



...corporate culture is a major factor in achieving business results and driving organizational development. Believing that it is possible to affect change and having the tools to do it has helped move Roche Diagnostics forward.”

**T**HE NAME ROCHE DIAGNOSTICS RESONATES in the pharmaceutical and diagnostic industry. This multinational corporation is a leader in its industry and is gradually becoming number one worldwide in biotechnology. In 2010, an initiative to change the corporate culture was launched, with the objective of creating an organization in which each employee was accountable and empowered to help drive business results.

“In laying the foundation for this culture of accountability, we wanted to ensure that our employees had common experiences and shared beliefs that led to achieving our business goals,” said Sylvie Bergeron, Senior Director, HR and Communications. “In addition to our organizational values, we set out seven cultural convictions to which we wanted our employees to subscribe and to help stimulate the adoption of these convictions, we encourage feedback and recognition between peers. For example, employees are able to offer each other targeted recognition through electronic or paper cards. Each card includes a clear description of the colleague’s achievement and links it back to one of our cultural convictions. Targeted recognition encourages responsible behaviour. This type of tool is used by managers, but it is especially popular between co-workers. Whenever an electronic recognition card is sent, the recipient’s immediate supervisor also receives a copy, allowing them to congratulate the employee on his or her contribution as well. This tool has been a great success for us. We’ve found that employees often display their recognition cards in their offices and cubicles, which demonstrates their pride in receiving them. Recognition at Roche Diagnostics is not just about quantifiable results either; an individual’s behaviour and attitude at work are also taken into account,” added Ms. Bergeron.

#### The many forms of recognition

Recognition programs at Roche Diagnostics make it possible to reward individual and group performances – rallying employees and celebrating successes. Recognition takes various forms and ranges from traditional cash remuneration awarded to the best sales representatives, to tenure based recognition for years of service and employee-of-the-quarter awards, as well as prizes to showcase employees who have made notable accomplishments over the course of the year.

“Regardless of the type of results achieved, whether quantitative or otherwise, the idea at the heart of our culture is to recognize employees who have adopted our cultural convictions and who are living the organization’s values daily,” added Sylvie Bergeron. “We also have a recognition program called High Five that involves giving an annual gift (valued at \$75) to an employee for his or her exceptional contribution. In practical terms, it may be an employee who, in addition to doing his or her job, works with a peer or team to move a project forward, or who goes above and beyond standard procedures to surpass a client’s expectations.”

To further promote a culture of accountability and to allow for increased efficiency at work, Roche Diagnostics wanted to provide employees with an effective way to encourage communication between co-workers: a process for providing open and targeted feedback was created. Aware that if executed poorly, this type of initiative could worsen difficult situations rather than improving them, all employees received training on how to provide constructive feedback; both peer-to-peer and up.



### Accountability and recognition for virtual employees

To facilitate the participation of, and create a sense of inclusion for virtual employees, Roche Diagnostics updates their intranet regularly with stories that profile employee achievement (each drawing parallels to the organization's cultural convictions). These stories include topics such as the signing of a new contract or a successful project that was recently completed. A video montage highlighting these success stories is then presented during employee events. "Our employees find these moments very touching. They like seeing how they've contributed to the organization's performance."

Clearly, this cultural shift has had a significant impact on productivity – every time a positive behaviour is recognized, its value is reinforced and the employee is encouraged to repeat that behaviour. In the spring of 2013, Roche Diagnostics plans to conduct a company-wide employee engagement survey, which will allow the organization to measure the true impact this shift in culture has had on candidate attraction as well as employee retention, accountability and engagement.

Initial feedback from the field and reporting from other organizations with similar practices suggests that all of these actions positively impact employee well-being.

### A culture that takes root

Roche Diagnostics' focus on increased employee accountability has translated to improvements on the collaboration and cooperation front. The organization's financial investment in an employee recognition program has been well worth it. "Even in difficult economic times, it is hard to argue with the power of recognition. Realizing a culture of accountability begins first with upper management before trickling down to employees," stated Ms. Bergeron. All players within the organization have had the opportunity to take ownership of the different components and tools rolled out as part of this new culture. The adoption rate for this culture shift has been high and managers are now using practical tools to assess employee performance and provide recognition along, with constructive feedback, to more effectively influence team dynamics and communication.

It goes without saying that corporate culture is a major factor in achieving business results and driving organizational development. Believing that it is possible to affect change, and having the tools to do it, has helped move Roche Diagnostics forward. The involvement of upper management, managers, and employees alike has been the key to this initiative's success. ■



# Improving Productivity Performance

BY PETER ANDERSEN, PhD

**I**T IS A WELL-KNOWN FACT that Canada has suffered from a serious productivity gap with the United States. Output per hour worked in Canada's business sector shows a dismal average annual trend rate of growth of less than 1% over the last 10 years. This is much slower than U.S. productivity growth. A big productivity gap has opened up with the United States. Productivity growth will be a fundamental determinant of Canada's standard of living in the years ahead.

