

# ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

## WHISTLEBLOWER REWARD PROGRAMMES

### QUERY

Can you provide information on whistleblower reward programmes? Which countries have such reward programmes in place and what are the main features? Is there any research showing the effectiveness of such a reward system, that is, are people more likely to blow the whistle if a reward is offered or not?

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### SUMMARY

Several countries, such as the U.S., Canada and South Korea, have introduced whistleblower reward programmes that aim to increase the quantity of disclosures about cases of corruption, fraud, misconduct and other illegal activities.

These mechanisms award whistleblowers with a payment if their information leads to successful prosecution or recovery of funds. Some analysis suggests that these programmes are successful as they incentivise individuals or groups to come forward with information and counter-balance the possible dangers of blowing the whistle.

However, another school of thought suggests that reward systems can create perverse incentives, leading to negative effects such as a rise in false reports. This Helpdesk answer provides an overview of reward programmes and examples of countries that have enacted the legislation.

## 1. RATIONALE FOR INTRODUCING FINANCIAL INCENTIVES FOR WHISTLEBLOWING

### Whistleblowing<sup>1</sup> protection and corruption

Whistleblowers are integral to anti-corruption efforts as their disclosures may include information on corruption, fraud, mismanagement and wrongdoing that threatens public health, safety, human rights, the environment and the rule of law (Transparency International 2013).

When it comes to reporting wrongdoing at any given organisation, a distinction can be made between whistleblowers and bell-ringers. Whistleblowers are members of the organisation itself who allege that the organisation is involved in wrongdoing, whereas bell-ringers are individuals external to the organisation who report perceived wrongdoing on the part of the organisation (Brown et al. 2014).

While bell-ringers' disclosures should also be taken seriously, whistleblowers' "insider perspective" means they are particularly well placed to detect wrongdoing. In fact, insider tips are often instrumental in the detection of corporate fraud and corruption (Wolfe et al. 2014; Faunce et al. 2014). Since a higher risk of detection is considered more likely to prevent corruption than the threat of severe sanctions (Howse and Daniels 1995), a whistleblowing mechanism that increases the likelihood that any malfeasance is quickly uncovered is expected to be an effective means to curb corruption and improve compliance.

A whistleblower may report misconduct through internal reporting mechanisms, externally through an independent body, or – in certain circumstances – to the public. However, whistleblowing does not come without risks. In the workplace, whistleblowers may experience dismissal, suspension, demotion and denial of promotion. Whistleblowers may also suffer personal threats such as being sued, arrested, threatened, assaulted or, in extreme cases, killed (Transparency International. 2013). In addition, many

cultures hold a negative view of informants, with connotations of 'sneaks' or 'spies'. Cultural influence, a fear of victimisation and lack of trust in management are among the major deterrence to whistleblowing (Ayagre, Aido-Buameh 2014).

The first step to overcome these challenges and encourage reporting is to provide whistleblowers with adequate protection from all forms of retaliation. This will not only serve to protect these individuals, but also to promote the fight against corruption more generally. The OECD (2012) notes that the detection of corruption or other abuses is more probable in environments with strong whistleblower protection.

The necessity to protect whistleblower in both the public and private sector has now been recognized by all major anti-corruption policies (OECD 2012). For example, signatories of the United Nations Convention against Corruption are obligated to establish whistleblower protection legislation.

Transparency International's [International Principles for Whistleblower Legislation](#) provide guidance on how to formulate new and improve existing whistleblower legislation:

- Individuals must be protected from all forms of retaliation, disadvantage, or discrimination at the workplace resulting from whistleblowing.
- The identity of the whistleblower may not be disclosed without the individual's explicit consent.
- An employer must clearly demonstrate that any measures taken against an employee were in no sense motivated by a whistleblower's disclosure.
- An individual who makes a disclosure demonstrated to be knowingly false should be subject to employment sanctions and those wrongly accused should be compensated.
- Employees have the right to decline to participate in corrupt, illegal or fraudulent acts.
- Whistleblowers whose lives or safety are in jeopardy are entitled to receive personal protection measures (Transparency International 2013).

<sup>1</sup> Whistleblowing is the disclosure of information related to corrupt, illegal, fraudulent or hazardous activities being committed in or by public or private sector organisations – which are of concern to or

threaten the public interest – to individuals or entities believed to be able to effect action (Transparency International, 2013)

Among the G20 countries, the U.S., South Africa, Australia, Canada, South Korea and the U.K. are considered examples of good practice in regards to whistleblower legislation (Wolfe et al. 2014). Albeit to different degrees, each state has established dedicated laws and agencies to protect whistleblowers within public institutions and in some cases also private sector firms (Wolfe et al. 2014).

