

Whistleblowing in Austria's Workplaces

Business Strategies for Whistleblowing

Some critics are now busy eroding another support of free enterprise the loyalty of a management team, with its unifying values and cooperative work. Some of the enemies of business now encourage an employee to be disloyal to the enterprise. They want to create suspicion and disharmony, and pry into the proprietary interests of the business. However, this is labelled - industrial espionage, whistle blowing, or professional responsibility - it is another tactic for spreading disunity and creating conflict' (Roche 1971, 445).

Whistleblowing is conceived as 'a deliberate non-obligatory act of disclosure, which gets onto public record and is made by a person who has or had privileged access to data or information of an organisation, about non-trivial illegality or other wrongdoing whether actual, suspected or anticipated which implicates and is under the control of that organisation, to an external entity having potential to rectify the wrongdoing' (Jubb 1999, 78). Accordingly, during the last half century whistleblowing has increasingly become a challenge for business. As being evident in the quote above from the 1970ies, James M. Roche, former vice president of General Electric condemned whistleblowing for countering the interests of business and discredited its advocates as 'enemies of business' (445).

Yet, it is in the historical context of the 1960ies and 1970ies that whistleblowing emerged as a new form of *resistance against corporate power*. By providing a general social theory of whistleblowing, Olesen (2018) conceptualizes whistleblowing as a new *mode of critique* that can be historically situated within the decline of authority in the 1960s and the 1970s. In building his argument, Olesen (2018) pays close attention to Ralph Nader a consumer activist who probably not only initiated the discussion on whistleblowing in academia (Vandekerchove 2006) but also recognized whistleblowing as a *pro-social practice*. (Olesen 2018).

Accordingly, Nader (1972) points towards the growing power of corporations that 'penetrate deeper and deeper into the lives of people' (Nader 1972, 7 quoted in Olsen

2018,5). Nader (1972) conceptualizes whistleblowing as a 'new kind of resistance and democratic intervention, driven by rising social complexity and in response to organizations with expanding reach and capacity' (Nader in Olesen 2018,5). For Olesen (2018) Nader's understanding marks the emergence of a discourse that celebrates and heroizes whistleblowing for its political and democratic momentum. At the same time this meaning of whistleblowing as a form of *resistance against corporate power* posed a considerable risk to business. Accordingly, it is more than plausible that business advocates from the 1960ies onwards condemned whistleblowing for countering the interest of business (e.g. Roche 1971, 445).

Almost half a century later, the European Union (April 2018) published a directive for 'proposing a new law to strengthen whistleblower protection across the EU' (European commission 2018, 1). It is proposed to oblige private companies 'with more than 50 employees or with an annual turnover of more than €10 million to implement internal reporting channels, ensuring the identity of the whistleblower' (European commission 2018, 2). Thereby the use of these internal reporting channels becomes mandatory for employees who want to qualify for protection under the proposed EU law. Yet, external reporting to state authorities or EU bodies is protected when '(1) internal channels do not exist (2) their use is not mandatory (e.g. non-employees) (3) they were used but do not function properly or they could not reasonably be expected to function properly' (European commission 2018, 3). Only when both proposed (internal and external) reporting channels do not function within 3 to 6 months, the whistleblower can 'choose the last-resort option of publicly disclosing the information (European Commission 2018, 3).

While it is unclear when exactly the directive will be enforced, there is a widespread agreement among today's *advocates of whistleblowing within business* that internal reporting channels are needed within companies. As, Pittroff (2013) observed, that along with the demand of organisations to communicate *Corporate Social Responsibility* and implement *Corporate Governance Codes*, the 'managerial view of whistle-blowing was intensified after corporate scandals' (401). This led to the increased use of internal reporting channels in business and today's managers started to implement internal and online whistleblowing systems (Greenwood 2015, Lowry et. al. 2014).

