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CONDUCT REGULATION IN THE INSURANCE INDUSTRY: IN SEARCH OF LOST CORPORATE ETHICS

The end of accountability: "Then call someone who can help me!" For all the current talk of "business ethics," "the governance of ethics" and "corporate social responsibility," our everyday experience of corporations is still of large impersonal structures where accountability vanishes. Many corporations seem deliberately arranged in a way to avoid accountability.

To illustrate, consider the frustration of trying to recover an incorrect debit payment to your internet service provider. This often requires an agonising and protracted telephone conversation with a call centre operator, armed with a script and your account details on file. When the operator fails to help, or when your unresolved issue must be explained again to a new and uninitiated call centre operator, the most patient and empathetic among us grit our teeth and remind ourselves that it's not the call centre operator's fault, and their work-life must already be a nightmare. But if it is not the operator's fault, then who is responsible, accountable or just able in a corporation? The inclination is to think that the call centre is a sort of gatekeeper protecting those who are really at fault, ultimately accountable or who have real power to act and fix mistakes on your invoice or debit order. If you were to attempt to trace the person at fault or the official who can smile, shake your hand and solve the problem, you are likely to find only more functionaries with tightly defined mandates and very limited authority. I'm afraid it is turtles all the way down (or up), and you can never quite see the face of Magritte's bureaucrat behind the green apple.

Post-mortem: Who moved our ethics?

How did ethics and accountability get lost in the organisational maze? Most likely its death was not premeditated, but the unintended consequence (collateral damage) of the pursuit of efficiency, speed and client satisfaction.

Many companies have thousands of employees and millions of clients. To effectively "service" millions of clients, the process cannot be face-to-face or one-on-one. The "happy" client is manufactured in a complex realisation of Adam Smith's pin factory. If a single employee was responsible for meeting the needs of a client "cradle-to-grave", we would not be able to serve millions of clients. Hence every client is serviced by hundreds of employees, from those who sell, to those who process, to those who receive information, to those who evaluate, to those who investigate, to those who deal with complaints and so forth. Thousands of turtles up and down.

This system has its benefits. A large number of clients can be managed and serviced, with greater speed, and with more accurate record keeping. With a bit of luck, no travel or physical interaction is required. Much like we prefer today.

In the process, however, ethics, accountability and "treating customers fairly" becomes increasingly remote and difficult to achieve. There are a couple of reasons. First, bureaucracies eliminate individual discretion and decision-making. Within the corporate maze a functionary is not supposed to exercise moral reasoning. In the process of managing a claim, an insurance company employee must often stick to the policy and process. He or she must obey and repeat. Statements like "the system doesn't allow it" or "the computer says no" are therefore not an attempt to frustrate, but quite likely a sincere admission.

Secondly, when an action or activity is divided into a number of smaller activities, the ends and consequences thereof become unclear, and responsibility becomes diffused. The result is that we can easily disengage from the activity and its consequences. If I supply pins to a company that manufactures grenades, am I responsible for the people killed by the grenade?

To complicate matters further, it is both difficult and potentially counterproductive to measure individual success in terms of "fair treatment" or "customer satisfaction", while "sales" and "speed of resolution" are easily measurable and contribute to financial results.

To summarise, in corporations that provide services and products by way of an army of functionaries busy with a number of small specialised tasks, it is difficult for anyone to feel responsible for the ultimate treatment of the customer, the quality of the product, or to be motivated to care.

Finding Fairness: "It's about culture, stupid!"

And yet this is what is required. In the wake of serious harm caused to customers of financial services (through, among other practices, reckless lending, mis-selling, unauthorised accounts and unclaimed benefits), regulators are trying to re-insert ethics. This is being done through conduct regulation.

Conduct regulations shift our ethics-related focus from policies, compliance and prudential controls to variables less tangible but more important – character, culture and behaviour. To promote positive outcomes in the industry, and to protect customers, regulators want insurers to focus on:

— Leadership and the way it promotes ethical conduct;
— Organisational culture and whether it promotes ethical conduct and good customer outcomes;
— The moral 'fitness' (character) of senior managers and staff;
— Individual accountability (especially on senior levels);
— Risky forms of conduct; and
— Remuneration and incentive structures and what kinds of conduct they promote.

It is hoped that a focus on character, culture and conduct will lead to the fair treatment of customers. If the right people operate in the right culture their conduct will be aimed at the fair treatment of customers. They will treat people in a way they wish to be treated themselves.

This is a hopeful development. Many don't make decisions based on their employer's official rules and policies. They often do not consider possible disciplinary consequences. When in doubt, they look up and they look around. They see what others do (and have always done). They act in a way that might earn recognition or praise, or align their behaviour to the behaviour of star performers. In the world of conduct in corporations, it's culture all the way down.

Beware the con of conduct compliance

Unfortunately the pin factory cannot tell the difference between a call to ethics and a compliance process. The factory readies itself to manage conduct requirements as it would anything else. It starts by asking what evidence may be required by the regulator, and then designs a process (with a number of small specialised tasks) to gather the needed evidence. An Ethics & Conduct Officer is appointed who performs a conduct risk assessment. The result is a risk register listing undesirable forms of conduct in every area of the corporation, the allocation of risk owners and plans for implementing mitigating controls. Risk owners report quarterly in committee packs that are scanned by those responsible for governance. In no time at all you can find no trace of character, culture or conduct.