In addition to providing guarantees against retaliation, some whistleblower protection laws have established compensation schemes that provide remedies to individuals for losses occurred as a result of their disclosure. For instance, the UK's Public Interest Disclosure Act 1998 provides a reimbursement, which is assessed on the losses suffered by a whistleblower from submitting a disclosure (Bowden 2005). The Act applies to workers within any sector and protects them from retaliation by their employer, including dismissal, disciplinary action or a transfer that otherwise would not have happened (Bowden 2005). Whistleblowers are awarded compensation if the health or safety of an individual is, or is likely to be endangered, a miscarriage of justice has occurred or the environment is being damaged. The whistleblower is then entitled to the settlement payment.

### Benefits of introducing whistleblower reward programmes

Beyond protection against retaliation and compensation for losses, reward programmes provide financial incentives for reporting wrongdoing. Such schemes aim to counteract the disincentives caused by personal risks facing whistleblowers. Despite some similarities, reward programmes are therefore fundamentally different from compensation schemes by providing an award of funds rather than simply a compensation if losses have occurred. They either come in the form of general bounty schemes or *qui tam* laws. Bounty schemes are simple cash-for-information programmes that award whistleblowers whose information leads to a successful prosecution with a fixed sum of money. *Qui tam* laws allow the whistleblower (known as the relator) to bring a lawsuit on behalf of the government if fraud has been committed. The relator is then eligible for a portion of the recovered funds if successful. While several countries such as the UK and Australia have strong whistleblower protection legislation that entails

compensation, there has been a relatively slow uptake of reward programmes worldwide (Fauce at al. 2014).

The evidence on the effectiveness of whistleblower reward programmes is mixed. For instance, proponents of the programmes suggests that they increase the quantity of disclosures and cite its ability to incentivise hesitant whistleblowers while opponents to such schemes highlight the possibility of monetary rewards undermining the morality of blowing the whistle. The following sections will outline the primary arguments for and against reward programmes.

#### *Increasing the quantity of disclosures*

Whilst protection schemes may negate the severity of personal risks caused by whistleblowing, some research contends that reward programmes are even more effective at counter-balancing the possible dangers. Rewards go further than compensation for damages and instead motivate whistleblowers through awards of funds. Research into the behaviour of managers and employees induced by the U.S. bounty scheme, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), has demonstrated that employees will perform a cost-benefit analysis when considering whistleblowing (Franke, Moser and Simons 2016). In order for incentives to be effective, the rewards must be high enough to compensate for retaliation charges (Franke, Moser and Simons 2016). The study concluded that if rewards outweigh the anticipated costs of retaliation they would support an increase in disclosures (Franke, Moser, and Simons, 2016). In the U.S., increased monetary incentives have led to an 'unprecedented' number of investigations and greater recoveries (Kohn, 2014). Franke, Moser and Simons' (2016) model does, however, suggest that as rewards increase, so does the risk of false accusations. This is we return to below in the section on false reports.

#### *Public awareness*

Whistleblower rewards are often given media coverage and may help to change wider attitudes on the act of blowing the whistle. According to research by UK-based law-firm RPC, the number of whistleblowers working in financial and professional services rose primarily as a result of greater public awareness of the option of whistleblowing (Craggs

2015). Rewards may then have a two-fold effect on the number of disclosures. Firstly, they garner public attention, which then leads to an increase in the number of whistleblowers coming forward.

Secondly, some claim that rewards work towards ending the stigmatisation of whistleblowers. One law firm that works with whistleblowers has praised the U.S. bounty scheme, the Dodd-Frank Act, stating that it both incentivises people to speak up and helps to change the traditional stigmas of whistleblowing (Kasperkevic 2015). They argue that as the government takes greater control over whistleblower protection and reward programmes, this leads to public awareness of the importance of reporting wrongdoing and thus encourages more people to come forward (Kasperkevic 2015).

### *Cost effectiveness*

Reward programmes may lower public spending, as they are less costly than traditional investigative methods. Police officers and investigators consume real resources, whereas whistleblower rewards are simple wealth transfers (Givati 2016). Research into the theory of whistleblower rewards has shown that - as long as the risk of a false report is low enough - using a whistleblower and a reward programme is more economical than relying upon police officers (Givati 2016). Certain types of allegation are less likely to be prone to false reporting than others; the risk of false reports is likely lower where the reported wrongdoing concerns tax evasion or environmental damage, for instance, as the falsification of evidence would be difficult (Givati 2016).