In the context of business, whistleblowing systems are conceived as tools or mechanisms for the detection of misconduct, wrongdoing and corruption. (Miceli and Near 1992; Callahan et al. 2002; Moberly 2006, Pittroff 2013). The (selling) argument for internal whistleblowing systems is that wrongdoing, misconduct and corruption pose a substantial economical and reputational risk to companies. Thus, managers would like to be informed about potential risks so that wrongdoing can be corrected inside the organisation before it 'gets onto the public record' (Jubb 1999, 78). In so doing, whistleblowing systems increasingly use digital mailboxes that assist the communication between the whistleblower and the management and provide predefined -often anonymous- ways of reporting. In this sense, internal whistleblowing systems not only support the detection of wrongdoing in business but also prevent the reporting to third parties and society at large.

While it can be argued that the implementation of whistleblowing systems primarily aims at gaining (social) legitimacy for doing business (see Pittroff 2013), empirical research shows that employees increasingly report their concerns via using internal procedures and online reporting systems instead of going outside the organisation. For instance, the ACFE report to the nations (2016) shows that more than half of the whistleblowers in the survey used online whistleblowing systems.

With James M. Roche's opinion on whistleblowing in the 1970ies in mind, the widespread solution for companies to provide internal whistleblowing systems points towards a paradigm shift for the way business conceptualizes whistleblowing. While in the 1970ies *advocates of whistleblowing within business* were conceived as critics or 'enemies of business' (e.g. Roche in DeGeorge 1986), today they advise managers to provide whistleblowing systems by which employees are encouraged to report internally before they 'choose the last-resort option of publicly disclosing the information' (European Commission 2018, 3). In so doing, *advocates of whistleblowing within business* provide 'solutions' and 'answers' for organisations on how to deal with the disclosure of wrongdoing in the workplace.

However, this contemporary understanding of whistleblowing within business appears in strong contrast to what Olesen (2018) theorized and illustrated by the examples of *Edward Snowden, Bradley Manning and Antoine Deltour*. Accordingly, Olesen (2018) conceives the whistleblower as a historically formed character that transgresses socially constructed fields and thereby is controversially casted in the moral political drama about the foundation of society (see also Weiskopf & Willmott 2013, Weiskopf 2014, Weiskopf & Tobias-Miersch 2016). Building on field and systems theory (Bourdieu, 1984 [1979]; Luhmann, 1995[1984]), for Olesen (2018) 'field transgression' by which an employee breaks the boundaries of one social field to inform another, represents a key element of whistleblowing.

Yet, the understanding of whistleblowing within business is also in contrast to what Gabriel (2008) theorized as 'individualistic, ephemeral, and disorganised' (320) resistance practice. Drawing on Weber's metaphor of the 'iron cage', Gabriel (2008) observed contemporary organizational controls in an age dominated by 'spectacles, images, and pictures' (311) and identified whistleblowing as a form of resistance that is capable of subverting and undermining managerial control. For Gabriel (2008) in the age of glass, where organisations have become 'glass palaces' whistleblowing represents a 'novel form of employee resistance' and 'individual voice' that is capable of questioning corporate power.

Thus, less attention has been given to these two understandings of whistleblowing within business discourses. Today's *advocates of whistleblowing within business* neither conceive whistleblowing as an 'outward bound field transgression' (Olesen 2018) nor a form of *resistance against managerial power* (Gabriel 2008). Rather *advocates of whistleblowing within business* recognize whistleblowing as an effective tool not only to comply with legal but also social sanctioned norms. In this sense, whistleblowing in business is increasingly coupled to (rather than de-coupled from) companies and their management within internal reporting channels provided by whistleblowing systems that regulate the disclosure of wrongdoing in the workplace.

However, Olesen's (2018) contextualization of whistleblowing (e.g. Nader), points towards what Foucault observed as the 'historical contingency' of practices. For Foucault practices are 'places' 'where 'what is said and what is done, rules imposed

and reasons given, the planned and the taken for granted meet and interconnect (Foucault 1991, 75 in Bacchi & Goodwin 2016, 33). In other words, practices are socially constructed and regulated -often institutionalized- 'ways of behaviour' formed by the historical context in which they are situated. Conceiving the practice of whistleblowing this way, suggest that contemporary discourses within business inform the individual with a 'normative matrix of behavior which allows to distinguish "good" or "bad" forms of speaking the truth, provides reasons and legitimations of promoting/sanctioning certain forms of speaking, gives reasons for organizing whistleblowing as a form of "truth-telling" in the workplace in specific ways (Weiskopf & Tobias-Miersch 2016).

