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Using current events to assess the effectiveness of your compliance program

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On November 29, 2017, it was announced on NBC's *Today* show that Matt Lauer, perhaps one of the show's most notable and famous hosts, was terminated by NBC in response to a "detailed complaint from a colleague about inappropriate sexual behavior in the workplace."^[1]

Suddenly, someone with a reputation of reporting big news stories on the *Today* show to its national audience was now the subject of a big news story. Shortly afterward, the news of Mr. Lauer's termination was aired on other networks and became a topic of discussion on a national level.

Aside from the sensational nature of the story and the allegations directed towards Matt Lauer, this event, when seen through the lens of a compliance program, raises some very important questions that compliance professionals may want to consider with respect to their own effective compliance programs (ECPs).

An event such as this can give us pause to reflect on whether inappropriate behavior of this type could happen, or might currently be happening, in our own organization. Given this possibility, we must then ask ourselves whether or not the victims of inappropriate behavior would come forward and report it.

Standards of Conduct

Let's begin with a key document that essentially serves as the starting point for the design of an ECP and how it would apply to this recent event.

An organization's Standards of Conduct or Code of Conduct serves an important function in helping establish the foundation from which an ECP is built. The Standards of Conduct defines and clarifies what behavior is expected by the workforce, vendors, and others that do business with the organization in supporting the organization's mission and values. By stating in clear and no uncertain terms these expectations of behavior, an organization is establishing a basis by which it may consistently hold individuals accountable for their actions.

So, using the NBC event as a case study for us to compare and contrast what might happen if a similar incident occurred within our own organizations, we can ask ourselves some basic questions as they apply to our Standards of Conduct.

Within our Standards of Conduct, have we clearly stated what types of behaviors are not appropriate? Have we clearly stated what actions we expect our employees to take if they are victims of, witness, or otherwise become aware of inappropriate behavior? Have we taken steps to communicate these expectations in a manner that is both understandable and meaningful to our employees? Also, have we made it clear that the Standards of Conduct apply equally to everyone?

NBC's termination of someone with the stature and standing of Mr. Lauer gives a clear message that the

organization's Code of Conduct applies even to someone with a high-profile role in the organization. This is critically important, because not consistently applying the expectations described within a Code of Conduct, regardless of position, can send a very negative message about the organization's commitment in upholding its values and whether it actually holds people accountable for their actions.^[2]

Certainly, the swift and definitive action NBC took in response to its receipt and review of the allegation is noteworthy. However, another element of this case should give us pause. Although, according to NBC leadership, the inappropriate behavior that led to Mr. Lauer's termination was likely not an isolated incident, there had been no prior complaints during his many years with the organization.^[3]

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