### *Internal compliance*

Reward programmes can help to strengthen internal compliance within organisations. Paying whistleblowers could counteract negative social pressures that favour silence (Bradley 2015). This in turn could contribute to the development of organisational norms that inculcate a more compliant, transparent and accountable workplace culture.

### *Cartel deterrence*

One study of South Korea's reward system found that a cartel's anti-competitive behaviour is weakened

through the introduction of whistleblower rewards. If there are financial incentives for whistleblowing then those who have knowledge of cartel activities must be prevented from exposing misconduct through either threats or bribes (Stephan 2014). This makes existing infringements less stable and encourages distrust between cartel members (Stephan 2014). The efficiency of the cartel is reduced, as trust decreases and the costs of bribery increase in order to match the whistleblower reward (Stephan 2014). It should be noted that this benefit would only occur if the legislation allows co-conspirators to be considered whistleblowers, which is often not the case. The cartel may also choose to reduce the number of people in each firm that are directly involved in the cartel in order to diminish the risks caused by reward programmes.

Given the considerable risks involved in blowing the whistle on cartels, Stephan (2014) argues that the financial rewards should be considerably higher than they currently are in countries such as the United Kingdom, Hungary or Pakistan, and suggests somewhere in the range of 5 million USD.

Despite the evidence presented above that reward programmes encourage whistleblowing, other studies suggest that the introduction of rewards can lead to negative consequences which may outweigh the benefits. When considering the introduction of reward programmes into British legislation the Bank of England concluded that there is no empirical evidence of rewards leading to an increase in quantity or quality of disclosures (Bank of England, 2014). Their conclusion was based on a visit to the United States by UK Financial Conduct Authority representatives to assess the most internationally well-known bounty programme, the Dodd-Frank Act. They concluded that the introduction of similar bounties within the UK would be unlikely to increase the number of successful prosecutions (Bank of England, 2014). While this report has been widely cited, the methodology and conclusions have been criticised, with the US National Whistleblower Center even formally requesting its withdrawal.<sup>2</sup>

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<sup>2</sup> For a detailed explanation of the withdrawal request see: <https://www.whistleblowersblog.org/2018/06/articles/foreign->

[corruption-whistleblowers/national-whistleblower-center-requests-bank-of-england-withdraw-deleterious-whistleblower-report/](https://www.whistleblowersblog.org/2018/06/articles/foreign-corruption-whistleblowers/national-whistleblower-center-requests-bank-of-england-withdraw-deleterious-whistleblower-report/)

## Disadvantages of providing incentives to whistleblowers

### *False reports*

Reward programmes may have the undesirable effect of leading to false accusations of misconduct as individuals may view the incentives as an opportunity to pass on speculative rumours or fabricate evidence (Givati 2016). According to several studies (Givati 2016; Franke et al. 2016), as rewards for whistleblowing increase so does the risk of false reports.

### *Opportunistic reports*

Opportunistic whistleblowers may encourage corporations into financial settlements in order to avoid reputational damage and bypass the criminal court system all together (Givati 2016).

A study of incentive-based compliance mechanisms has suggested that as a reward's size is typically based upon the seriousness and severity of the wrongdoing, whistleblowers may choose to delay their report until the last possible moment in order to maximise their monetary gain (Howse and Daniels 1995). Moreover, in order to obtain a reward the whistleblower must provide sufficient evidence of misconduct. Therefore, whistleblowers may wait until they have assembled a substantial body of evidence before blowing the whistle; these delays may result in evidence being destroyed or rendered unavailable by guilty parties (Howse and Daniels 1995). Ultimately, however, Howse and Daniels (1995) argue that the risks of delaying reporting act as a curb on whistleblower opportunism.

### *Entrapment*

As the reward is often determined by the percentage of the total penalties assessed against the corporation, a whistleblower has an incentive to encourage other employees to commit as much illicit activity as possible (Howse and Daniels 1995).

In a survey on whistleblowing, respondents who were most concerned about reward programmes reasoned that they could lead to inappropriate reports being lodged (Tracey and Groves 2013). Howse and Daniels (1995) also argue that rewards may also harm a business's performance by causing distrust amongst employees, as staff may fear their colleagues are

accessing confidential files for evidence of illicit behaviour.