Notably, in his later work, Foucault increasingly referred to this discursive process by the concept of 'problematization'. Importantly, this understanding of problematization contrasts with its interpretivist meaning and use in academia (see Bacchi & Goodwin 2016, 38-39). In its foucault-influenced poststructuralist meaning, problematization refers to the discursive process by which 'problems' are constituted and represented in society. Crucially, in so doing discourses do not merely represent or refer to 'real' problems. Rather 'problems' are produced in specific ways so that in the form of 'solutions' (problem-solving) and 'answers' certain ways of behaviours and conducts appear as reasonable or meaningful ways of behaviour. Thus, 'governing takes place through the ways in which issues are problematized' (Bacchi & Goodwin 2016, 39). Accordingly, Foucault described the task of analysing problematization as a 'movement of critical analysis in which one tries to see how different solutions to a problem have been constructed, but also how these different solutions result from a specific form of problematization' (Foucault & Rabinow, 1997, pp. 118–119). In this sense, analysing problematizations aims to 'open up a space for reflection' (Bacchi & Goodwin 2016, 39).

In the context of truth-telling, Foucault's analysis of problematization (Foucault & Pearson 2001) of *parrhesia* (frank speech) can inform our understanding of whistleblowing. Accordingly, Foucault (2001) explored how the practice of truth-telling was problematized in Greek antiquity (400-500 B.C). Therefore, Foucault analysed 'philosophical texts' and observed that the practice of parrhesia was subject to a certain mode of (governmental) problematization that situated it within a normative matrix of

behaviour. This made it possible for individuals to be considered by others and themselves as *parrhesiastes* (truth-teller) rather than a sage, teacher or prophet (Foucault & Pearson 2001) in this historical context. Importantly, Foucault concluded that the practice of parrhesia as a 'historically contingent' form of truth-telling, constituted a 'critical tradition in the west' (Foucault 2001) and left us with a fruitful avenue to analyse contemporary forms of truth-telling.

By referring to Foucault's work on *parrhesia* scholars started to theorize whistleblowing as a modern form of truth-telling (Barratt 2004, French 2007, Mansbach 2011, Skinner 2011, Vandekerckhove & Langenberg 2012, Weiskopf & Willmott 2013, Weiskopf 2014, Weiskopf & Tobias 2016). Moreover, I agree with Olesen (2018) that the practice of whistleblowing emerged as a new *mode of critique* and *resistance to corporate power* along the decline of authority in the 1960ies and 1970ies. At the same time, Gabriel (2008) can inform our understanding of whistleblowing as a 'novel form of resistance' or individual voice against managerial power situated within today's decline of collective voice in today's 'glass cage' workplaces. Drawing on this Foucauldian inspired works on whistleblowing and by taking Olesen's and Gabriel's (2008) observations as a point of departure, it appears necessary to theorize whistleblowing within the contemporary historical context of business and today's workplaces.

Yet, there is no theory that informs our understanding of how whistleblowing is conceptualized within the context of business and today's workplaces. How do *advocates of whistleblowing within business* conceptualize the practice of whistleblowing and which specific 'programmes of conducts' do they propose for managers and employees in the workplace. In other words, which meaning is given to whistleblowing within business and how has the solution of internal reporting channels or the consensus of internal whistleblowing systems for business organisations been constructed as a result from a specific form of problematization (see Foucault & Rabinow, 1997, pp. 118–119).

Methodical Considerations

To explore the contemporary problematisation of whistleblowing within business, I will focus on the Austrian context, where just recently (June 2018) whistleblowing advocates have published a *best practice guide* for companies and whistleblowers that is online available under <https://www.ti-austria.at/2018/06/27/whistleblowing-ein-leitfaden-fuer-hinweisgeber-und-unternehme>

Quite like in an international context where anti-corruption advocates, compliance specialists and business experts increasingly support internal whistleblowing systems as effective mechanisms for detecting corruption, wrongdoing and misconduct in business organisations, the Austrian chapter of Transparency International (TI-A) and the Austrian branch of Price Waterhouse Cooper (PWC-A) have published a *best practice guide* for whistleblowers and companies.

