

A Content Analysis of the Whistleblowing Policies of Selected Central Public Sector Enterprises

Madhu Agarwal

Assistant Professor, Department of Commerce

St. Xavier's College (Autonomous), Kolkata

e-mail: madhu.cal@gmail.com

Madhusree Mukherjee

Associate Professor, Department of Commerce

St. Xavier's College (Autonomous), Kolkata

e-mail: madh.mukh@yahoo.co.in

Abstract: The existence of a policy as well as the content coverage has significant impact upon the effectiveness of the policy. In absence of written guideline, the violations and illicit activities tend to rise exponentially. However, the content of the written guideline also needs to be checked carefully so that the expected outcomes can be achieved. Whistleblower policy has been framed by many Central Public Sector Enterprises (CPSEs) as per the Central Vigilance Commission (CVC) recommendations; however, the number of voices raising concern against malpractices is not very satisfactory. This study is an effort to examine the content coverage of the whistleblower policy framed by such companies and understand the challenges that needs to be addressed through such policies.

Key-words: Whistleblower policy, CPSEs, recommendations, violations, malpractices, CVC.

1. Introduction

Employees are the first observer of malpractice in workplace. Thus, for a committed employee, raising an alarm against the wrongdoing is part of the duty. Organizations must structure a system under which such employees can raise their concerns and the problems can be resolved in their budding state itself. Miceli and Near (1992) defined the term whistleblowing as the act of raising concern against malpractices within organization to a powerful authority. In long run such effort leads the organization towards stable and efficient

system deficient of malpractices. It is beneficial for the overall well-being of the organization as well as keeps the employee morale high.

In spite of high corruption perception index as 79 in the year 2016 in India (Transparency International, 2016), the instances of whistleblowing is significantly less in our country. It indicates that all employees are not motivated to come forward and speak up. The key reason behind such hesitation can be sought in the way the organization frames the whistleblower policy and the ways it adapts to ensure its implementation.

On global platform, all major economies such as the United States of America, the United Kingdom, Germany, European countries, G20 countries etc. have implemented whistleblowing provisions in one way or the other to ensure better governance.

This study is an effort to assess the content coverage of whistleblower policies in the Central Public Sector Enterprises. Government of India issued a circular in 2010 to incorporate whistleblower provision in form of a policy or as a component in Corporate Governance measures (Government of India, 2010). The legal provisions in this context has been strengthened in our country in last 8 years, however, the desirable impact has been absent. A strong whistleblower policy can play pivotal role in building confidence among the employees to come forward for the right reason.

2. Brief Survey of Literature

The literature review revealed that internal whistleblowing has been accepted as more effective to save the organization's public image as well as the employee from severe repercussions of malpractice expose in media (Dworkin and Baucus, 1998), (Barnett, 1992). Also, attention towards an adverse issue in its nascent stage can reduce the extent of damage that may be caused in the long run (Puri, Trehan and Kakkar, 2010). The opportunity for malpractice arises due to excessive power in the hands of a bureaucratic corporate structure (Bansal, 2005), (Punch, 1996). Hence, whistleblower policy must be incorporated as an essential part of corporate philosophy (Puri, Trehan and Kakkar, 2010).

In order to understand the subjects included in such policies, Content Analysis technique can prove to be an effective technique. Content Analysis has been adopted by researchers as an important technique for gaining valuable insights embedded within text documents. It can be used to identify valid and definite features of documents in systematic and objective manner

(Stone, Dunphy, Smith, & Ogilvie, December 15, 1966), (Weber, 1990). Also, it is important to understand that a feature may have several interpretations in multiple contexts. Hence, it has been established that there is a relationship between the data and its context (Krippendorff, 1980). In 1998, researchers accepted that quantitative content analysis helps to scientifically identify various texts, assigns numerical values and helps to draw inferences about the data from text documents (Riffe, Lacy and Fico, 1998), (Neuendorf, 2002). Krippendorff (2012) stated that content analysis is “.... exploratory in process and predictive or inferential in intent. It transcends traditional notions or symbols, contents and intents.”

3. Research Gap

Indian research has a void in this particular area. Certain studies on whistleblowing in Indian context have been done such as (Keenan, 2002), (The World Bank, 2006). However any study on Indian public sector with regard to the whistleblower policy has not been noticed. Surprisingly, on international platform also there is only countable research done in this area. Significant contributors in this area are Brown (2007), Hassink, Vries, and Bollen (2007) and Robinett, Marathe, and Kikeri (2010). This study is an attempt to address the gap to the extent possible. This research is focussed on understanding the existing mechanism for internal reporting

4. Objectives

The present study, therefore, finds a real void in this field when it comes to the Indian scenario. As the country gradually emerges as one of the future powers in the global arena, an exploratory journey into the field of institutionalized whistleblowing in order to ensure effective corporate governance seems to be extremely relevant.

