Anti-Bribery Compliance Incentives: Advantages and Disadvantages

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Abstract

This article explores both advantages and disadvantages of anti-bribery incentives in multinational corporations. It argues that incentives for anti-bribery compliance could help to eliminate corruption in Eastern Europe. However, it is also acknowledged that such anti-bribery incentives would have to be combined with other compliance tools.

Keywords: Bribery, Corruption, Compliance, Incentives.

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Corruption has been dominating the business world in Eastern Europe for decades. Multinational corporations have tried out a large variety of anti-corruption tools. Relatively little attention has been paid to the idea of incentivizing employees to act in compliance with all rules and regulations. Hence, an explorative study based upon ten semi-structured expert interviews has been conducted. The results will subsequently be discussed as well as compared and contrasted with the existing literature.

Anti-Bribery incentives have both advantages and disadvantages. While they may not be suitable for all employees and cannot be applied as a "one size fits all" solution for compliance issues, they could constitute an extremely valuable supplementary tool to existing anti-bribery measures.

Agency Theory

The idea of creating the right incentives by rewarding people for their overachievements in order to prevent them from minimizing their internal effort is very much in line with the characteristics of agency theory. It is acknowledged that agents usually want to be compensated for acting in their principals' interests (McColgan, 2001: 6), and, in this context, incentives could help to allow the agents to maximize their own utility without having to compromise their principals' goals (Jensen & Meckling, 1994: 41). However, it should also be taken into account that both principals and agents can have the same goals and so avoid a goal conflict (Gomez-Mejia & Wiseman, 2007: 82). For instance, employees may already be sufficiently motivated to be compliant due to intrinsic factors, such as a desire to combat both poverty and bribery. While this approach could certainly be applicable to some employees, both the literature and the empirical findings suggest that it does not prove to be true for all agents. Since multinational corporations need to implement mechanisms that are not only applicable to a selected few or the majority but to all employees, the approach suggested by the interviewees to create the right incentives does indeed seem to be

reasonable.
Furthermore, agency theory often fails to take behavioral aspects into account (Kunz & Pfaff, 2002: 292). Some employees might, for instance, behave in their principals' best interests due to personal relationships. Once again, while this might be true for a selected few, it simply cannot be assumed that all agents are going to act in their principals' best interests due to interpersonal bonds. Therefore, the idea of providing agents with the right incentives still seems appropriate and necessary.
In addition, the concept of compensating for incorrectly set or misaligned incentives is also in line with agency theory. Agency theory-based compensation system design can significantly impact the goal-setting process and vice versa (Bartol, 1999: 3). If principals provide their agents with the wrong goals, they risk obtaining undesired results. While an individual employee's reaction to certain goals is affected by his or her core traits, it is reasonable to assume that setting the wrong goals can prompt a large proportion of employees to engage in undesired behavior (Erez & Judge, 2001: 1277).
The idea that one would have to compensate for the wrong incentives might be particularly true in the context of the "stretch goals with bonuses for success" approach (Locke, 2004: 130). If employees are promised a large bonus for reaching extremely high sales targets, they may engage in bribery in order to boost their sales. Hence, setting the wrong incentives could actually foster bribery in multinational corporations. This could be compensated for by adjustments in the incentive system.
The notion that anti-bribery compliance should be considered to be "normal behavior" and therefore does not deserve a bonus is not in line with the literature review, which suggested that human beings are selfish and need to be incentivized. In fact, agency theory assumes that principals and agents have conflicting interests and that their relationships are generally marked by moral hazard, adverse selection, and risk sharing (Eisenhardt, 1989a: 58 f.; Ross, 1973: 134). The agent is typically described as an opportunist who might abuse the power given to them by the principal (Abrahamson & Park, 1994: 1304). Hence, it is hard to believe that agents can simply be expected to act compliantly and in their principals' best interests.
As it has been pointed out in detail in the literature review, one of the main problems described by agency theory is that an agent could engage in short-run actions that might ultimately harm a corporation's value (Donaldson & Davis, 1991: 50). This is often due to principals' and agents' differing goals or attitudes toward risk, and the fact that it is difficult for a principal to verify an agent's behavior (Hill & Jones, 1992: 131 f.; Eisenhardt, 1989a: 58). It was affirmed that agents are seemingly self-interested individuals (Wright et al., 2001: 414), and that compensation schemes can partly help to compensate for agency problems such as this (Fama, 1980: 306).
Recall too that it was indicated that many agents want to be compensated for acting in their principal's best interests (McColgan, 2001: 6). If this argument could be disregarded, agency theory would have to be dismissed. After all, one could also argue that a salesperson can be expected to make an effort to always sell as much as possible and so does not deserve a bonus for what should be considered "normal behavior." Following this logic, incentive systems could be abolished. Therefore, it is not surprising that only a minority of interviewees suggested that anti-bribery