The guide was developed within TI-A's work group on whistleblowing involving experts from various fields that have brought in their experience in setting up or running whistleblowing procedures and systems in public and private organisations. Accordingly, the panel discussion at the launch event in Vienna in June 2018 was joined by a compliance expert, a lawyer of the Austrian financial market authority (Finanzmarktaufsicht), the senior public prosecutor of the Austrian prosecution for white-collar crime ('Staatsanwaltschaft zur Verfolgung von Wirtschaftsstrafsachen und Korruption'), the chairwomen of the German 'Whistleblower-Netzwerk', and the chief editor of the investigative media outlet 'Dossier'.

The *best practice guide* is directed towards managers and leaders of companies (Unternehmen) and whistleblowers (Hinweisgeber). In so doing, the *best practice guide* is giving advice to managers, organisational leaders and employees about how to deal with whistleblowing in business organisations.

Drawing on Foucault-influenced poststructuralist literature, I conceive this *best practice guide* as a prescriptive or practical text 'written for the purpose of offering rules, opinions, and advice on how to behave as one should' (Foucault 1986, 12). In this sense, the *best practice guide* 'can be understood, possibly, in a loose sense, as a form of proposal and a guide to conduct' (Bacchi & Goodwin 2016, 18) that describes

how employees and managers should ideally deal with the practice of whistleblowing in the workplace. By offering 'solutions' or 'answers' (see also Rose 200, 58) for employees and managers, the *best practice guide* can inform our understanding on how *advocates of whistleblowing within business* problematize the practice of whistleblowing in the workplace.

The analysis aims at exploring 'connections, encounters, supports, blockages, plays of forces, strategies and so on' in order to show that things weren't as necessary as all that' (Foucault 1991, 76 in Bacchi & Goodwin 2016, 33). To structure the analysis systematically I will focus on (1) the conceptualisation of whistleblowing in business (2) the proposed way of behaviour for employees to disclose wrongdoing in the workplace (3) the proposed way of behaviour for managers to deal with whistleblowing in organisations. These three analytical dimensions will provide a framework for examining the *best practice guide*.

In so doing, the analysis seeks to contribute to our understanding of whistleblowing in business. Assuming that the EU directive will be enforced within all European countries and organisations will have to implement internal reporting channels to comply with the proposed legal standards, it is plausible that *advocates of whistleblowing within business* will take a lead in advising managers and organisational leaders how to implement the practice of whistleblowing in their companies. Therefore, the following analysis examines to what extent the proposed 'best practice' for whistleblowing in Austrian workplaces feeds into what Olesen (2018) theorised as 'field transgression'.

Analysis

The best practice guide, titled 'Whistleblowing: 10 Best Practices for Whistleblowers and Business Organisations' (German: 10 Best Practices für Hinweisgeber und Unternehmen) is divided in two parts: 10 best practices for whistleblowers (German: Hinweisgeber) and 10 best practices for business organisations. Each of the two parts includes 10 subtitles by which the best practices are explained. Each subtitle then is divided in DOs and DONTs for the whistleblower and the organisation.

Notably, the guides frequently use the German notion 'Hinweisgeber' instead of the colloquial used Anglicism whistleblower. Translated to English 'Hinweisgeber', is an informant or someone who points towards something, often conceived in a positive way.

The best practice guide is written in a requesting tone, often using exclamation marks. Thereby it seems as if the authors directly talk to the addressees (whistleblower and organisations). The first '10 best practices für Hinweisgeber' directly address employees in the polite third German form of 'you'. The second '10 best practices for business organisations' are directed towards management of these. Moreover, each of the 10 best practices is accompanied by a hint box which gives additional information for the addressees how to deal with DOs and DONTs.

Notably, by translating from German to English some specific ways of expression have been neglected, which however will not affect the outcome of the analysis. The used quotes in the analysis below are based on my own translation which aims to give the gist of the best practice guide rather a word-by-word translation.