This study, therefore, attempts to address the issues below.

To what extent institutionalised whistleblowing has been incorporated in the public sector enterprises (PSEs) in India

The above objective can, therefore, be translated into the following research questions:

Whether the listed PSEs really have effective ‘whistleblower policy’ under the head ‘Corporate Governance’?

Content analysis has been done to understand the contents of the whistleblower policies framed by CPSEs in our country and then to find the extent to which these are really effective.

5. Methodology for Data analysis - Content Analysis

In order to address the objective, answer to the following questions has been sought:

1. Whether companies have addressed the key issues that should be covered under the policy?
2. Whether companies provided necessary details for dealing with the key issues?
3. Identifying the areas that need attention.

The available policies of 32 companies have been intensely analysed for the contents. The research question number 1 and 2 has been addressed in the content analysis table (Table 2). The Hassink's work divided the policy content into 6 groups in European context. However, as per the policy contents and the range of information gathered from the policies, the policy contents are classified into 8 groups in order to suit Indian context. The percentage has been calculated to find how many companies have covered the important issues under the policy and also to assess the extent of coverage of such issues.

The observations have been categorized under 8 categories labelled as Category 1 to Category 8 as listed below:

1. Category 1- General content, scope and tone
2. Category 2- Nature of violations to be reported
3. Category 3- Officials or bodies to whom wrongdoing should be reported
4. Category 4- Reporting guidelines and procedures
5. Category 5- Investigation procedure
6. Category 6- Confidentiality and anonymity
7. Category 7- Protection from retaliation
8. Category 8- Whistleblower accountability

6. Sampling scheme and dataset

The primary research population of this study is the central public sector companies that are listed on the Bombay Stock Exchange. The name of such companies has been collected from the website of the Department of Public Enterprises (DPE) under Government of India (GOI) as on 31.03.2012. The names have been enlisted in the Public Enterprise Survey Report 2011-2012 (Volume 1, Chapter 1, Performance Overview, page number 19, Table 1.15)ⁱ conducted under GOI. The total number of companies stood at 45.

The following process has been followed:

Phase I :

1. The company website links were searched to find out the whistleblower policy or vigil mechanism prevailing in the company.
 2. Total number of companies – 45 [i + ii + iii]
 - (i) Number of companies having whistleblower policy which is publicly accessible – 33
 - (ii) Number of subsidiary company – 1
 - (iii) Number of companies whose whistleblower policy is not accessible publicly - 1
- Number of companies following CVC resolution on whistleblowing – 11

Phase II :

1. Attempts were then made to retrieve the company contact information (email id and phone number) for the company whose policy is not available on the public website.
2. The company was approached for providing the policy; however, no response has been received.

Table 1: Sample Collection

Particulars	Count	Percentage
Total No. of companies selected	45	
Number of companies including subsidiary having whistleblower policy which is publicly accessible	33	
Number of subsidiary company	1	
Number of companies whose whistleblower policy is not accessible publicly	1	
Number of companies not having explicit whistleblower policy and following CVC resolution on whistleblowing	11	
WB ⁱⁱ policy framing rate (34/45)		75.56%
WB Policy		
No. of WB Policy collected from company websites	32	
No. of WB Policy collected from other websites	0	
No. of WB Policy unavailable on internet	1	
WB Policy collection rate (32/45)		71.11%
Email		

No. of Email searched for companies	1	
Email id available	1	
Email id not available	0	
Email sent to company	1	
Email Response Rate (0/1)		0.00%
Phone Calls		
Phone contact searched for companies	1	
Phone contact available	1	
Phone contacts made	1	
Response received	0	
Companies not responded	1	
Phone call response rate (0/1)		0%
Total WB documents required	33ⁱⁱⁱ	
Total WB documents available	32	
Total WB documents unavailable	1	
WB documents availability rate (32/33)		96.97%

Initially the sample size was 45. Since all listed CPSEs do not have whistleblower policy in place, the sample is further divided into 2 groups-

1. Sub Sample I – 34 companies having whistleblower policy. Since, policy of 1 company is not accessible and 1 company is the subsidiary of another company (means same policy is followed in both cases), Sample I is considered to be 32.
2. Sub Sample II – 11 companies who are following CVC guidelines on whistleblowing directly.

The study has been done covering the significant area of whistleblowing policy. It does a content analysis of the whistleblower policies existing in the CPSEs.

