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Topic: Public Comment on Whistle-blower's rights

The SEC is inviting public comments on the debate of whistleblower's rights and protection. This writer would like to contribute to this discussion, and would like to define the scope of this conversation.

There are three entities in question, and the response will need to factor in each entity's best interest.

The **company** is the first entity that is at the heart of the entire debate. They have a lot at stake if a news goes public, that exposes an improper actions of some, which may not be blessed by those at the top, and will certainly do not enjoy the blessings of the stake holder. The whole cadre of people stand to lose a lot when a news with such ramifications goes public.

At the very least, the company should be given a chance to self-correct the problem.

The **whistle-blower**, on the other hand, has the right to safeguard his or her own position, be it in a potential loss of income or a possible threat to the career. But before going public with a charge, it is debatable whether the employee has an obligation to the employer, to give them a chance to self-correct the problem. The issue often cited is if the chain of command is itself complicit in the wrongdoing, how could one expect for the complaint to receive a fair hearing.

The consideration of offering cash reward to whistle-blowers has the potential to be misused and abused. There's no stopping an employee to himself or herself be involved in such an action, and then turn around one day, acquire the whistle-blower status and receive immunity during the process. It is also equally possible for someone to use this as a platform to wage a personal vendetta against an ex-employer. The notion of cash reward enables these individuals to gain monetarily from this investigation, and it's hard not to acknowledge the inherent conflict of interest in this situation.

The third entity that is often overlooked in this debate, is the **collected assemblage of the company's competitors**. The public at large has its exercisable rights too, but they pale in comparison to those of others in the market place who expect a fair competition. A company breaking rules by cutting corners is taking undue advantage which threatens to affect others in a zero-sum game.

The best solution is the one that stops the improper actions, and limits the damage the actions may cause. An optimum solution is, therefore, one that looks at the rights and interests of all three entities.

One way to ensure these objectives is by this unitary step: setup of an external regulatory and compliance group that is **not** managed by SEC or any other government agency. It is a private agency, that is chaired by a group of executives, board members and government officials, that work in an unofficial capacity. They receive the news of improper actions and initiate an investigation. They have the power to force company officials to provide information, but does not have the capacity to impose any punitive measures.

Once an employee approaches this group, he or she automatically receives the whistle-blower status, that guarantees that his or her rights would not be impugned. The company then gets a chance to address the complaint and bring about a change in policy, or internal oversight that promises to cleanup

their act. The group then continues to work with the company to ensure ongoing compliance. At any time, should there be a recurrence of the problem, or failure to adequately address the concern, the group escalates the matter to SEC, at which time, it becomes a matter of public discourse.