### *Assessment of reward programmes' effectiveness*

There are still considerable risks facing whistleblowers and, as such, the positive effects of whistleblowing must outweigh the negative effects (Franke et al. 2016). Analysis concludes that as the personal cost of whistleblowing increases, a higher reward is required to induce reports and maintain deterrence (Givati 2016). Conversely, where rewards outmatch risks, the quantity of disclosures will rise (Franke et al. 2016). Similarly, a study on cartels finds that a strong monetary incentive will motivate people with information on cartel behaviour to come forward as long as the rewards are sufficiently high (Stephan 2014).

Other studies conclude that reward systems are effective at motivating whistleblowers to communicate information about corporate malpractice in a timely and accurate way to public authorities (Howse and Daniels 1995). Overall, the literature suggests that while there may be some concerns about reward schemes, these are not so serious as to prevent their adoption (Stephan 2014; Howse and Daniels 1995).

An analysis by the University of Chicago Booth School of Economics of the impact of the U.S. *qui tam* scheme, the False Claims Act, looked at all reported fraud cases in the country between 1996 and 2004. The breakdown concluded that monetary incentives did indeed motivate people to blow the whistle and increase the number of disclosures (Kohn 2014). The study found no evidence to support the view that monetary incentives lead to negative effects such as false reports (Kohn 2014). It argues that the failure of nations to enact whistleblower reward laws has resulted in foreign nationals seeking protection under the U.S. whistleblower reward programme (Kohn 2014).

## 2. MAIN FEATURES OF REWARD PROGRAMMES

### Scope

Reward programmes in the form of bounty schemes may apply to whistleblowers in either public or private sector organisations and their objective is to encourage the detection of a wide range of inappropriate and illicit behaviour. Bounty schemes target individuals or groups of individuals who have insider knowledge of any past, present, or likely to occur illegality, economic crime, miscarriage of justice, waste or misappropriation by an organisation, degradation of the environment, or the endangerment of the health or safety of an individual or community (Faunce et al. 2014).

In the case of *qui tam* laws, such as the U.S. False Claims Act for example, a lawsuit can be filed by any individual who has knowledge of fraud against the government. He/she thus initiates a suit on behalf of the government and, if successful, receives a financial reward (Faunce et al. 2014). *Qui tam* laws are usually filed by people who are not affiliated with the government (such as contractors) and typically involve industries such as healthcare and defence.

However, there are a number of cases whereby an individual is unable to claim a reward. In the case of the U.S. Dodd-Frank Act, rewards are not to be paid to whistleblowers who work for regulatory agencies, the Department of Justice, a self-regulatory organisation, the Public Company Accounting Oversight Board, a law enforcement organisation or those who are convicted of a criminal violation related to the securities law in question (Bradley 2015).

### Process

Whilst many describe *qui tam* laws and bounty schemes as the same, the crucial difference lies with the role of the whistleblower in bringing action (Vaughn, 2012).

In a simple cash-for-information bounty scheme, a whistleblower may submit evidence to the relevant authority. If the evidence proves that misconduct has been committed, the individual must then rely upon the designated body to file charges and collect funds. The selected reward is then transferred to the whistleblower.

In contrast, the whistleblower in a *qui tam* case may hire an attorney once they have gathered evidence and place the *qui tam* action under seal (Faunce et al. 2014). Once under seal, a government body will then oversee the evidence and assess the whistleblower/relator (Faunce et al. 2014). At this point, the government may choose whether or not to intervene and join the case (Faunce et al. 2014). If the government does not intervene, it allows greater involvement of the whistleblower throughout the proceedings.

### Requirements

The prerequisites for rewards vary from jurisdiction to jurisdiction. Some may insist that in order to be rewarded the whistleblower must first report the wrongdoing through internal mechanisms and, if those fail, report externally. Others, such as for example the Ontario Securities Commission, do not require any internal reporting in order to bestow a reward.

Gaining information independently is also a common requirement of reward programmes and the whistleblower must have come forward with this evidence voluntarily. The originality of information is also often a requirement for eligibility.

The outcome of the case is another major factor in the requirements. Many jurisdictions have a minimum amount of recovered funds needed in order to award the whistleblower, such as the Dodd-Frank Act, in which the recovered funds must be over US\$1,000,000 in order to render the whistleblower eligible for a reward (SEC 2011). The high number of requirements have also led to criticism of reward programmes, arguing that it leads to very few whistleblowers actually receiving rewards (Bank of England 2014).