7. The Study - Content Analysis

Table 2: Content Analysis			
SL NO	DESCRIPTION	Count	Percentage
		Out of 32	Sub-Sample 1 (32)

I	GENERAL CONTENT, SCOPE AND TONE		
1	The possibility of reporting is stated neutrally	18	56.3
2	Stated that employees are explicitly encouraged to report	7	21.9
3	Stated that the policy applies to all employees	27	84.4
4	Stated that the policy applies to the entire group	7	21.9
5	Stated that the policy applies to ex-employees also	2	6.3
6	Stated that the policy includes suppliers also	5	15.6
7	Policy applies to other stakeholders	5	15.6
8	Stated that the policy is framed as per DPE guidelines	12	37.5
9	Stated that the policy follows SEBI norms	7	21.9
10	Stated that the policy is in compliance with the Clause 49 of the Listing Agreement requirement 2014	26	81.3
11	Policy is in compliance with PIDPI 2004	2	6.3
12	Policy is in compliance with Companies Act 2013	8	25.0
13	Stated that the policy do not cover the issues which comes under Public Servant's Inquiries Act 1850	11	34.4
14	Stated that the policy do not cover the issues which comes under Inquiry Act 1952	13	40.6
15	Policy do not cover issues which is likely to prejudicially affect the interest of the sovereignty and integrity of India	1	3.1
16	Stated that Audit Committee is constituted u/s 292A of Companies Act 1956	16	50.0
17	Stated that Audit Committee is constituted in accordance with the Corporate Governance guidelines issued by DPE	2	6.3
18	Audit Committee is constituted u/s 177 (9) of Companies Act 2013	11	34.4
19	Stated that unit heads are required to notify and communicate the existence and contents of whistle blower policy to employees	13	40.6

20	Stated that whistle blower policy must be displayed on all notice boards	4	12.5
21	Stated that whistle blower policy and amendments should be available on company's intranet	11	34.4
22	Policy on website	2	6.3
23	Stated that policy does not replace or dilute existing vigil mechanism	16	50.0
II	NATURE OF VIOLATIONS TO BE REPORTED		
1	Violation of law	20	62.5
2	Infringement of company's Code of Conduct for members of Board/ Sr. Management, CDA ^{iv} Rules	23	71.9
3	Infringement of company's CDA Rules	24	75.0
4	Mismanagement and misappropriation of monies	19	59.4
5	Actual or suspected fraud	26	81.3
6	Substantial and specific danger to public health and safety	9	28.1
7	Abuse of authority	20	62.5
8	Unethical and improper practices	28	87.5
9	Wrongful conduct / Incompetence / Gross inefficiency	23	71.9
10	Manipulation or disclosure of company data or records	16	50.0
11	Breach of contract	10	31.3
III	OFFICIALS OR BODIES TO WHOM WRONG SHOULD BE REPORTED		
1	Chairman of Audit Committee	23	71.9
2	Chairman cum Managing Director (CMD) of the company	23	71.9
3	Any person delegated by CMD in his absence	22	68.8
4	Company Secretary	6	18.8
5	General Manager (Legal)	2	6.3
6	Audit Committee	14	43.8
7	Immediate Supervisor / Any other senior official	1	3.1

8	Ombudsperson	2	6.3
9	Whistle Authority / Empowered Committee / Ethics Committee	7	21.9
10	CVO	2	6.3
11	CEO	1	3.1
IV	REPORTING GUIDELINES AND PROCEDURE		
1	Stated that PDCL ^v must be written (handwritten or typed or printed)	27	84.4
2	Stated that the reporting should be factual and not speculative	26	81.3
3	Stated that PDCL can be written in Hindi / English / Regional language	14	43.8
4	Translation is required with the PDCL as applicable	0	0.0
5	Stated that violations should be reported in sufficient relevant detail in PDCL to allow preliminary review	27	84.4
6	PDCL – email	8	25.0
7	Stated that anonymous / pseudonymous PDCL will not be entertained	25	78.1
8	Mentions that the identity of whistleblower (name, employee number and location)	26	81.3
9	Explicitly mentions the contact details of the Competent Authority for Protected Disclosure	18	56.3
10	Assures the confidentiality of the Protected Disclosure	6	18.8
11	Stated that PDCL must be in sealed envelope	25	78.1
12	Mentions that the PDCL envelop must be super-scribed as "Protected Disclosure"	21	65.6
13	Mentions that the whistle blower must communicate at the earliest	15	46.9
14	Mentions the time frame of reporting from the occurrence of the incident	7	21.9