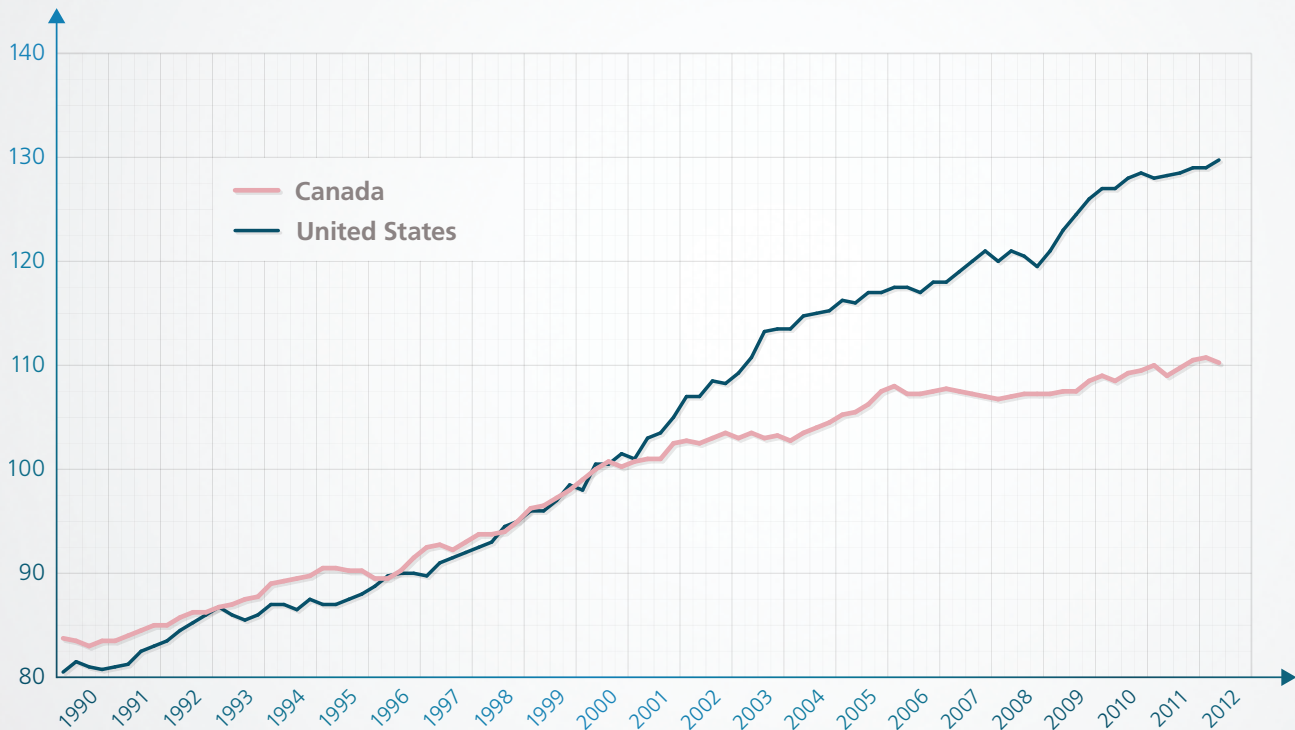
It will also determine whether the overall economic growth rate will be high enough, in the face of an aging population, to support the public safety net and carry government debt loads. Economists have suggested a number of remedies and some of them have been incorporated into government policy. The list includes lower taxes, reduced regulation, stable inflation at a low rate, improved

infrastructure, research and development, access to risk capital, reduction of interprovincial trade barriers, skills training, access to higher education and literacy programs. At this point, these efforts do not seem to have done much. We have to try harder.

As owners and managers of individual Canadian companies, we realize that such possible solutions are at a macro level and are beyond our reach. However, it is only natural to ask if there is something more that we can do on a micro company level. We should all want to take the positive approach of getting more done with the same number of workers, rather than merely producing at the same level of output with fewer workers. The latter approach might work briefly but in time it will back-fire as workers become dissatisfied by being over-worked. Rewards are more effective than punishment in reinforcing behaviour.

## Productivity Gap

Output per Hour, 2000 = 100



Goal setting has been shown to increase task effort and persistence. The challenge is to communicate what these goals are and how they will be monitored.”

Simply put, how can managers and workers become motivated to be more productive as individuals and as a group? Behavioural science shows that there are a number of ways to provide incentives and produce a win-win situation for everyone. Communication is an easy word to say but it is always difficult to put into practice. Goal setting is an effective way to increase performance. In addition, more ambitious goals produce better performance than low-level goals. Goal setting has been shown to increase task effort and persistence. The challenge is to communicate what these goals are and how they will be monitored. The goal structure can be cooperative or competitive. Both systems are useful. There should be room in organizations for both cooperators and individualists. Both team contributions and individual effort should be recognized and rewarded.