### Size of the reward

The amount of award differs between countries but is usually predetermined before the case comes to court by the relevant government body or court. For example, under the False Claims Act, if the evidence leads to successful prosecution and the Department of Justice (DOJ) has chosen to intervene then the relator is eligible for 15%-25% of the damages that the government recovers (Faunce et al. 2014). However,

if the DOJ does not intervene, then the relator may be awarded with between 25% and 30% of recovered funds (Faunce et al. 2014). Under the bounty schemes, the whistleblower may be awarded between 10% and 30% of funds recovered (SEC 2011).

Most reward programmes have designated percentages of the recovered funds to award to the whistleblower, or, they may take the rewards from a dedication fund composed of voluntary donations and previously recovered funds (Faunce et al. 2014). The size of the reward may often depend upon the severity of the crime, the quality of evidence provided by the whistleblower and the level of involvement from the whistleblower.

There is a debate about the size of monetary rewards. Some research proposes that bounties should be low, ranging from 1% to 3% of the penalty recovered (Currell and Ferziger 2000). This is because it may increase tips from whistleblowers for whom internal moralistic motivation alone will not induce action, but will also mitigate the risk of false reports that are driven by large sums of reward money (Currell and Ferziger 2000). However, other studies calculate that a whistleblower in the U.S., for example, who earned US\$80,000 a year would need a much higher reward of US\$4,000,000-5,000,000 to cover the prospective loss of income, loss of promotions, legal defences, and the risk of social, family and personal pressures (Stephan 2014).

## Potential issues

Whistleblower reward programmes often involve lengthy and complex regulations to balance the potential disadvantages of offering financial incentives, as is the case with the Dodd-Frank Act (Bradley 2015). This means that potential whistleblowers may struggle to navigate the system without external support. Whistleblowers are likely to require lawyers, which is both costly and poses the question of whether the industry of representing whistleblowers should be regulated (Bradley 2015).

Anonymity is another concern in regards to reward programmes. Many schemes do not allow whistleblowers to remain anonymous. For example, The Ghanaian Whistleblower Act 2006 only rewards whistleblowers once they have reported to a chief or elder in addition to a range of government offices and

institutions, which does not allow effective confidentiality of the identity of the whistleblower (Faunce et al. 2014). However, many programmes do combine rewards with added retaliation protections such as having the option to provide evidence through intermediaries such as lawyers, therefore maintaining confidentiality.

## Further recommendations

### *Recognition of whistleblowing as an act of civic courage*

As shame is an effective sanction, social recognition can serve as another form of incentive (Vaughn 2012). This can be achieved through formal awards given by agencies, businesses, professional groups and peers (Vaughn 2012). Such recognition supports the whistleblower and aids emotional recovery whilst restoring their reputation and standing (Vaughn 2012). A number of whistleblower advocacy groups provide awards and recognition to whistleblowers, for example:

[The Sam Adams Award](#)

[The Paul H. Douglas Award for Ethics in Government](#)  
[The Ridenhour Prizes](#)

### *Transparency*

In the U.S., annual reports on whistleblowing disclosures and their handling and outcome are published on the Securities and Exchange Commission's (SEC) [website](#). Greater transparency in the processes and results of whistleblower reports could boost the confidence of prospective whistleblowers who feel they are unable to report internally (Bank of England 2014). Studies demonstrate that online access to information on whistleblower cases results in an increase in prosecutions of corruption (Goel and Nelson 2013). This research suggests that heightened public awareness about whistleblowing is in fact more effective than the quantity and quality of whistleblowing laws themselves (Goel and Nelson 2013).

### *Cultural change*

Other studies on the psychology of whistleblowers have suggested recommendations for increasing the number of disclosures within organisations. They propose that whistleblowing represents a trade-off

between two moral values - fairness and loyalty - and that when fairness increases in value, then whistleblowing is more common and, likewise, when loyalty is more valued, whistleblowing is less likely (Dungan, Waytz and Young 2015). In light of these conclusions, it is suggested that in order to motivate a larger number of whistleblowers, organisations must build a community which values constructive dissent as well as loyalty. This would result in those with dissenting opinions being rewarded and viewed as effective leaders (Dungan, Waytz and Young 2015).

Similarly, a study of the implementation of whistleblower policies in the workplace concluded that the most efficient means of increasing whistleblowing is to change an organisation's culture through institutionalising 'an ethical way of doing things' (Senekal and Uys 2013). Changes in internal cultural attitudes towards whistleblowing are just as important as external legislation. Indeed, where the organisational norm is to report wrongdoing rather than look the other way, a low-corruption equilibrium is to be expected, in which corrupt players find few accomplices and face higher risks of detection and sanction (Fisman and Golden 2017: 7).

