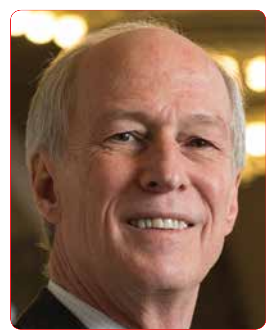
Behavioral ethics: From nudges to norms

BY SCOTT KILLINGSWORTH



Don't get me wrong, I'm all for nudges. But it's time for a closer look, and a broader perspective.

What are nudges?

Nudges are simple interventions designed to promote desirable choices—such as compliance choices—by taking advantage of psychology.[1] Researchers have identified a growing list of mental shortcuts, cognitive biases, and psychological quirks that subconsciously influence, and often sabotage, our decisions. Nudges are designed to either harness or neutralize these tendencies, and help us make better decisions, by subtly altering the decision-making process or the mental context in which the decision is made.

Probably the best-known example of a compliance nudge is the use of employee certifications with a signature at the top, rather than at the bottom.[2] For example, in your antitrust or contracting integrity compliance process you might ask an employee to certify that she has properly followed a list of do's and don'ts for competitive bidding. You're more likely to get honest answers if the signature is at the top of the form rather than at the bottom. Researchers tell us that signing the certification amplifies awareness of one's honesty or dishonesty just at the moment when it's needed, *before* the form is filled out—and that small mental nudge towards truth can influence what the employee reports. If the signature and certification are at the bottom of the form, then by the time the employee is ready to sign, the damage may already have been done: the ink may be dry on fudged responses. At that delayed "moment of truth" the employee is more likely to rationalize what she's already written than to correct the form.

Behavioral ethics

Nudges are probably the best-known products of the new field of behavioral economics and its even newer spinoff, "behavioral ethics": the use of behavioral science to understand ethical and unethical behavior and to promote the former. The core principle of behavioral ethics is that most misconduct is not committed by the stereotypical "bad apples," but by people who are psychologically normal, who value morality and consider themselves ethical, and yet regularly fail to resist temptation, or even to recognize that particular decisions have moral or legal implications.[3] The recipe for misconduct by ordinary people is simple: Start with an everyday motivator like temptation, pressure, the desire to fit in with a group, or the quest for money, recognition or power. Combine with a situational factor (such as a conflict of interest), stir in a cognitive bias (such as motivated reasoning), and simmer until you've rationalized, justified or overlooked behavior you would normally be ashamed of. For most of the workforce—those who are neither incorruptible saints nor irredeemable sinners—context is as important as character, and morality is malleable.

The promise of behavioral ethics is that understanding how good people end up doing bad things can point the way to more effective countermeasures. If small differences in the social or psychological framing of a situation can change behaviors, the door is open to taking advantage of, or overcoming, psychological traits so as to promote ethical choices in predictable compliance-risk situations.

Strengths and limitations of nudges

Nudges come in various forms based on different methods of influence. They may use economic or social incentives to encourage beneficial choices; pre-commitment strategies to enforce a person's adherence to their own good intentions; built-in defaults that make a decision for you unless you make the effort to opt out; or timely reminders of accepted values (like honesty) or of group norms. Nudges have already proved effective in increasing organ donations, decreasing teen pregnancies, improving saving habits, stopping smoking, encouraging exercise and weight loss, increasing tax, license fee and fine payments, and reducing energy usage. Based on these successes, it is easy to get excited about potential compliance applications: the experimental evidence is compelling, the interventions simple, the effects substantial, and their promise for compliance seemingly unlimited. And there is no taint of coercion, either. With a well-designed nudge, no mandate, argument, or restriction is required; the brain persuades itself.

Nudges are a nice addition to the compliance toolbox, but it's a big toolbox for good reason. No single tool does the whole job. Every tool—policies, controls, monitoring, training, audits, deterrence—has its strengths and all have their limitations. Nudges are no exception. The signature-at-the-top example is a useful illustration of both the value and the limitations of nudge techniques. This technique is effective only because the situation is completely predictable: you are asking someone to fill out and sign a standardized certification in connection with a recurring type of event that has identifiable compliance risks, and the manipulation is simply to locate the signature where it is most likely to have an effect on behavior—in this case the truth of the certification.

NUDGES ARE A NICE ADDITION TO THE COMPLIANCE TOOLBOX, BUT IT'S A BIG TOOLBOX FOR GOOD REASON. NO SINGLE TOOL DOES THE WHOLE JOB.