compliance should be considered "normal behavior" and so should not merit a bonus. The interviewees also emphasized the risks associated with incentives for whistleblowing. In particular, they were concerned with the idea that people might report false incidents and that whistleblowing could hence result in a business case. Although somehow counterintuitive, this risk is also explained by agency theory. As noted, agents are usually described as opportunists who might abuse the power given to them by their principal (Abrahamson & Park, 1994: 1304). This seems to be particularly true if it is difficult for the principal to verify agents' behavior (Eisenhardt, 1989a: 58). Whistleblowing is per se a task that requires delegation and hence creates uncertainty (Worsham et al., 1997: 422). Although the idea behind providing incentives for whistleblowing is to reduce information asymmetries by purchasing information, it remains difficult to verify whether an agent has revealed truthful content when blowing the whistle (Ross, 1973: 134). Hence, it is very well possible that the agents abuse incentives that are provided for whistleblowers in order to maximize their own utility. That is, they might report false incidents in order to receive bonus payments.

The risk of receiving false whistleblowing reports can partially be mitigated by only rewarding reports that prove to be true. However, while this in theory may sound like a reasonable trade-off, it also needs to be considered that even truthful reports can sometimes be hard to prove. An innocent employee could potentially report violations of the anti-bribery rules that during the subsequent investigation cannot be proven. In which case, the question is whether, under these circumstances, the employee should be rewarded under the incentive scheme. If one does not reward this employee, a potentially honest whistleblower was promised incentives and did not receive them, which, in turn, could have detrimental effects on his or her motivation. If one rewards the employee and the report was not truthful, then one has simply incentivized someone who provides false reports. There is no ideal solution to this problem. Generally speaking, however, it does seem reasonable to limit incentives to reports that can be proven to be true. If such a strategy is communicated in advance, employees are also incentivized to gather evidence for their reports. Then, employees would be discouraged from reporting suspicious activities that they are unable to prove.

The interviewees also expressed the need for alternative tools, such as the termination of employment. In addition, it was identified that not all employees are driven by (monetary) incentives and that formal rules can be counterproductive for people who value trust and personal relationships above money. These statements are in line with the limitations of agency theory and incentives discussed in the literature review. In fact, it has been acknowledged that integrating trust-embedded economic theories could broaden agency theory's scope of application and improve its validity (Beccerra & Gupta, 1999: 192). However, one should also be mindful of legal constraints that multinational corporations have to take into account in order to safeguard their survival. If an employee violated an anti-bribery policy and the multinational corporation had to argue during a criminal proceeding that its compliance was predominantly based on trust, it may have to face exorbitant fines and even jail time for its executives.

Furthermore, cultural aspects are often not taken into account by the agency theory approach chosen for use in this study. While the present research focuses on contractual means to reduce information asymmetries and the uncertainty associated with them, it is acknowledged that this could also be achieved through social and cultural means (Nilakant & Rao, 1994: 657). In fact, it could be valuable to take such cultural differences into account when assessing how employees are motivated. After all, the argument that not everybody values formal rules and bonuses is a valid one. For example, Eastern cultures seem to have a stronger preference for behavior-based contracts than Western ones (Johnson & Droege, 2004: 334 f.). However, once again, one must also take legal constraints into account. Furthermore, multinational corporations may try to adapt to certain local practices but also need to implement globally standardized processes. If a multinational corporation is listed on the New York stock exchange, it is potentially subject to New York's rules and regulations and will face difficulties when trying to justify why it did not follow them in certain other parts of the world.