(1) the used line of argumentation for advocating whistleblowing in business (business argument)

At the cover of the guide, right under the title it is stated 'Hints help to detect and combat violations against the compliance regulations and criminal law ('Hinweise dienen dazu, Verstöße gegen die Compliance-Ordnung und gegen das Strafrecht frühzeitig aufzudecken und zu bekämpfen'). Notably, hints translated from the German notion 'Hinweise' refers to the information given by the whistleblower ('Hinweisgeber'). In this sense, whistleblowing or more specifically the content of disclosures is recognised for detecting and combating violations of the compliance regulations and criminal (whit-collar crime and corruption) law.

In the prologue of the document the CEO of TI-A and the head of the TI-A work group on whistleblowing (who is also in a leading position at PWC-A) mentions Austria's ranking in the corruption Perception Index (CPI) and points towards the necessity to improve Austria's perception within international business relations. Accordingly, the problem of corruption is recognized as being practiced inside companies where public scrutiny is absent. Consequently, it is argued that whistleblowers play an important role for detecting corruption and to 'protect society against illegitimate and illegal activities' (TI-A 2018, 3).

Moreover, it is argued that internal whistleblowing systems can avoid negative reputation while detecting misconduct in the organisation. Therefore, the authors refer to an international survey (ACFE Report to the Nation Occupational Fraud and Abuse 2016) that shows that corporations miss out 5% of their revenue because of white collar crimes and corporations with internal whistleblowing systems have 54% less losses than corporations without.

Thus, TI Austria advocates whistleblowing and especially internal whistleblowing systems that support the process of disclosure inside business organisations (see TI.org). In this sense, the presented best practice guide provides recommendations for whistleblowers and organisations (managers, leaders etc.) how to make whistleblowing work in business arguing that 'only the functioning cooperation of

employees and managers can effectively combat corruption in the workplace' (TI-A 2018, 3)

To sum up, the line of argumentation used to advocate whistleblowing in business is twofold. First, whistleblowing plays into the observance of compliance regulations in business (compliance argument). Second, whistleblowing plays into the prosecution of white-collar crime and corruption in business (legal argument). Third, whistleblowing is recognized for making organisations socially accountable (social argument). However, by contribution to these three functions (it is argued) whistleblowers in business not only 'protect society against illegitimate and illegal activities' but also feed into the interest of business economically by increasing revenues and avoiding losses.

To sum up, the line of argumentation used to advocate whistleblowing in business organisations primarily focuses on the economic benefits of avoiding corruption wrongdoing or misconduct and the advantage of internal whistleblowing systems in avoiding negative reputation. I will call this line of argumentation 'business argument'. However, the 'business argument' for advocating whistleblowing in business organisations is occasionally accompanied by a 'social claim'. Accordingly, the role of whistleblowing to 'protect society against illegitimate and illegal activities' is stressed.

However, in so doing whistleblowing is not without pitfalls for business. Accordingly, (it is argued that) external disclosures (leaks) that are beyond managerial control frequently cause harm to business in the form of negative reputation.

In this sense, it can be argued that business seeks to reap only the (social) benefits of whistleblowing by avoiding its undesired (economical) effects with the use of internal whistleblowing systems.

(2) the proposed way for employees to disclose wrongdoing in the workplace (employee requirements)

In the context of organisational culture, the practice whistleblowing is interpreted as an act of loyalty rather than disloyalty. Crucially, for the whistleblower this implies to obey the organisational values and codes of conduct that should 'guide the whistleblowers behaviour' (TI-A 2018, 4). Accompanied by the request not to look away from wrongdoing this can be interpreted as mandatory behaviour or duty for employees. For instance, the guide mentions that even verdicts of wrongdoing should be reported.

Rather than being afraid of blowing the whistle employees are invited to 'take heart and speak up!' (TI-A 2018, 4). The argument is that the earlier misconduct is reported, the more efficiently organisations can diminish it. Therefore, it is claimed that employees should recognise their reporting as support rather than harm to the organisation.

Integrity of organisations, it is argued, 'is lived by its employees' (TI-A 2018, 4). Employees should hold up their own values by which whistleblowing becomes an act of integrity. In this sense employees should recognize whistleblowing as an act that 'feeds into the integrity of your organisation' (TI-A 2018, 4) rather harming the organisation.