15	Stated that there is no need to cite evidence at the time of reporting	7	21.9
16	Stated that evidence should be cited at the time of reporting	2	6.3
17	Requires that whistle blower should not conduct investigation on his own	20	62.5
18	Mentions that whistleblower has secondary appeal option	10	31.3
V	INVESTIGATION PROCEDURE		
1	Mentions that the Competent Authority shall submit PDCL to the Screening Committee	29	90.6
2	Stated that the Screening Committee should follow natural fact finding process	18	56.3
3	Stated that frivolous complaints should be identified and discarded by Screening Committee	14	43.8
4	Stated that the Screening Committee shall forward the legitimate PDCL to Investigators	27	84.4
5	Subject should be informed about the commencement of the investigation	17	53.1
6	Stated that the Screening Committee Should act within 15 days of receipt of PDCL	9	28.1
7	Stated the time frame to complete investigation	21	65.6
8	Investigation time extension may be provided by the Competent Authority with documented reasons	16	50.0
9	Explicitly mentions the permissible maximum time extension	1	3.1
10	Mentions time-frame to retain documents of investigation and results thereon	9	28.1
11	Investigators should ensure that evidence shall not be withheld, destroyed or tempered with	23	71.9
12	Identity of the Subject and the Whistle blower must be kept confidential	24	75.0

13	Subject should be given an opportunity to be heard	22	68.8
14	Mentions that the subject should not influence the witnesses in any manner	16	50.0
15	Stated that the subject have the obligation to cooperate in the investigation	17	53.1
16	Subject should be informed about the outcome of the investigation	18	56.3
17	Whistle Blower should be informed about the commencement of the investigation	20	62.5
18	Whistle blower should be informed about the outcome of the investigation	16	50.0
19	Describes the actions to be taken after investigation	20	62.5
20	Mentions that if offence is punishable under law, it will be referred to CVO by Competent Authority	21	65.6
21	For proved offence, Competent Authority should take remedial measures to correct and stop such offence in future	23	71.9
22	For unproved offence, report shall be filed by the Confidential Secretary to the Director (HR)	21	65.6
23	Competent Authority should submit quarterly report of Protected Disclosures statistics and procedure followed to Audit Committee	25	78.1
24	Competent Authority should annually declare in the corporate governance report that direct access to Audit Committee is provided	15	46.9
25	Competent Authority should annually declare in the corporate governance report that protection from retaliation is provided	16	50.0
26	Any amendment in the whistle blower policy must be notified immediately to the Audit Committee	26	81.3
VI	CONFIDENTIALITY AND ANONYMITY	0	0.0
1	Ensures complete confidentiality of whistle blower	30	93.8

2	Mentions that the identity of the subject shall be kept confidential by investigators	13	40.6
3	Explicitly mentions that disclosures made under whistle blower policy or super-scribed as protected disclosure will only be kept confidential	13	40.6
4	Stated the circumstances where confidentiality cannot be guaranteed	7	21.9
5	Stated that anonymous protected disclosures shall not be considered for investigation	22	68.8
6	Stated that pseudonymous protected disclosures shall not be considered for investigation	20	62.5
7	Stated that violations can be reported anonymously	0	0.0
8	Stated that third parties cannot report anonymously	0	0.0
9	Allows anonymous reporting for third parties	0	0.0
VII	PROTECTION FROM RETALIATION	0	0.0
1	Mentions that whistle blower should not be victimized	31	96.9
2	Mentions that persons processing disclosures should not be victimized	8	25.0
3	Stated that any employee assisting in the investigation will be protected	19	59.4
4	Stated that whistle blower may report to the Competent Authority about victimization experienced	19	59.4
5	Biased / delayed / unfair decisions affecting employment are considered as retaliation	13	40.6
6	Whistle blower shall be protected from unfair termination from job	10	31.3
7	Reporting should be done in good faith	26	81.3
8	Requirement of reasonable ground or belief	12	37.5
9	Right of protection can be lost in case of external reporting	1	3.1

10	Explicitly mentions that whistle blower will be facilitated with required assistance in citing evidence for criminal / disciplinary proceedings	17	53.1
11	Mentions that whistle blower will be reimbursed the expenses incurred in the context	11	34.4
12	Retaliation will be punishable	9	28.1
13	Whistleblower shall not be protected if involved in wrongdoing	10	31.3
VIII	Whistleblower – Accountability		
1	Must inform immediately	15	46.9
2	Mala-fide allegations may attract disciplinary actions	25	78.1
4	Whistleblower making 3 consecutive malicious complaints shall be disqualified from reporting further	8	25.0
5	Whistleblower should maintain confidentiality about the subject and subject matter	12	37.5

8. Summary Findings

1. Category 1- General content, scope and tone

More than 80% of the companies framed whistleblower policy on the basis of the recommendations given in revised Clause 49 of the Listing Agreement 2014 and the Companies Act 2013. Generally companies follow neutral tone while stating about the reporting procedure and are not so proactive in sensitizing employees about the positive effects of whistleblowing (56.3%). Interestingly, 32 policies have been collected from the company's public website. Law restricts certain issues to be dealt under the whistleblower policy. However, 59.4% companies did not mention it clearly in their policy leaving a scope for ambiguity.