While these measures are no doubt important, it would be a costly failure if the result of conduct regulation was a parallel production process that creates paper trails (attendance registers, online compliance, and signed declarations) to demonstrate a corporate conscience that does not exist.

It would be a success if conduct interventions managed to inspire boards, executives and frontline staff to ask simple questions on a daily basis:

- Should we be selling this product?
- Would I buy what I am selling?
- Will selling this product help this specific customer?
- If I was the customer, what other information would I want?
- What will the customer think of me when he/she tries to claim or when this product matures in 20 years?

Whether turtles, green apples or pins; whether intentional avoidance or accidental oversight of accountability, there is a lot to be done.
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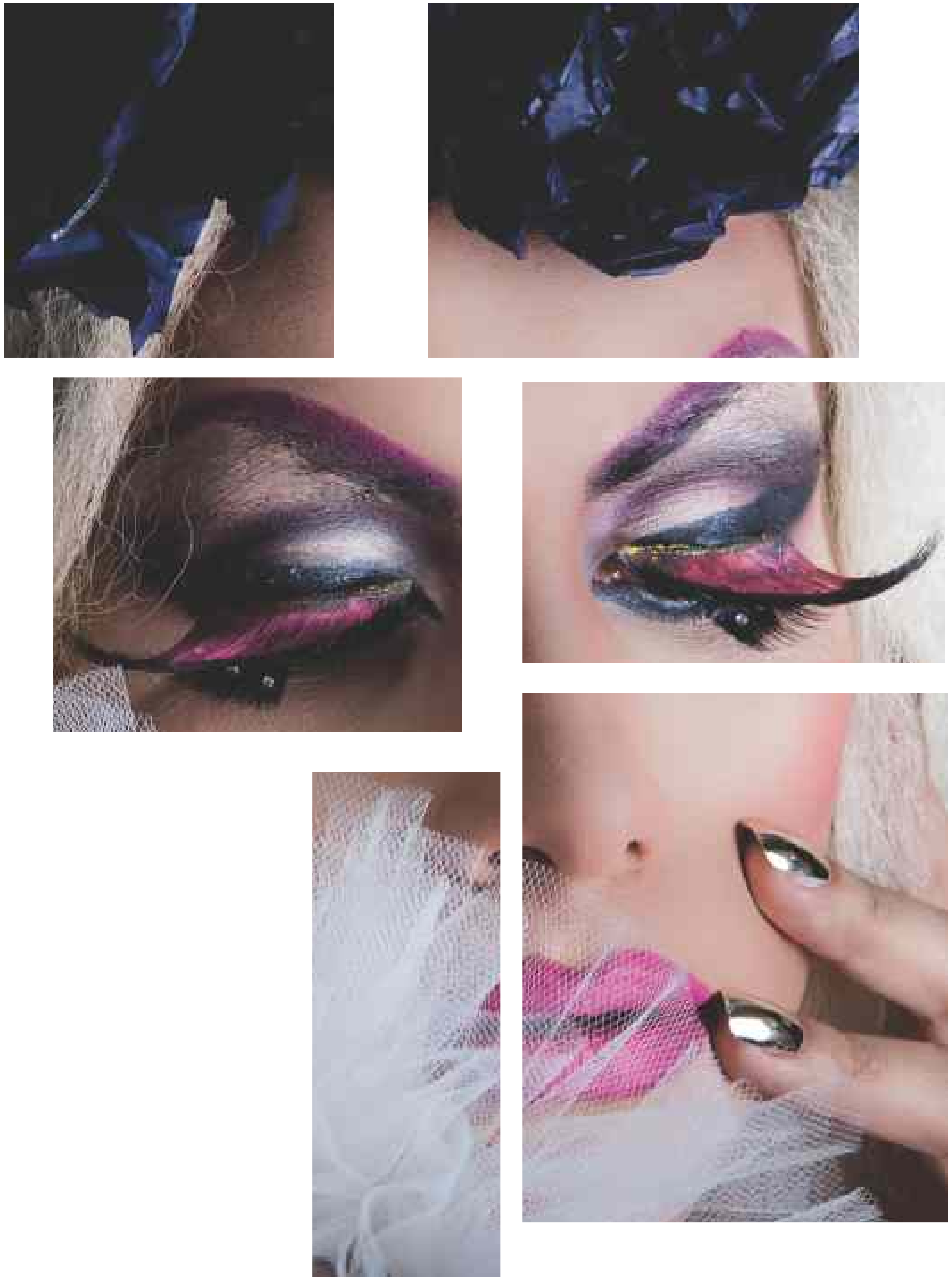

"The most successful companies in today's times are the ones that are customer obsessed. It's about doing things right, doing it quickly and most of all, doing what you said you would do."

"To survive and thrive, innovation and the ability to rapidly adapt to change has to be embedded in your business's DNA."

Tom Creamer, CEO, Telesure Group