In terms of transparency, the employees are encouraged to focus on key details and facts when reporting wrongdoing. However, employees should not further investigate in the cases of wrongdoing because 'Self-investigations can destroy and bias evidences which will lead to delays in clarification' (TI-A 2018, 7). For communicating concerns, the whistleblower should use the provided reporting channels. Crucially, this implies that whistleblowers 'Use internal reporting systems if available' in their organisation. However, if internal reporting is without effects, employees are advised to look for other disclosure channels.

Anonymity is mentioned as something that should be considered by employees planning to speak up. However, in the same vein, it is argued that anonymity complicates further inquiries for clarification and increases speculations inside the

organisation. Moreover, it is mentioned that anonymity cannot be assured in all legal settings and therefore leave the reader with a rather problematic image of anonymous reporting. Moreover, it is mentioned that anonymity cannot be assured in all legal settings and therefore the anonymity provides by organisations whistleblowing systems is viewed as problematic.

It is further argued that whistleblowing must be recognised as a risky practice and employees should be aware of the limits of whistleblower protection and ‘the severe consequences of reporting, especially in the Austrian legal context’ (TI-A 2018, 9). The whistleblower is informed about the legal situation in his or her country and especially the consequences of reporting and knows that here is no protection guaranteed.

Moreover, employees willing to speak up should be informed upfront about the provided reporting processes and channels in their organisation. According to the guide, internal channels include managers, the compliance department, online reporting systems, ombudspersons, hotlines and mailboxes and external channels in Austria include the financial market authority (‘Finanzmarktaufsicht’), the public prosecution for white-collar crime and corruption (‘Staatsanwaltschaft zur Verfolgung von Wirtschaftsstrafsachen und Korruption’) and the national competition authority (‘Bundeswettbewerbsbehörde’). Crucially, whistleblowers should not report to third parties because ‘not discretionary or unintentional leaks’ can have unpredictable momentum. The argument is strengthened by mentioning that many organisations have the official duty of confidentiality and fiduciary duty.

Employees are advised to report ‘the facts without adding extra information that isn’t based on the situation and stick to the truth’ (TI-A 2018, 13) and doesn’t spread rumours or speculations. Finally, the whistleblower documents the steps taken in making a disclosure so that third parties can make sense of. In so doing he or she should be aware of digital fingerprints when using organisational IT.

To sum up, the within ‘expert discourse’ proposed way for employees to disclose wrongdoing in companies, suggests conceiving whistleblowing as an act of loyalty and integrity which supports the organisation but involves high risk and severe consequences. Accordingly, the ideally whistleblower sticks to organisational values

obeys the provided code of conduct and makes use of organisational possibilities and frameworks for disclosure. Thus, employees willing to speak up should be informed about the provided reporting processes and channels, the legal situation but also the limits of legal protection. When disclosing wrongdoing, employees are encouraged to 'stick to the truth', focus on key details and use internal reporting systems if available but in no case 'leak' to third parties.

(3) the proposed way for managers to deal with whistleblowing in business organisations (management requirements)

In the guide, managers are encouraged to create an organisational culture that stresses the 'importance and support of whistleblowing' (TI-A 2018, 14). The argument goes that when employees know that the management is in support of whistleblowing 'they will speak up effectively' (TI-A 2018, 14). In so doing, and even if the disclosure involves only certain persons, the best practice discourages managers to ignore the responsibilities of the entire company.

Under the heading of integrity, managers are encouraged to take every disclosure seriously and make sure that the person receiving the report is not in a conflict of interest to be able to make an objective judgement. (TI-A 2018, 14) Thus, managers should 'define clear processes, responsibilities and the minimum requirement for a disclosure to be processed' (TI-A 2018, 14). Crucially, managers should act on the behalf of the entire organisation and not of single employees.

The guide further suggests managers to 'enact transparency!' (TI-A 2018, 16) Accordingly, managers should recognise internal whistleblowers as valuable for minimizing organisational risks. Therefore, managers are encouraged to organise trainings on organisational values and sensitize employees for the code of conduct in the organisation.