In addition, different theoretical approaches should also not be neglected. For instance, stewardship and institutional theory could provide valuable additional insights. Despite the fact that stewardship theory suggests that employees' objectives are aligned with those of their principals, for the purposes of this study, a control-based approach seems to be more appropriate than a collaborative one (Davis et al., 1997: 21; Fox & Hamilton, 1994: 78). After all, while some employees are presumably stewards, one cannot assume that all employees are going to follow a stewardship approach. That is, one has to take opportunistic behavior into account. Even a few agents who take advantage of overly collaborative environments with a lack of control mechanisms could cause great damages to multinational corporations.

Another theoretical approach that might help to address the concerns about alternative tools raised by the interviewees would be institutional theory, if it were primarily used to ensure that agents' and principals' interests do not diverge (Davis et al., 1997: 20 f.). However, it should be kept in mind that institutions are influenced by outside rules and values too, and their members will sometimes attempt to conform to such external norms. Therefore, it is important to create adequate anti-bribery compliance mechanisms that ensure that a culture of corruption cannot be developed (Meyer & Rowan, 1977: 343; Eisenhardt, 1988: 491; Kulik, 2005: 349). Overall, it was concluded that, despite agency theory's shortcomings and the limits of incentive systems, the approach taken in this study still seems to be the most suitable one when it comes to addressing bribery in multinational corporations.

Incentives

Next, the analysis extended to who should be subject to such an agency theory approach-based anti-bribery incentive system in multinational corporations, and which types of incentives should be provided. While some interviewees argued that such a system should be applied to all employees, others contended that it should only take a selected group of employees into account. Since anti-bribery incentives in multinational corporations have not been studied yet, it is difficult to draw upon what has already been discussed in the literature. The few existing studies on anti-bribery incentives have primarily focused on selected groups of employees. In particular, it been investigated whether graders in Burkina Faso were more or less likely to accept bribes under various incentive systems (Armantier & Boly, 2014: 13), as well as how bribery among tax inspectors evolves under various incentive schemes (Besley & McLaren, 1993: 119). That is, prior empirical studies have focused on certain groups of employees. This could be because limited groups of people are easier to study or anti-bribery incentives may only make sense for certain groups of people.

Not all employees in multinational corporations would have to be subject to anti-bribery incentives, and paying inducements to those that weren't would be of limited use. Furthermore, not all people are equally susceptible to monetary incentives, and some are going to be more motivated than others by receiving an anti-bribery bonus. However, such considerations are also difficult to uphold when implementing company-wide strategies. Generally, it is probably more reasonable to employ anti-bribery incentives than to avoid using such instruments. However, it does make sense to analyze under which circumstances anti-bribery incentives would be particularly useful. This is concerns both entire companies in general and employees who operate in such environments in particular.

Meanwhile, the interviewees' argument that the same rules should apply to all employees should not be disregarded. In fact, it is reasonable to assume that they therein meant a "no tolerance" approach from the top to the bottom of the company. While they might not necessarily have been stating that cleaners in non-corrupt countries should be paid large bonuses for not bribing anyone, they presumably meant that the same rules should apply to both executives and salespeople. Such a zero-tolerance approach toward bribery would be in line with legal requirements while also emphasizing that companies are taking anti-bribery compliance seriously.

The interviewees focused on three types of monetary incentives. In particular, they suggested a bonus for compliance, a malus for non-compliance, and a bonus for whistleblowing. The idea of paying someone a bonus for blowing the whistle is not new, as it was first introduced in the Dodd–Frank Act. Additionally, it was suggested in the literature that selective monetary incentives are particularly valuable in situations in which the employee is required to act against his or her own interests (Oliver, 1980: 1373). In the United States, the *qui tam* provisions under the False Claims Act reward whistleblowers with up to 30 percent of the recovered assets in a successful suit (Feldman & Lobel, 2009: 1168). However, this concept has not yet been thoroughly investigated in the context of anti-bribery compliance in multinational corporations. Under the False Claims Act, it is the public who monetarily rewards the whistleblowers.

