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by Joe Murphy, CCEP, CCEP-I

Things that don't make sense: EU privacy laws impairing compliance calls

Sometimes we accept things that make no sense. Consider how EU privacy regulations have been used to hinder employees calling to report corporate misconduct. How can they distinguish the following scenarios.



Murphy

Three employees make calls to report the same incident of misconduct by their boss. One calls something labeled a “helpline”—part of a system committed to preventing and detecting misconduct. The system is supervised by a compliance officer responsible to the board of directors. It conforms to the best practice standards of the OECD

Good Practice Guidance. But for this helpline call, there are strict privacy restrictions. Acceptable calls are limited to topics issued by the privacy regulator; nothing else can be accepted. This is so highly regulated that in the Iberian Peninsula, the poor worker calling the helpline cannot even call anonymously. Her call is refused if she is too afraid of retaliation to disclose her name. Throughout the EU, every part of the call process is tightly regulated under the banner of protecting privacy.

Now our second call. The second employee picks up a phone, exactly like the first employee. He wants to report exactly the same concern about exactly the same boss. But instead of calling a helpline, he calls HR. Instead of a system designed to prevent misconduct, he reaches an HR manager who reports directly to the local business unit boss. No direct connection to a

compliance officer, no reference to the OECD standards. The HR person enters all the data into the HR data system, opens a file, and does everything else associated with processing personal information. And the regulatory status under the privacy laws for this call? No restrictions? No regulations? No privacy bureaucracy to regulate it?

Now our third call. The third employee picks up a phone, exactly like the first employee, to report exactly the same concern about exactly the same boss. But instead of calling a helpline, he calls his boss' boss. Instead of a system designed to prevent misconduct, he reaches a manager who reports directly to the local business unit head. No direct connection to a compliance officer, no reference to the OECD standards. The line boss enters all the data into the company's data system, opens a file, and does everything else associated with processing personal information. And the regulatory status under the privacy laws for this call? No restrictions? No regulations? No privacy bureaucracy to regulate it?

This makes no sense to me. Is the answer to the restrictions on helplines simply not to use any buzz words like “helpline” and have the phone answered by HR, a manager, or anyone other than a compliance and ethics professional? Or will privacy regulators next start controlling all communications within companies—exactly the “big brother” the Europeans fear? *

Joe Murphy (jemurphy5730@gmail.com) is a Senior Advisor at Compliance Strategists, SCCE's Director of Public Policy, and Editor-in-Chief of Compliance & Ethics Professional magazine.