### 3. COUNTRY EXAMPLES

#### U.S.

##### *Main features of the scheme*

The U.S. has long relied upon private citizens as a means of law enforcement and employs the most widely known whistleblower reward programme (Bradley 2015). As mentioned above, incentives are facilitated through the Dodd-Frank Act of 2010. Section 922 of the act states that the U.S. SEC will pay whistleblowers who voluntarily provide original information that leads to the recovery of funds over \$1 million (SEC 2011). These individuals are reliant upon the SEC to file charges and collect fines in order to receive any reward (Faunce et al. 2014). Whistleblowers are awarded between 10% and 30% of the total funds recovered and employers are prohibited from retaliating against whistleblowers (SEC 2011). Whistleblowers have the option to first

report through internal mechanisms,<sup>3</sup> and will still be eligible for reward if they report the same information to the SEC within 120 days.

Another option is for a whistleblower to file a claim under the False Claims Act (FCA) through a *qui tam* lawsuit if fraud against a government programme is alleged (Bank of England, 2014). The U.S. Supreme Court stated that 'the FCA was intended to reach all types of fraud, without any qualification, that might result in financial loss to the Government' (Faunce et al. 2014). An individual, called a relator (an organisational member) or bell-ringer (an extra-organisational member) may file a false claims complaint. This is initially completed through a no-win no-fee attorney and the *qui tam* action is filed under seal *in camera* whilst the Department of Justice monitors the case, assesses the relator and prevents false claims (Faunce et al. 2014). The government may then decide whether to intervene or join the case (Faunce et al. 2014). The FCA has been applied to a number of different cases including: data suppression, international bribery, scientific misconduct, and bias in drug trials in sectors such as medical, financial, and defence contracting (Faunce et al. 2014). If successfully prosecuted, the informant is eligible for 15% to 25% of recovered funds if the Department of Justice intervenes and between 20-30% if the government does not (Faunce et al. 2014).

##### *Limitations*

The effectiveness of the use of financial incentives by U.S. regulators is contested. Opponents of the Dodd-Frank Act argue that the quality and/or quantity of disclosures has not increased since the introduction of rewards and that they require a complex and costly governance structure (Bank of England 2014). Others have concluded that it creates moral hazards such as malicious reporting, conflict of interest in court and entrapment (Adesiyan, Wright and Everitt 2014).

##### *Indication of effectiveness*

In 2014, it was announced that four whistleblowers collected more than \$170 million from bringing a FCA lawsuit against the Bank of America for mortgage fraud (Givati 2016). It was also recorded that the total amount of money recovered through the FCA had

<sup>3</sup> Whistleblowers are [not obliged](#) to exhaust internal channels before reporting to the SEC's external whistleblowing mechanism (Feanke et al. 2014).



exceeded \$18 billion between 2010 and 2014 (Givati 2016). As such, Faunce et al. (2014) argue that the FCA has been proven to be a successful anti-fraud measure that should be emulated by other countries. Its supporters also point out that it reduces government prosecution costs by shortening investigation times (Faunce et al. 2014).

The SEC does not only accept tips from U.S. citizens regarding fraud, corruption and misconduct. The Dodd-Frank Act has transnational application and can be applied to violations of the Foreign Corrupt Practices Act (FCPA) (Kohn 2014). Section 922 of the Dodd-Frank Act states that individuals can assist the SEC in uncovering securities violations including FCPA violations (Kohn 2014). The FCPA is an anti-bribery law that prohibits illicit payments to foreign officials and requires companies whose securities are listed in the U.S. to meet its accounting provisions. In 2014, the SEC reported to Congress that they had received tips and awarded applications from countries ranging from the UK, Brazil, South Africa and India (Kohn 2014). In 2018, the US National Whistleblower Center released a report analysing FCPA cases since 1977, claiming that prosecutions have been increasing, in part thanks to tip-offs from whistleblowers. The report also claims strong monetary incentives motivate people to come forward (National Whistleblower Center, 2018). For more information on the intersection of the Dodd-Frank Act and the FCPA see Berg and Adrophy (2012).

## Canada

### *Main features of the scheme*

In 2011, the Ontario Securities Commission (OSC) announced that it was implementing a programme of financial rewards for those who voluntarily provide information about corporate misconduct and misleading financial disclosures through its Office of the Whistleblower (Faunce et al. 2014). This legislation is largely based upon the bounty scheme of the US Dodd-Frank Act and the whistleblower protection laws in Australia and the UK (Hassleback 2016).