Generally speaking, it is reasonable to assume that a concept that works well under the False Claims Act could also be applied successfully in the private sector. Moreover, whistleblowers' multidimensional motivations seem to correlate with external legal incentives (Feldman & Lobel, 2009: 1155). However, such monetary incentives would have to be sufficiently large, as it has been suggested that small monetary incentives can negatively impact employees' internal ethical motivations, such as a belief in eliminating bribery, to blow the whistle (Lobel, 2012: 46).

The idea of introducing a malus for non-compliance is also not new, and, for example, has been previously suggested for employees who do not reach certain goals (Locke, 2004: 131). Also, it has been found that, under a malus scheme, mutual dependencies may help to establish the popularity of peer sanctions among team members (Che & Yoo, 2001: 527). This could be particularly relevant in team-based incentives: that is, if one team member violates the anti-bribery compliance policy, the entire team could have to face a malus.

It has been suggested in the literature that employees would wish to avoid having to pay back money to their companies (Murphy & Jensen, 2011: 13). This seems to be particularly true in relation to tasks that require diligence more than skill, and hence is applicable to anti-bribery compliance (Aron & Olivella, 1994: 1 f.). After all, refusing to bribe someone does not require exceptional expertise.

Malus systems are often implemented through mechanisms called bonus banks. One issue with these types of deductions is that the system only works if the employees have received a bonus during the first time periods. Otherwise, they have little to lose and potentially will not fear a malus (Murphy & Jensen, 2011: 14).

When discussing an anti-bribery malus, one should also keep in mind that this would be a very new concept for the overwhelming majority of employees. While many of them are presumably used to receiving a bonus for reaching sales and other goals, taking money away from them for not complying with formal rules would be novel for most of them. Hence, any such system would likely have to incorporate a transition period in order to allow employees to understand the concept and adjust to it.

The idea of introducing a bonus for compliance is also rather innovative. However, one can draw some insight from the existing literature on bonus schemes established to incentivize employees to do the right thing. Generally speaking, it has been established that monetary incentives tend to be accepted by many employees as a motivating factor (Clark & Wilson, 1961: 151). However, it has also been repeatedly emphasized that other variables, such as long-term contracts, intrinsic motivation, and pleasant work environments, play an important role.

The argument that agents are simply motivated by their materialistic self-interest would appear to be an oversimplification (Fehr & Fischbacher, 2002: 29 f.; Lambert et al., 1993: 455 f.), and other factors, such as intrinsic motivation, should to be taken into account when assessing what drives employees (Besley & Ghatak, 2003: 616). However, while bonus schemes are certainly not the only motivating factor, they presumably have the power to influence a large portion of employees.

The idea of reducing or eliminating bribery by raising wage levels is not new either. It has previously been theorized that, in the public sector, a substantial increase in wages would be required in order to significantly reduce bribery (Van Rijckeghem & Weder, 2001: 307). It has also been contended that wages would have to be raised to a level superior to opportunity costs. Furthermore, such an increase would have to be inversely related to the chance of being detected (Becker & Stigler, 1974: 6). While these ideas do also seem applicable to multinational corporations, one should employ caution when drawing conclusions via analogy.

Interestingly, the interviewees did not comment in depth on whether individuals or entire teams should be incentivized. Hence, one has to refer to the literature in order to source suppositions regarding this aspect. Generally speaking, a combination of team and individual incentives seems to be reasonable. While holding individual employees personally liable for their compliance is certainly important, the impact of group dynamics should also not be underestimated. The literature review led to the conclusion that, while team incentives are subject to issues of free riding, many employees compensate for this by making an increased effort under group payment schemes (Van Dijk et al., 2001: 187 f.; Hatcher & Ross, 1991: 181). Moreover, there seems to be evidence that collective gainsharing might positively influence employee satisfaction (Welbourne & Cable, 1995: 721). Therefore, it might be inferred that awarding a bonus for anti-bribery compliance to entire teams could indeed be beneficial. However, while the literature review suggested that collective incentive systems have indeed many advantages, the empirical results set out that their impact ultimately comes down to both their design and the individual performance levels in the group (London & Oldham, 1977: 40).In addition, the interviewees did not differentiate between short-term and long-term incentives. Such a distinction, however, does seem necessary in the context of anti-bribery compliance. While short-term incentives such as bonus payments can lead to significant short-term results, they are also often accompanied by long-term risks (Milkovich et al., 1999: 10). Therefore, it would be beneficial to supplement the interviewees' statements with corollaries drawn from the literature. For instance, one could consider applying the above-mentioned bonus bank model (Young & O'Byrne, 2001: 5).