But the situation-specificity of nudges is also a weakness that makes it difficult to apply them broadly to promote compliance in the workplace. The major implication of the fact that situational details strongly influence behavior is this: in order for a psychological intervention to be effective, it has to be applied with surgical precision, in the right circumstances and at the right time. Signing a certification at the top is an easy application because the compliance officer is creating the certification process, controls it, and has the opportunity and the power to manipulate its characteristics.

It follows that nudges are most promising in situations that are highly structured, recurring, and can be predicted or detected and manipulated consistently by the organization. The situation must also involve the opportunity to engage in misconduct, and there must be a known psychological principle or cognitive bias that can be exploited to encourage good conduct, or that needs to be neutralized in order to reduce the motivation to misbehave. And the intervention has to be somehow built into the system so that it will be presented at the right time. This just-in-time application of cognitive manipulations that are just right for a particular situation is an extraordinarily difficult task. Consider that the typical first-time embezzler, inventory thief, or kickback recipient has had the opportunity to commit these offenses for months or years without previously having done so. How would you know when a nudge is needed? In sum, it is hard to find situations that meet all the required criteria for an effective nudge. In most organizations, most of the time, the situational target doesn't stand still.

Even for routine transactions, nudge architecture has its limitations. One of the most promising fields for applying decisional nudges may well be the financial services industry, where transactions are highly replicable and very often automated through transaction-processing systems. The potential clearly exists to modify these systems to incorporate behavioral nudges. But consider the following: First, if the situation—including the specific temptation to misbehave—is that predictable, you have to ask whether it might be easier to implement conventional "hard" controls that simply prevent the misconduct, or pointedly monitor for it. If so, that probably beats trying to get inside the employee's head so you can re-wire his decision-making process. Second, if the situation is predictable and replicable, and you insert an equally predictable and replicable behavioral nudge, how long will it take before that nudge becomes stale and completely ineffective: just another mindless click-through, another useless bureaucratic step on the way towards completing the transaction? Not long, I would guess.[4]

One overlooked distinction between the realm of compliance and those of the governmental, employment and social contexts where nudges have been notably successful is that misconduct usually occurs in secret. The familiar "nudge" success stories tend to occur in transparent contexts where others know whether you've paid your taxes, lost weight or stopped smoking—and the fact that people are watching these behaviors (and may be controlling your incentives) is part of the nudge system. Needless to say, monitoring for compliance is an imperfect and costly process. If we always knew when misconduct had occurred, compliance would be a much less challenging field, deterrence would work a whole lot better, and we wouldn't be worrying about subtle psychological interventions.

Finally, while many discoveries in the psychology of compliance identify and explain increased risks of misconduct, not all of these nuggets point to an obvious remedial intervention. In part this is because many of the environmental elements that amplify compliance risks are standard features of the business setting such as competition, performance pressure, authoritarian chains of command, binary risk/reward situations with high stakes, and diffusion of responsibility and of harm. For example, Dan Kahneman and Amos Tversky won a Nobel Prize for explaining the lopsided behavioral impact of our irrational aversion to losses: we typically hate a loss about twice as much as we love an equivalent gain, and we take extraordinary risks, including legal and moral risks, to avoid what we perceive as losses.[5] But while it is easy to understand how excessive loss aversion can fuel and escalate misconduct, it is hard to figure out how to keep people from thinking of their long-expected bonus as an "asset" that may be "lost" if a sale doesn't go through by next Tuesday.

Behavioral ethics, compliance, and organizational culture

Because of these practical limitations on the use of laser-targeted mental shoves, I believe that the most important compliance-program benefits of behavioral ethics research can be found elsewhere. I believe that at our current state of the art, it is more useful if we shift our analysis, and our efforts to apply behavioral science to compliance, upwards a couple of levels in the psychological hierarchy: away from the cognitive-processing level to the levels of social group effects and organizational culture. At those levels behavioral

science is easier to apply and the results are more pervasive.

Experimentally and experientially we know the effects of group commitment and conformity to group norms, and we know how powerfully the right kind of leadership can promote employee engagement and establish strong norms of conduct within work groups. At the culture level, we have large-population studies[6] that show a powerful linkage between compliance outcomes, ethical-culture markers and leadership behaviors. Specific practices that can contribute to these outcomes have been identified and their effects measured.[7] We can encourage those practices, especially with organizational leadership and managers.

And the great strength of group norms and cultural "how we do things around here" signals is that they're turned on almost all the time. They are expressed by everyday feedback, by pats on the back or disapproving glances, by inclusion or exclusion, and most of all by the day-in, day-out conduct of group members and leaders. These are the everyday backdrops that frame expectations and behavior in the workplace. They define what it means to belong in the group, and group members reinforce those signals when norms are violated. Unlike precise cognitive interventions, group norms and cultural expectations don't have to be artificially injected into a specific, predictable situation in order to affect behavior: they are the very context in which behaviors are conceived and carried out. They are, in fact, cognitive bias manipulations on a grand scale. Because we are social animals, they influence our behavior without our even being aware of it. And they are ubiquitous.