2. Category 2- Nature of violations to be reported

More than 70% of the companies consider similar issues as violations to be reported namely infringement of company CDA rules, unethical and improper practices, existence of already occurred and suspected fraud, wrongful conduct and gross inefficiency. Also, violation of law, abuse of authority and misappropriation of monies are considered as violations to be

reported by 60 % of the companies. Surprisingly, in today's electronic business age, only 50% of the companies considered data and document manipulation as an important violation to be reported.

3. Category 3- Officials or bodies to whom wrongdoing should be reported

More than 72% of the companies consider Audit committee chairman, CMD and a person delegated by CMD in his absence as the most reliable competent authority for receiving complaints under the policy. Only 44% companies mentioned explicitly that violations can be reported to the Audit committee as well. Very few (less than 25%) companies established a dedicated authority to handle whistleblowing cases only. There is a serious need to establish dedicated authority to handle such cases to encourage and protect potential whistleblowers.

4. Category 4- Reporting guidelines and procedures

More than 80% of the companies clearly stated that PDCL must be written and factual, prohibits anonymous reporting, verification and establishment of whistleblower identity and the requirement of submitting PDCL in sealed envelope super-scribed as "Protected Disclosure". Though it is not legally mandatory, only 22% companies explicitly mentioned that citing evidence is not mandatory while reporting. Also, less than 50% companies mentions explicitly that violations must be reported to the competent authority only (mandatory requirement under the Act). Timely reporting helps in settling the malpractices better. However, less than 30% companies have clear statements about timeframe for reporting and secondary appeal procedure. Also, language has not been considered as important factor by majority. Another significant observation is that inspite of being a member of online community, very few companies (25%) allowed to ledge the complaint under the policy through email.

5. Category 5- Investigation procedure

Clarity in investigation procedure plays a major role in trust building among the potential whistleblower. 91% companies explicitly stated that competent authority shall receive the PDCL and forward to the screening committee. However, around 35% to 45% companies have not mentioned key issues relevant for investigation in the policy such as time frame for investigation and results, grounds for time extension for investigation and grounds for discarding PDCL, rights of the subject, rights of the whistleblower, actions to be taken for proved and unproved offences and ways of protection from retaliation. Also only 28% stated about the documentation of the PDCL, its corresponding investigation, supporting evidence and documentations and the holding period for the same. Regular reporting requirement

brings more accountability in the system, though 22% did not mention about the quarterly report to be submitted to the Audit committee.

6. Category 6- Confidentiality and anonymity

93.8% companies stated that confidentiality must be maintained. However, 78.1% did not mention the circumstances where confidentiality cannot be guaranteed. So although confidentiality clause has been mentioned, ways to ensure it has not been stated clearly and it directly affects the whistleblower protection. Although the Act states anonymous and pseudonymous PDCL will be discarded. Only 62.5% to 68.5% mentions it explicitly in the policy.

7. Category 7- Protection from retaliation

Institutionalised whistleblowing is protected and external whistleblowing is unprotected under the Act as well as in the company policy. Although, 97% companies stated that whistleblower should not be victimised, only 40.6% clearly stated for job status protection and 31.3% for job protection from termination. There is no other explicit mention about the ways of protection for whistleblower from retaliation (such ambiguity leaves tremendous scope for victimization). Also, only 53.1% companies provide their support to whistleblower for citing evidence and only 34.4% companies are ready to reimburse the expenses incurred in the context (such step is motivating but more companies should come forward and support whistleblowers).

8. Category 8- Whistleblower accountability

The whistleblower also needs to act in responsible manner. Such clause has not been included in the Act. However, in-line with international developments, 78.1% stated that disciplinary actions can be taken for intentional malicious reporting. However, only 25% clearly stated that 3 consecutive mala-fide reporting will disqualify the employee from further reporting. Only 46.7% companies demand that whistleblower must inform immediately about the wrongdoing. Delay in reporting increases the damage and is against the basic concept of institutionalised whistleblowing.

Table 3: Content Analysis Summary

Categories	Label	% of mean compliance
Category 1	General content, scope and tone	29.56
Category 2	Nature of violations to be reported	61.93

Category 3	Officials or bodies to whom wrongdoing should be reported	29.26
Category 4	Reporting guidelines and procedures	43.15
Category 5	Investigation procedure	58.17
Category 6	Confidentiality and anonymity	36.46
Category 7	Protection from retaliation	43.08
Category 8	Whistleblower accountability	43.75

Table 3 indicates that details for Category 2 and Category 5 are somewhat maintained by CPSEs to certain extent. However, all other areas need attention (as reflected in Table 4).