Another consideration that was not addressed by the interviewees concerns the right mix between fixed salary and incentives, which has been discussed extensively in the literature (Sharma & Sarel, 1995: 18). Once again, excessive variable components can seemingly lead to undesired actions. If the variable portion of the salary is not significant, it is unlikely to necessarily impact the employees' motivation.

Finally, the interviewees did not refer to the risks commonly associated with bonus payments. In the literature, however, it has been argued that, under certain circumstances, monetary incentives can even be counterproductive. In fact, it has been repeatedly suggested that pay is not an efficient motivator (Baker et al., 1988: 596; Beer & Katz, 2003: 40). While this might be true for tasks that require creativity or intrinsic motivation, it is reasonable to doubt that it also applies to the tasks that are primarily characterized by diligence.

Goals versus performance

This subsection is dedicated to goals, performance, and the correlation between the two. The interviewees suggested a large variety of first-order and second-order goals. The first-order goals can be divided into two categories: while many interviewees believed that compliance with formal rules should be directly encouraged, others suggested that such compliance could also be indirectly increased by rewarding employees for making suggestions for improvement for the anti-bribery compliance system. In addition, a second-order goal toward increasing whistleblowing was also been mentioned.

In fact, the second-order goal to increase whistleblowing was only briefly touched upon by the interviewees. This may be explained by the fact that it was already implied in one of the research questions and also addressed rather directly during the interview. Also, in contrast to increasing compliance with formal rules, the idea of increasing whistleblowing is rather straightforward, and its limited complexity likely prompted the interviewees not to dedicate too much time to it.

In contrast, the first-order goal of increasing compliance with formal rules was addressed in detail by the interviewees. In particular, they proposed specific activities for which goals should be defined. As experts, it is anticipated that they have addressed the most important activities. Additionally, based on the literature review, it is submitted that considering causal maps in order to emphasize the links between behavior and outcome as well as integrating goals throughout the multinational corporation could also be beneficial (Locke, 2004: 132 f.).

Although the interviewees did not discuss the idea of introducing goal levels with multiple bonus levels, inferences drawn from the literature review contribute this valuable concept to the overall findings of this study (Locke, 2004: 131). In fact, minimum goals have to be set in any case in order to fulfill legal compliance requirements. In addition, different levels could be added in order to provide employees with suitable motivation mechanisms at all stages.

One issue that was not really addressed during the interviews, but nonetheless deserves some attention, is that, even if goal setting is somewhat feasible for a certain job, it is likely not going to be equally effective for all employees (Latham & Yukl, 1975: 843). Therefore, one needs to set different goals for different jobs. While, in some cases, participation in training programs should be rewarded, it might not make sense to do so for all employees. For instance, some employees might not need training.

In addition, it was suggested during the interviews that employees should set their own compliance goals. This idea is also supported by the literature. In fact, self-set goals are usually good indicators for future performance (Erez, 1977: 627; Anderson et al., 2010: 90; Holmstrom, 1982b: 127 f.). However, one should also keep in mind that employees could overestimate their performance and hence set less effective goals (Mowen et al., 1981: 598 f.). They might also try to receive a higher bonus by deliberately setting goals too low and then outperforming them (Miller & Thornton, 1978: 432; Gonik, 1978: 117). Hence, companies need to decide whether employees should be allowed to set their own goals and how performance should be rewarded. Generally speaking, allowing employees to set their own anti-bribery compliance goals can be problematic from a legal perspective, not least as multinational corporations have to fulfill certain minimum standards in order to protect both themselves and their boards of directors against excessive liability in cases of bribery. Thus, self-set goals would in any case only be applicable in certain areas.

Within these limited scopes of applicability, the problem of manipulated goals could be solved by penalizing employees both for over- and under-fulfillment of their self-set benchmarks (Adam, 1980: 350). Alternatively, over-fulfillment could be rewarded and under-fulfillment penalized (Snowberger, 1977: 591). Thereby, self-set goals could become more efficient.