THE HEALTHIER THE CULTURE, THE STRONGER THE GROUP NORMS, THE MORE EVER-PRESENT THEY ARE AND THE MORE LIKELY THEY ARE TO BE PRESENT AND INFLUENTIAL AT THE VERY MOMENT THEY ARE NEEDED.

The healthier the culture, the stronger the group norms, the more ever-present they are and the more likely they are to be present and influential at the very moment they are needed. There is no need to aim them at a moving situational target; they've got it surrounded.

Behavioral ethics can also play a big role in securing corporate leaders' commitment to any needed reshaping of organizational culture. It can help leaders understand how easy it is for good people to fall prey to temptation or pressure—how misconduct can occur anywhere, at any time, and the person behind it may well be someone who has justly earned the organization's trust right up to the moment of betraying it. Business leaders need to know that compliance is not all about rooting out a few inherently "bad apples" but is more about creating an environment where good apples are less likely to rot, and will have an opportunity to thrive. The growing body of solid science in this field provides the kind of compelling, objective evidence that can persuade boards and executives to support ethical-culture efforts based on principles more ambitious than "hire good people." That support—both in terms of leaders' commitment of their own time and energy and in terms of institutional resources—is a prerequisite for any meaningful program of culture change.

Now, no set of norms and no culture can prevent misbehavior by a determined criminal. Someone who plans and executes a scheme to enrich themselves or gain power, a true rational calculator whose only constraint is the likelihood of getting caught, is not going to be deterred by culture any more than by a cognitive intervention. Likewise, someone who originally made a small misstep (such as "borrowing" company funds with the intention of repaying) and has become trapped in a vicious cycle of escalating misconduct is not likely to confess just because they're in a good culture. For these people, we will always need a bigger toolbox than culture alone.

But one of the great things about an ethical culture is that whether or not it is effective against a particular wrongdoer, it still has

the power to influence the much larger group who work with the wrongdoer. We know that in an organization with a strong ethical culture, people are much more likely to report misconduct that comes to their attention. And that's the secret sauce of culture: what it doesn't prevent, it can help uncover. We can never prevent all misconduct, but with ethical leadership and a strong ethical culture, we can build a workplace where people feel comfortable speaking up when they know something is wrong. If we succeed, it not only reduces the damage from the particular misconduct that is reported; on a broader scale it creates a risky and inhospitable environment for bad apples.

So let's use nudges when the situation is right. But we'll miss a much larger opportunity if we fail to take advantage of what psychology tells us about building an ethical workplace. We know what it takes to put a compliance-positive culture in place; we know that it's efficient and works across a wide variety of compliance situations; and when it doesn't prevent misconduct it can function as its own backstop by encouraging whistleblowing. It's hard work, it takes time and requires complete commitment from leadership, but the rewards are enormous. ■

ENDNOTES

1 The term *nudge* was popularized by Richard Thaler and Cass Sunstein in their book, *Nudge: Improving Decisions about Health, Wealth and Happiness* (2008).

2 For more detail on the effect of signing before certifying, see Lisa Shu, Nina Mazar, Francesca Gino, Dan Ariely and Max Bazerman, "Signing at the beginning makes ethics salient and decreases dishonest self-reports in comparison to signing at the end," *Proceedings of the National Academy of Sciences*, vol. 109, No. 38, p. 15197.

3 See Max H. Bazerman and Francesca Gino, "Behavioral Ethics: Toward a Deeper Understanding of Moral Judgment and Dishonesty," *Annual Review of Law and Social Science*, Vol. 8, pp. 85–104, 2012.

4 I would love to see some research on the ongoing effectiveness of the "signature-at-the-top" technique in contexts where the certification is obtained weekly or monthly, as is likely to be the case with a competitive-bidding checklist.

5 See Daniel Kahneman, *Thinking, Fast and Slow*, New York: Farrar, Straus and Giroux 2011.

6 See, e.g., Linda K. Treviño et al., "Managing Ethics and Legal Compliance: What Works and What Hurts," 41 *Cal. Mgmt. Rev.* 131–151 (1999).

7 See Trevino, *supra* note 6, and sources cited in Scott Killingsworth, "Modeling the Message: Communicating Compliance through Organizational Values and Culture," *Georgetown Journal of Legal Ethics*, Vol. XV, No. 4 (Fall 2012) 961, 971–77.