body published advice for its 50 member countries aimed at preventing corruption during these times. This provides an opportunity to reflect on the challenges facing global healthcare supply chains and operations. This blog highlights some of the areas you should be looking at now in order to avoid liability and reputational damage beyond the currency of this pandemic.

The utter desperation and urgency of the global health crisis means that ordinary rules and processes are necessarily subordinate, within reason, to the need to preserve life and to contribute to the efforts of fighting the spread of the virus.

Perhaps inevitably, crises such as this one present a fantastic opportunity for dishonest players to take advantage of the chaos and relaxation of the usual protocols fuelled by an unprecedented level of government spending in order to
temper the effects of millions of job losses as a global economic depression looms.

**Patient Safety and Public Trust**

By far the biggest immediate threat is the risk to Patient Safety associated with the rise of defective and counterfeit medicines and medical devices as fraudsters and organised criminal networks take advantage of the situation. With an effective vaccine being widely touted as the only sustainable solution out of this crisis, public confidence in the system is an essential part of any effective strategy. Every healthcare organisation has an important responsibility to uphold that trust and confidence in the system.

It has been reported, for example, that there has been a surge in defective and potentially dangerous hand-sanitising products across the EU as demand has soared and new players have entered the supply chain following the understandable relaxation of the rules to help deal with COVID-19.

We have identified the following as key considerations for organisations to review and address;

**Conflicts of interest**

With regular channels and supply chains inundated and in many cases completely overwhelmed, all sorts of middlemen are mushrooming and seeing an opportunity to turn a quick profit. Many countries do not have adequate supply chains of their own and are forced to look abroad. For example, in the United Kingdom we have seen that a substantial amount of PPE is being sourced from places such as China and Turkey, countries with a high incidence of bribery and corruption.

**Tips/Red Flags**

Inflated invoices designed to pay bribes to public officials. Watch out for unusually high figures quoted as “administrative” or “introductory” fees.

Unrealistic offers to source medicines or medical kit. If it sounds too good to be true, it probably is.

To the extent possible ensure that at the very least, some basic due diligence is conducted before engaging a third party to act on your behalf

Be particularly alert to Politically Exposed Persons (PEP) red flags arising out of any diligence process

**Whistleblowing**

Organisations are encouraged to ensure that their internal ‘whistleblowing’ and ‘speak up’ systems are operational and effective.

**Tips/Red Flags**
Escalation and Triaging process is in place

Escalated issues are being reviewed and responded to in a timely manner

Relevant information is being shared with those that need to ensure that any misconduct or inappropriate payments are not repeated or allowed to continue in a different part of the organisation or supply chain

**Hiring Practices and Sliding Doors**

The last few years have thrown up some high profile examples of inappropriate hiring practices involving the relatives of influential public officials being hired by global financial institutions in return for favourable treatment. There are lessons to be drawn from this. Organisations must have procedures in place to ensure that the hiring process is not being misused to curry favour with public officials in return for market access, key information or some other business advantage.

The concept of ‘sliding doors’ is the movement of key personnel from influential government positions into lucrative advisory roles in the private sector. These people have important knowledge and intelligence on the thinking and strategic direction of government. Such information can be of significant value to a private company especially during a time of economic volatility such as this one.

**Tips/Red Flags**

Ensure that your usual recruitment processes are not compromised and specifically that pre-employment screening processes are effective and operational

The appointment of advisors from the public sector must be conducted in a manner that does not give the appearance of buying influence.

Ensure that such appointments are in accordance with any local laws or regulations. For example, in the United Kingdom, these are governed by the Advisory Committee on Business Appointments (ACOBA).

**Market Abuse**

The volatile and uncertain situation means that the value of information about corporate developments is at a premium. Such information will be gold dust to institutional and individual investors as they seek a competitive advantage.

**Tips/Red Flags**

Emphasising the need to adhere to the restrictions relating to inside information

Deploying monitoring measures as appropriate and in accordance with company policy

**Fraud**
COVID-19 has created a perfect storm which has led to a plethora of fraud schemes linked to various aspects of the virus and the response to it. See our client alert on this topic here.

**Conclusion**

An increase in actual and attempted cases of bribery and corruption is almost inevitable given the virtually unprecedented challenges facing the healthcare industry. Some of these will occur in your organisation. In addition to your legal obligations to have adequate procedures in place to prevent bribery from taking place, you are advised to document and respond appropriately to such incidents. Identifying and mitigating these risks should be high on your agenda during these trying times.

Organisations must be wary of an increase in tax evasion risk at this time – public purses the world over are being reshaped like we have never seen before and enforcement action against tax evasion is likely to increase. The right tone must be set for leaders throughout the organisation and there is likely to be zero tolerance of suppliers mislabelling goods for lower duties or speedier/prioritised transit.

The effects of this crisis from a bribery, corruption, business integrity and reputation management perspective will extend way beyond the availability of a vaccine.

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