Overall, the suggestions made by the interviewees—namely, the introduction of a malus for non-compliance as well as bonuses for compliance and whistleblowing—are mostly supported by the existing literature. While such bonus and malus payments have not been studied in the context of anti-bribery compliance in multinational corporations, they have been investigated thoroughly in other sets of circumstances. Hence, the interviewees' statements were supplemented with inferences drawn through analogous analysis of the existing literature. In any case, the interviewees suggested that well-tested instruments, such as bonus and malus tools, should be used for anti-bribery compliance in multinational corporations.

As already noted in the literature review, once goals have been set and potential rewards have been designed, performance needs to be measured. The interviewees divided performance measurement into four important categories. Specifically, they suggested that risk areas have to be identified and performance needs to be measured both directly and indirectly. In addition, performance matrixes could be employed in order to summarize performance measurement results.

The idea, in the first step, of analyzing risk areas was only raised by one interviewee. However, this recommendation is supported by conclusions drawn in the literature review. Above all, it needs to be taken into account that performance is influenced by external circumstances and opportunities (Terborg & Miller, 1978: 29). In this context, it should be acknowledged that individual employees' compliance seemingly is influenced by the external risks they are facing. A salesperson in a corrupt environment is presumably more tempted to pay a bribe than a mechanic without sales duties in a non-corrupt environment. Hence, assessing risks is a very reasonable first step when measuring anti-bribery compliance. If one simply drew upon an average compliance score of salespeople and mechanics, the results would most probably be distorted.

Generally speaking, it is extremely difficult to accurately measure anti-bribery compliance. Hence, the idea of combining both direct and indirect performance measures also seems to be reasonable. However, this prompts the question of how performance might be directly or indirectly measured. Simply relying upon superiors' observations can lead to subjective and apparently biased outcomes (Gibbs et al., 2009: 237 f.). Hence, one needs to look for objective performance measures.

Some of the direct performance measures suggested by the interviewees, such as on-time reporting and attendance of trainings, are relatively easy to measure. Others, such as cooperation during investigations, require some subjective assessment, but are still feasible to implement. Hence, it is concluded that it is possible to directly measure anti-bribery compliance up to a certain extent.

Indirect performance measures are also important, but it is extremely difficult to define them. It was suggested during the interviews that soft factors, such as ethical behavior and integrity, should be included in a performance review. However, no interviewee provided a definition of what should be considered "ethical behavior" and "integrity." While there exists a vast literature on business ethics, it can ultimately be concluded that all definitions of ethics and integrity are going to be subjectively measured. Hence, while including these aspects in performance measurement is certainly a valuable idea, it also needs to be kept in mind that they cannot really be objectively measured, and should hence not constitute a major part of the performance evaluations.

The idea of combining direct and indirect performance measures also acknowledges the fact that performance is in most cases multidimensional. Hence, limiting performance measurement to one or two indicators would most likely produce incomplete results (Terborg & Miller, 1978: 29). Therefore, it would be reasonable to supplement direct performance measures with indirect ones, such as an ethics score.

Ethics can, for example, be assessed during overall reviews or in specific discussions. However, such assessments would be inevitably biased. Although one might try to establish objective criteria, it would be almost impossible to define a single standard for ethical behavior, and, in most cases, one would have to take specific circumstances into account.

Furthermore, performance metrics need to be designed in a way that ensures that they cannot be easily manipulated (Jensen & Murphy, 1990b: 138 f.). In particular, one should be aware of the agency theory utilized in this study, which suggests that agents often have more information than a principal (Dixit, 2002: 696 f.). Specifically concerning the research questions of this study, they know whether they have paid a bribe or not. Therefore, both information asymmetry and manipulability need to be taken into account when designing performance measures for incentive systems (Gibbs et al., 2009: 261; Baker, 2002: 729; Figlio & Kenny, 2007: 902).

Thus, it can be seen that anti-bribery incentives have both advantages and disadvantages. They are seemingly not suitable for all employees and should not be applied as a "one size fits all" solution for all problems centered around bribery in multinational corporations. However, there are circumstances in which anti-bribery incentives could be extremely valuable and hence constitute a valid supplementary tool to existing compliance measures (Teichmann, 2017: 1 f.).

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