Table 4: Key Strength and Challenges of Whistleblower Policies	
STRENGTH (>=50%)	CHALLENGES (<50%)
Nature of violations to be reported (<70%)	Whistleblower accountability
Investigation procedure (<60%)	Reporting guidelines and procedures
	Protection from retaliation
	Confidentiality and anonymity (36%)
	General content, scope and tone (<30%)
	Officials or bodies to whom wrongdoing should be reported (<30%)

9. Recommendations and Conclusion

This section is an attempt to identifying the areas that need attention in context of whistleblower policy. The detailed study on the whistleblower policy of listed CPSEs in India has been considered. On the basis of the Hassink model developed to cover the policy study for listed companies in European countries in the year 2007 (Hassink, Vries and Bollen, 2007), a revised framework has been considered as per the applicability in Indian context. In order to be effective the whistleblower policy must be very structured and cover all key areas with sufficient details. It has been observed that although many key issues are covered under the policy, many failed to incorporate the required detailing to make the policy transparent and understandable for employees. The basic framework for the whistleblower policy should include the following key issues as mentioned below:

Table 5: Recommended Basic Structure of Whistleblower Policy in Indian Scenario		
Sl. No.	Category	Component
I	General Content, Scope and Tone	<ul style="list-style-type: none"> • Tone • Applicability

		<ul style="list-style-type: none"> • Norms followed • Constraints • Constitution of Audit Committee • Sensitization / Awareness • Vigil mechanism status
II	Nature of violations to be reported	Explicitly mention various types of violations to be reported
III	Officials or bodies to whom wrongdoing shall be reported	<ul style="list-style-type: none"> • Competent Authority • Audit Committee Chairman or CMD of the company or a person delegated by CMD in his absence • Whistle Authority or Ethics Authority
IV	Reporting guidelines and procedures	<ul style="list-style-type: none"> • Reporting method • Contact details • Time-frame for reporting • Confidentiality • Miscellaneous
V	Investigation procedure	<ul style="list-style-type: none"> • Mechanism • Time-Frame • Subject • Whistleblower • Actions • Reporting the outcome
VI	Confidentiality and anonymity	<ul style="list-style-type: none"> • Whistleblower's identity • Sensitive issues must be kept confidential. • Anonymous or pseudonymous complaints have been highly discouraged • Circumstances not guaranteeing confidentiality
VII	Protection from retaliation	<ul style="list-style-type: none"> • Protection • Criteria • Assistance • Punishment
VIII	Whistleblower Accountability	<ul style="list-style-type: none"> • Whistleblower must inform immediately • Mala-fide allegations made may call for disciplinary action • Whistleblower must maintain confidentiality

On the basis of the findings, each segment should address the following issues:

1. Recommendations for Category I-

- a) Companies should encourage employees to raise their concerns. This message should be evident from the language of the policy. Hence, explicit use of phrases such as “encouraged to report” is recommended. (45% companies remained silent.)
- b) Clarity about the stakeholders covered under the policy should be there. (15% remained silent.)
- c) Companies must clearly mention the norms followed for framing the policy. (12.5% companies remained silent.)
- d) Issues that are strictly not covered under the policy must be clearly mentioned. (60% companies remained silent.)
- e) Constitution of Audit Committee should be legal and clearly declared to build more reliability. (18.9% companies remained silent.)
- f) Methodical approach should be adopted to create awareness among employees. Clear cut mechanism for sensitization has been lacking and hence, vague for managers to take steps for the same. (43.7% companies remained silent.)
- g) Other vigil mechanism for receiving complaints other than PDCL should remain unaffected by this policy. This should be clearly mentioned. (50% companies remained silent.)

2. Recommendation for Category 2 –

- a) Common and significant issues are considered under the policy. However, clear examples to understand the violations clearly are not mentioned.
- b) Data has become crucial corporate asset in the society leading towards information age. Companies should have a separate independent policy to deal with the issues related with data manipulation and misuse.

3. Recommendation for Category 3 –

- a) In Indian context CMD, Chairman of Audit Committee and the respective members are the most preferred bodies for reporting malpractices under the policy. However, the possible options for reporting malpractices to the Competent Authority should be increased.
- b) Dedicated Whistle Authority may work more efficiently and independently compare to a person who is delegated with multi-facet responsibilities.

4. Recommendation for Category 4 –

- a) Documentation has its own weightage. It can be used as a reference as well as evidence. (15% companies remained silent.)