The Office of the Whistleblower's guide states that an entitled whistleblower may be an individual or group of individuals who are aware or suspect a violation of Ontario securities law and voluntarily report that information online or by mail. The types of misconduct

that are encouraged are illegal insider trading or tipping, fraud, corporate financial statements and unregistered trading. Information must be original and obtained through independent knowledge or independent analysis. If a whistleblower's evidence results in a final order imposing monetary sanctions then he/she is awarded with cash rewards between 5% to 15% of the recovered funds, capped at CAN\$5,000,000 (Neal 2016).

### *Limitations*

The Office of the Whistleblower's rewards are limited to financial fraud. They do not cover wider corrupt practices and there is currently no mechanism in place to collect a reward from such disclosures. Whistleblowers are also not required to report internally in order to be eligible for a reward. This could lead to whistleblowers being more likely to report externally. While this could be seen as an advantage for the whistleblower, it could also be seen as having a negative impact on internal reporting. Unlike the SEC's programme, there is no leniency for the culpable whistleblower's role in the crime and those who report run the risk of opening themselves up to liability (Neal 2016). The OSC does not offer anonymity; although a whistleblower may initially hire a lawyer to maintain confidentiality, this cannot be guaranteed at later stages (Neal 2016).

### *Indication of effectiveness*

Ontario is the first Canadian jurisdiction to offer financial incentives. Kelly Gorman, the first chief of the OSC's Office of the Whistleblower, stated that the incentive programme has assisted the alteration of the cultural stigma attached to whistleblowing and compensated those for personal and professional risks (Hassleback 2016).

## South Korea

### *Main features of the scheme*

The Protection of Public Interest Whistleblowers Act was passed in 2011 and offers protection and financial rewards for government and corporate whistleblowers who report violations relating to safety, health, the environment, consumer protection and fair competition (Wolfe et al. 2014). Wrongdoing can be reported to the Anti-Corruption and Civil Rights Commission (ACRC), which then, if disclosures are accepted, sends them to relevant agencies for

investigation (Wolfe et al. 2014). The ACRC offers whistleblowers from 4% to 20% of recovered funds of up to US\$2,000,000 and provides protections including safeguarding against the cancellation of permits, licenses and contracts (Wolfe et al. 2014).

For cartel offences, the Korean Fair Trade Commission (KFTC) empowered its competition laws under the Monopoly Regulation and Fair Trade Act, which were enacted as part of the government's efforts to liberalise markets, abolish direct price controls and weaken cartel activity (Stephan 2014). The KFTC introduced a formal rewards mechanism for informants in cartel cases in 2002, and, in 2004 set out where rewards would be offered and excluded such as in situations where evidence is insufficient (Andreas 2014). The size of rewards is determined by a committee whose role it is to ensure fairness and transparency and informant protection is guaranteed by enforcement decree.

#### *Limitations*

The first few years of the anti-trust programme under the KFTC were considered unsuccessful as fewer than ten reports were generated in a four-year period (Sullivan, Ball and Kiebolt 2011). This was attributed to the negative perception of informants in the country as well as low cash rewards.

#### *Indication of effectiveness*

The Protection of Public Interest Whistleblowers Act is considered one of the world's most comprehensive whistleblower laws (Wolfe et al. 2014). From 2002 to 2013, the ACRC received 28,246 reports of wrongdoing and recovered the equivalent of US\$60,300,000 which resulted in US\$6,200,000 of rewards (Wolfe et al. 2014). As of May 2014, the largest reward paid was US\$400,000 from a case in which a construction company was paid US\$5,400,000 for sewage pipelines that were not built and resulted in eleven people facing imprisonment, with all funds recovered (Wolfe et al. 2014).

After an initially poor reception, the KFTC in 2005 increased the reward amount up to 100 million Won (US\$94,000) and guaranteed confidentiality for whistleblowers (Stephan 2014). As a result, the country now has one of the most active cartel enforcement regimes in the world: in 2008 alone, the KFTC imposed 205 billion Won (US\$192,000,000) in administrative fines within 43 cartel cases (Stephan

2014). The cases have varied from evidence of cartel existence and bid rigging scandals (Stephan 2014). Proponents of reward programmes often cite South Korea as evidence that incentives result in increased cartel reporting (Stephan 2014).

