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BLOWING THE WHISTLE: **CHANGING CULTURE BEST POLICY, PRACTICE**

Despite spectacular corporate crashes such as Enron, HIH and World.com and stockholders venting their fury on global markets, demands for greater transparency and accountability are still falling on deaf ears.

This was the view of Commonwealth Ombudsman Ron McLeod, a keynote speaker at this week's Whistleblowers conference in Sydney convened by Transparency International, the anti-corruption watchdog.

Mr McLeod, who is also Ombudsman for the ACT, deals annually with more than 20,000 complaints alleging maladministration, fraud and misconduct in the public sector.

"Unfortunately, whistleblowing is often a dialogue between the hearing impaired and the inarticulate," he said.

Commonwealth legislation aimed at protecting whistleblowers has been languishing in Canberra for almost a decade. The proposed legislation is currently under consideration by the Senate. Pressure is building from quarters impatient to see some action including the ACCC. The consumer watchdog recently released a discussion paper advocating indemnity from prosecution for "the first thru the door" as an antidote to a culture of "dobbing" where fear discourages whistleblowers from reporting fraud and mismanagement.

ACCC Commissioner Sitesh Bhojani told the conference that the watchdog's leniency policy of "first thru the door" should not be taken literally. He said that modern communications enabled whistleblowers to communicate easily with the ACCC, and that contact could be initiated by fax, phone or email.

E-dobbing and hotlines dominated discussion at the TI conference, with BHP-Billiton executive Holly Lindsay reporting that global helplines are now an integral component of reputation management, risk management and protection for both employees and employers in the global business environment.

Ms Lindsay, a macroeconomist with the Reserve Bank prior to joining BHP five years ago, underscored the need for transnational corporations to acknowledge that business culture differs from country to country, creating an ethical minefield for senior management and staff.

In relation to facilitation payments, we have to ask ourselves: "Is the type and amount of payment consistent with locally accepted practice?"

Ms Lindsay said that if the answer was affirmative, then a payment might be made, provided it was accounted for and recorded, and referred to senior management for approval.

The activity described by Ms Lindsay was at the heart of the recently released Bribe Payers' Index commissioned by Transparency International. Responses to a 2002 survey of business executives and officials provided a comparative analysis of countries where the business culture exhibited a willingness to pay bribes to conduct business in foreign markets.

In that study, Australian executives were identified as the least likely business community to break the law by paying bribes to secure business in emerging markets, especially developing countries susceptible to a climate of corruption.

In stark contrast to the "anything goes" attitude of some countries to business practices, in Australia the government is under pressure from some quarters to criminalise corruption in the business sector and impose harsher penalties for offences.

The jury will remain out as long as debate rages between advocates of leniency for whistleblowers (provided whistleblowers are not perpetrators themselves) thereby encouraging whistleblowing and advocates of tougher measures dealing with private and public sector fraud and mismanagement.

Companies that pay lip service to the concept of good governance came under fire at the conference, especially companies that paid consultants to compose mission statements and Codes of Conduct which then gathered dust in filing cabinets while executives accepted “hush money” to keep dirty linen out of sight.

KPMG Fraud and Forensic specialist Brett Warfield, an advisor to senior executives in Asia-Pacific on fraud control, put a strong case for a policy of prevention as a key component of Risk Management Strategy.

A former financial investigator with ICAC (the Independent Commission Against Corruption), Royal Commissions into the Building Industry and the NSW Police, Mr Warfield pointed to the need for companies to break the cone of silence that can lead to losses running into millions of dollars as well as a loss of public confidence in the level of integrity in the marketplace.

“Hotlines are valuable but they are only one component of a holistic approach to responsible management and organisational accountability,” he said. “There is also a need for confidentiality in managing hotlines as most employees are afraid to report allegations to personnel in the organisation itself. Changing the culture through responsible management is a powerful deterrent to fraud, however, it is advisable for calls made to hotlines to be fielded by trained independent investigators who are qualified to determine whether calls are vexatious.”

Former NSW Ombudsman David Landa and International Director of Whistleblowers Australia Dr Brian Martin profiled whistleblowers as motivated individuals who invariably agonized before speaking out.

This was supported by Director of the Police Association of NSW Research and Resource Centre Greg Chilvers who cited numerous examples of whistleblowers who had paid a very high price for being outspoken. Nevertheless, all three speakers conceded that the courage of whistleblowers was often a powerful catalyst for change.

Mr Chilvers was particularly critical of the culture of brotherhood that has defied attempts by successive governments to rid the NSW Police of corruption. Like Brian Martin, Greg Chilvers argued that the many organisations including law enforcement agencies and universities failed to implement policy for detecting and preventing internal corruption, indicating a lack of understanding of the causes and consequences of corruption.

The Whistleblowers Conference was sponsored by Transparency International, in association with the Corruption Prevention Network (NSW), KPMG Forensic and Edmund Rice Business Ethics

Initiative. TI Australia will make papers from the conference available on its website, www.transparency.org.au in the near future

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