- b) Language specification should also be given so that people can report in their regional language and competent authority can understand and act upon it by translating into legitimate language understandable by them
 - c) From organizational perspective, facility to lodge complaints through email must also be extended due to technological advancement and to overcome the barrier of location, non-availability of website contents, website downtime etc.
 - d) Complete communication details must be mentioned to ensure smooth accessibility to the competent authority
 - e) Prohibition of anonymous or pseudonymous reporting must be clearly stated. It is very positive approach from organizational perspective, as it results significant fall in the quantity of base-less allegations and increase in productivity of investigation team as their valuable time is not wasted in enquiring the false reports. Only valid complaints will be investigated further. However, employees feel scared also to disclose their identity due to fear of retaliation.
 - f) Immediate reporting should be encouraged and a valid time frame should be clearly specified. It needs more clarity because productive results may not be yielded for the cases reported due to long time gap, the damage already occurred, loss of evidence and unavailability of witness.
 - g) As per the Act, this is not mandatory and must be stated clearly in the policy, otherwise, employees who are aware about a malpractice may not report due to lack of sufficient evidence.
 - h) To avoid ambiguity and ensure confidentiality, all companies should mention clearly that PDCL must be in sealed envelope and super scribed so that it can be considered as case under the policy separately.
 - i) Whistle blower may not be an expert in investigation process and hence inspite of good spirit, may end up destroying the evidences and increased difficulty in reaching the facts. So WB must be restricted from doing investigation clearly.
 - j) Secondary appeal option is a very significant to motivate whistleblower to keep their belief in the malpractice issue they raised. So, if a whistleblower is not satisfied with the outcome of investigation, they must have another body to raise the matter and such information must be provided in the policy itself.
5. Recommendation for Category 5 –
- a) More companies must have a firm statement about the first initiative and the time frame for addressing the PDCL. (72% remained silent.)

- b) Companies must mention the time frame to complete the investigation process it clearly in the policy. A clear cut dead line to perform with target and come up with results.
- c) For legitimate reasons, extension in time limit may be allowed but must be clearly mentioned with upper limit. Supporting documents in this regard should also be maintained. A clearly mentioned maximum time limit leads to more transparent investigation which is lacking here.
- d) Documentation related with the whole investigation process leads to systematic reference to the cases whenever required. Lack of clarity in this regard also brings ambiguity in document / evidence handling.(72% companies remained silent.)
- e) Subject and the whistleblower, both have equal right to know the outcome of investigation. So if not immediately, the results should be communicated in due course as per case.
- f) Subject should be heard but due care should be taken so that he may not influence the witness and have no access to the evidences. Proper mechanism needs to be devised.
- g) Clarity in the action mechanism followed after the investigation completes, builds more trust among employees. So, general guideline about the actions to be taken for proved and unproved offences should be provided. (38.5% remained silent.)
- h) Periodic reporting about the whistleblowing cases makes the related machinery more accountable.
- i) Direct access to Audit Committee must be facilitated and must be clearly declared in the policy.
- j) Protection from retaliation must be clearly mentioned and ensured. (50% companies did not mention it clearly)

6. Recommendation for Category 6 –

- a) Clarity with respect to declaration about maintaining confidentiality must be there.
- b) Circumstances where confidentiality cannot be guaranteed must also be mentioned clearly.

7. Recommendation for Category 7 –

- a) There must be clarity about the designated authority to which retaliation must
- b) be reported. Also, most of the companies support whistleblower on policy paper, but they do not mention whom such cases shall be reported.
- c) Job protection /status quo maintenance has been considered by 30 – 40% companies; however, retaliation has many facets like peer group isolation, boycotting, non-

allocation of serious jobs, unequal treatment by seniors etc. Such issues are not clearly covered in the policies.

- d) Investigation process starts on the basis of the seriousness of the matter that has been reported. Whistleblower must report in good faith and also must have sufficient reasons to prove that. Although citing evidence is not mandatory but whistleblower should have strong argument ready in favour of the concerns raised. This will improve accountability of employees as well as save lot of effort from the side of the investigating team. The responsibility is both on the employee as well as the organization.
- e) However, in order to execute no. c mentioned above, organization must be helpful to the whistleblower in gathering evidence and must also reimburse the expenses in this connection. This step will encourage employees to identify the issues carefully.
- f) Although the provision of punishment has been mentioned for retaliation or internal reporting, the required details are not mentioned anywhere- means type of punishment, extent / severity of punishment etc.

8. Recommendation for Category 8 –

- a) Time frame of reporting has not been mentioned
- b) Details not mentioned about the disciplinary steps that can be taken against intentional malicious reporting
- c) Majority remained silent on the disqualifying an employee from raising concern under the policy. Also the criteria for deciding if the report is malicious or not has not been clearly stated.(75% remained silent)
- d) Whistleblower's report act as the basis for initiating the whole process. Thus, employees must act responsibly and maintain the confidentiality of the issue. The policy framed must also make this point clear.(62.5% remained silent)
- e) If reporting is done immediately as soon as the incident takes place, it becomes somewhat easy for the investigation team to collect evidence and do investigation. As the time gap increases, the likelihood of loss of evidence and non-availability of witness increases and in the same context the extent of damage may also increase manifold. Hence, there should be a reasonable time gap and must be explicitly mentioned in the policy.