On the other hand, the guide suggests companies to 'avoid opacity!' (TI-A 2018, 17). According to the guide opacity emerges when internal channels are unknown by employees. Accordingly, it is argued 'potential damages to your organisation can be

caused by external disclosures' (TI-A 2018, 17). Thus, managers are encouraged to 'frequently publish possibilities of internal disclosure channels' (TI-A 2018, 17). Moreover, managers should involve employees representatives (Bertiebsrat) for the implementation of a whistleblower system' (TI-A 2018, 17).

The best practice guide encourages managers to 'communicate proactively!' (TI-A 2018, 17). Accordingly, every employee should be conceived as a potential whistleblower by arguing 'the more open and detailed whistleblowers are informed about possibilities and frameworks for disclosures, the more they will trust in the provided whistleblower system' (TI-A 2018, 17).

The guide further recommends that managers shouldn't 'give rumours a chance' (TI-A 2018, 17) by making communication transparent when 'disclosures are discretionary discussed with the involved persons' (TI-A 2018, 17). Thus, managers should wait with communication to (other) employees and external persons until there is sufficient clarity of the situation. (TI-A 2018, 17)

Moreover, managers are encouraged to set up protection for the persons involved in disclosures inside the organisation. Accordingly, whistleblowers, disclosure processors and the accused should be protected from retaliation. Crucially 'whistleblowers are no enemies!' (TI-A 2018, 19). Managers, it is stressed once more, should recognize that whistleblowers help to detect misconduct in the organisations and therefore their 'wish to make disclosures anonymously should be respected' (TI-A 2018, 18).

Under the heading 'Protection of Business' (Schutz des Unternehmens) Managers should be aware that 'every disclosure has its consequences!' (TI-A 2018, 18). Thus, managers must consider the reputational consequences and legal implications of disclosures and consider risk-management and risk-evaluation. Accordingly, managers are encouraged to think about possible consequences to stakeholders, suppliers etc. and thereby decide which actions and communications to the outside is necessary' (TI-A 2018, 18). In the DONTs context it is argued that, especially when managers ignore disclosures or processed disclosures with delay, the risk is higher that the information will be leaked to third parties. 'Thereby, you lose the control of the

situation' (TI-A 2018, 19). Thus, managers are encouraged to set out clear rules for reporting and process disclosures fast to minimize the risk of external disclosures.

According to the guide, managers should know the national legal situation and (again) are encouraged to enforce protection for whistleblowers within the organisation.

Managers should support 'openness and clear frameworks for the disclosure of misconduct' to enhance the loyalty and trust of employees. On the other hand, it is stressed that managers should 'avoid alibi activities!' (TI-A 2018, 21) in the sense of poor or pseudo whistleblowing procedures and systems to minimize the risk that employees won't disclose or disclose externally. Once more, managers are encouraged to inform their employees about the internal disclosure process. Yet, it is argued managers should make sure that 'the responsibilities of the disclosures processes/channels given to the appropriate departments/employees (e.g. legal, compliance etc.) and that the circle of recipients is as small as possible' (TI-A 2018, 17)

Under heading 'Appreciation' (Wertschätzung) managers are encouraged to provide information against any negative associations with whistleblowing in the organisation. Crucially, managers are warned to undermine the credibility of a whistleblower.

Finally, managers should document the steps taken in each whistleblowing case to help themselves and third parties to make fact-based decisions and avoid misunderstandings. Crucially, managers should be aware that disclosures can become subject of legal investigations and subject of due diligence violations.

To sum up, within 'expert discourses' the proposed way of dealing with whistleblowing in business organisations suggests managers to create an organisational culture that is in support of whistleblowing and avoids any negative associations with internal disclosures. Managers should make whistleblowing procedures and systems transparent (rather than opaque) and set out clear rules and frameworks for reporting inside the organisation.

The argument is that if internal channels of disclosure are unknown or absent, employees will report to external parties by which managers lose control of the situation and reputational damage is caused to the organisation.

Thus, managers are encouraged to create trust by informing employees about (anonymous) possibilities or frameworks for reporting internally and provide protection for whistleblowers to minimize the risk that employees won't disclose or disclose externally. However, in so doing managers must be aware that 'every disclosure has its consequences' and may violate due diligence provisions.

Discussion and Conclusion

To be discussed at Momentum 2018