## Ghana

### *Main features of the scheme*

The Ghanaian Whistleblower Act 2006 was the first African legislation to introduce a bounty programme (Faunce et al. 2014). A whistleblower may report any 'impropriety', which includes any past or near future illegality, economic crime, miscarriage of justice, or misappropriation by a public institution. This information must then be reported to a chief or elder, a religious body or a range of government offices (Faunce et al. 2014). The disclosure may be made in writing or orally and, if leading to an arrest and conviction of an accused person, then a reward shall be given to the whistleblower (Parliament of the Republic of Ghana 2006). The amount determined by the Whistleblower Act is either 10% of the money recovered or an amount that the Attorney General in consultation with the Inspection-General of Police determines (Parliament of the Republic of Ghana 2006). The financial rewards are generated through a dedicated fund that is comprised of voluntary contributions allocated by Parliament, including amounts recovered from fraud (Faunce et al. 2014).

The Whistleblower Act also gives whistleblowers the right to sue for victimisation within the High Court (Faunce et al. 2014). The whistleblower is liable to apply for police protection if there is a reasonable cause to believe that the whistleblower's life or property, or that of his/her family, is endangered (Parliament of the Republic of Ghana 2006). Protection covers risks of dismissal, suspension, redundancy, denial of promotion, harassment or threats because of the disclosure (Parliament of the Republic of Ghana 2006).

### *Limitations*

Research suggests that whilst the enactment of whistleblower legislation has been a commendable effort there has been little political will in implementing and complying with the law (Domfe and Bawole. 2011). There have been recent cases where, despite the strong legal protection, whistleblowers still suffer from retaliation. For example, when the Chief

Accountant and the Chief Director of the Ministry of Youth and Sports revealed misappropriation of public funds in 2008, they were asked to leave their positions with one being surcharged with an amount of \$20,000 for lack of discretion in approving payment for the Minister (Domfe and Bawole. 2011). The Attorney-General justified the action taken against the whistleblowers and further stated that the Principal Accountant did not qualify as a whistleblower as he did not submit anonymously (Domfe and Bawole. 2011).

## Hungary

### *Main features of the scheme*

Hungary has adopted a whistleblower reward scheme within the antitrust context. An amendment of the Hungarian Competition Act in 2010 under Article 79/A (1) and (3) states that informants who provide 'indispensable' information about hardcore cartels may be entitled to a reward from the Hungarian Competition Authority (Hungarian Competition Authority 1996). A hardcore cartel refers to competitors that fix purchase or selling prices, divide the share of markets, rig bids or fix production quotas (Hungarian Competition Authority, 1996). 'Indispensable' information also includes information that leads the court to issue a warrant to conduct an unannounced inspection and leads to the obtainment of evidence (Hungarian Competition Authority, 1996).

Rewards are only offered to whistleblowers who provide timely evidence about hardcore cartel activity and are limited to 1% of the fine imposed by the Competition Council, with a maximum of HUF 50,000,000 (approximately US\$180,000) (Hungarian Competition Authority 1996). No reward is offered to the informant if the evidence has been obtained as a result of a crime or an offence (Hungarian Competition Authority 1996).

### *Limitations*

Some studies suggest that the size of the bounty for information on cartels is inadequate to incentivise whistleblowers (Stephan 2014). The Hungarian Competition Act only rewards whistleblowers who provide evidence on cartel activities. Whilst protection is provided for those providing information on corruption and misconduct, there is no formalised reward system for these whistleblowers.

## Pakistan

### *Main features of the scheme*

The Competition Commission of Pakistan (CCP) introduced a rewards programme to uncover cartel activity through its Guidelines on the Reward Payment to Informants Scheme. The scheme combines financial rewards with added protections, such as anonymity (Faunce et al. 2014). Payments range from Rs 200,000 to 500,000 (USD \$1,900 to \$4,700) and are calculated through the usefulness of information, the level of the informant's contribution, the severity of the cartel misconduct and the efforts made by the informant (CCP). Whistleblowers in Pakistan are also offered protection under the scheme; anonymity is an option and specially trained officers dealing with the case safeguard the informant's identity (CCP).

The Federal Board of Revenue offers a similar mechanism for the public to report evasion in sales tax, income tax or corrupt practices of Inland Revenue officials (Government of Pakistan 2016). Whoever reports the concealment of tax evasion, corruption, or fraud and the information results in collected tax is eligible for a reward. For Rs 500,000 (approximately US\$4,769) or less of tax evaded, the whistleblower may receive 20% of the tax and for over Rs 1,000,000 (approximately \$US9,538), the whistleblower may receive up to 5% of recovered funds (Government of Pakistan 2016).

### *Limitations*

These bounty schemes are limited to cartel activity and fraud. There is no reward scheme for corrupt practices in general. Analysis also suggests that the amount of bounty provided in Pakistan for cartel whistleblowers is not large enough to incentivise the majority of informants (Stephan 2014).

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