On the basis of policy analysis, it becomes clear that inspite of having whistleblower policy framed in public sector companies; the instances of whistleblowing are very few. Lack of

reporting does not mean flawless system and absence of wrongdoing, it simply means less confidence in the reporting mechanism. Unreported issue becomes very fatal to organization's health in long run. Hence, organizations must take a proactive approach. Rather than just fulfilling the formality of making the whistleblower policy, organizations must also take necessary steps to make it effective. The approach of the executives, clarity in the procedure to report, reporting authority, general information about the complaint outcome, investigation process, confidentiality and safety of the whistleblower are among the key issues that requires specific attention. In order to be effective the whistleblower policy must be very structured and cover all key areas with sufficient details. It has been observed that although many key issues are covered under the policy, many failed to incorporate the required detailing to make the policy transparent and understandable for employees. Also, mere framing of the policy or making it mandatory does not ensure that it will be used efficiently. The effectiveness of a policy depends upon the content coverage as well as its sufficient sensitization among the end-users. Whistleblower policy is very much needed to build an efficient organization having healthy work environment.

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Annexure 1

Listed CPSEs as per Public Enterprise Survey Report 2011-2012		
Sl. No.	Name of the CPSE	Whistleblower Policy
1	Andrew Yule and Co. Ltd.	CVC Resolution
2	BEML Ltd.	Yes
3	BalmerLawrieand Co. Ltd.	Yes
4	BalmerLawrie Investment	Subsidiary of 3
5	Bharat Electronics Ltd.	Yes
6	Bharat Heavy Electricals Ltd.	Yes
7	Bharat Immunologicals and BiologicalsCorpn. Ltd	CVC Resolution
8	Bharat Petroleum Corpn. Ltd.	Unavailable
9	Chennai Petroleum Corpn. Ltd.	Yes
10	Coal India Ltd.	Yes
11	Container Corpn. Of India Ltd.	Yes
12	Dredging Corpn. Of India Ltd.	Yes
13	Engineers India Ltd.	Yes
14	Fertilisersand Chemicals, Travancore Ltd.	Yes
15	GAIL (India) Ltd.	CVC Resolution
16	HMT Ltd.	CVC Resolution
17	Hindustan Copper Ltd.	Yes
18	Hindustan Organic Chemicals Ltd.	CVC Resolution
19	Hindustan Petroleum Corpn. Ltd.	Yes
20	ITI Ltd.	Yes
21	India Tourism Devp. Corpn. Ltd.	Yes
22	Indian Oil Corpn. Ltd.	Yes
23	MMTC Ltd.	Yes
24	Madras Fertilizer Ltd.	Yes
25	Mahanagar Telephone Nigam Ltd.	CVC Resolution
26	Maharashtra Elektros melt Ltd.	Yes

ⁱhttp://dpe.nic.in/sites/default/files/Chapter%20merge%20file_2.pdf - (refer Annexure 1)

ⁱⁱWhistleblower Policy

ⁱⁱⁱ Documents required = No of companies – (no of companies not having the WB policy including subsidiary + No of WB policy unavailable)
= 45 – (11 + 1) = 33

^{iv}Conduct, Discipline and Appeal Rules

^vProtected Disclosure Complaint Letter

27	Mangalore Refinery and Petrochemicals Ltd.	Yes
28	NMDC Ltd.	Yes
29	NTPC Ltd.	Yes
30	National Aluminium Co. Ltd.	Yes
31	National Fertilizers Ltd.	Yes
32	Neyveli Lignite Corpn. Ltd.	Yes
33	Oil and Natural Gas Corpn. Ltd.	Yes
34	Power Finance Corpn. Ltd.	CVC Resolution
35	Power Grid Corpn. Of India Ltd.	Yes
36	Rashtriya Chemicals and Fertilizers Ltd.	CVC Resolution
37	Rural Electrification Corpn. Ltd.	Yes
38	Scooters India Ltd.	Yes
39	Shipping Corpn. Of India Ltd.	Yes
40	State Trading Corpn. Of India Ltd.	Yes
41	Steel Authority Of India Ltd.	CVC Resolution
42	NHPC	Yes
43	Oil India ltd.	Yes
44	Hindustan Fluorocarbons Ltd.	CVC Resolution
45	SatlajJalVidhyut Nigam Ltd	Yes