Recognition of goal related performance will reinforce behaviour and increase the probability of a continuing pattern. The rewards can take a number of forms from outright bonus payments, and other monetary incentives such as trips or prizes, to awards of various sorts. The effectiveness of an award depends on who is giving it. A powerful award would be a public recognition by a group of peers. Recognition can take on a number of dimensions within an organization.

Sometimes small things make a big difference. Recognition and rewards are powerful motivators. They reinforce perseverance and determination. They build respect for colleagues and management and pride in one's company and its products. By increasing workplace satisfaction, companies can create a productive culture and positive environment. ■

# When the Employee's Reward

BY CHRISTINE THOMLINSON, BA, LLB

ONE OF THE FREQUENT WAYS employers seek to reward their employees is through the payment of a bonus for a job well done, or in recognition of the employee's hard work or effort. We know that our employer clients view such payments as a gesture of generosity. So when these bonus payments are used as a means of trying to increase a severance package in a termination situation, employers can feel understandable distress and sometimes even betrayal ("I paid that bonus out of the kindness of my heart – how dare they try and use it against me now!"). Our employers are sometimes surprised (and dismayed) to learn that, in some circumstances, these generous historical bonus payments do in fact result in an obligation to pay increased severance on termination.

## THE LEGAL ENTITLEMENT

The legal principle which applies in these cases is that, on termination, an employee is entitled to all compensation and benefits which he or she would have earned had the employee been allowed to work during the notice period which is reflected by the severance package offered. In terms of bonus payments, this can mean two possible entitlements. First, if the employee has been dismissed partway through a bonusable year, he or she will usually claim an entitlement to bonus on account of the part year worked. Second, the employee will typically claim an entitlement to bonus for the notice period as well. Depending on the length of time represented by the two potential bonusable periods and the amount of the bonus in question, these combined claims can be significant.

# BECOMES THE EMPLOYER'S PENALTY

In determining whether an employee is legally owed payment on account of bonus in a severance package, there is a difference between bonuses to which the employee is contractually entitled (such as those paid pursuant to a bonus plan) and those which are truly discretionary. Generally, employees are entitled to payment for bonuses which form part of their contracts, but not those which are truly discretionary. Many bonus plans include specific reference to targets and performance measures, but because they also include language that says payment is ultimately left to the discretion of the employer, many employers incorrectly assume that the employee has no right to such a bonus on termination.

Where there is no contractual language clarifying the employee's entitlement to the bonus, a court will determine whether the employee came to rely upon the bonus as part of the overall compensation package, as they likely would have in a case where there was a pattern of bonus payments made over an extended period of time. In such a case, and even where the bonus plan contains discretionary language, a court could decide that the employee is entitled to the bonus as part of a severance entitlement.

## ARGUMENTS AGAINST A BONUS ENTITLEMENT

By the time a case gets to court, one easy way to defend an employee's claim to a bonus is to look back to the bonusable period which



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will likely have now passed. If the company can clearly show that the employee would not have earned a bonus had he or she worked through the notice period, then the employee’s claim will likely fail, as a court would be loathe to put an employee in a better position than his or her peers. However, these issues are often raised and resolved outside of court and before such information is known. In such cases, employment lawyers will typically look to historical bonus payments and if a pattern of historical bonus payments exists, there is likely to be an expectation that the severance package should include something on account of lost bonus.

Employers may also attempt to refute an employee’s bonus claim by pointing to language in a bonus plan. Such language might provide that the employee must be actively working at the time of the bonus payouts in order to maintain any entitlement to bonus, either on account of time worked or the notice period. However, courts are often extremely reluctant to deny an employee an entitlement to bonus because of such language, unless the employer can clearly show that the language formed an enforceable term of the employee’s contract. For example, in *Schumacher v. Toronto-Dominion Bank*<sup>1</sup>, a bonus plan condition which stated that the employee had to remain employed at the time the bonus was paid in order to be eligible to receive it, was found to be ineffective. Upon finding that Mr. Schumacher had been constructively dismissed and that the bonus made up a large component of his salary, the trial judge stated “[w]here the bonus was promoted as an integral part of the employee’s cash compensation, it would be inappropriate and unfair to the employee to be deprived of the bonus by reason of the unilateral action of the employer.”<sup>11</sup>

Even where the employer is prepared to accept that it might have a legal obligation to pay the employee something on account of bonus in a severance package, the amount of the bonus can also be a sticking point. In the absence of evidence suggesting the amount of the bonus the employee would have earned had he or she continued to work, courts have often looked historically at past bonus payments and engaged in some form of averaging to come up with a rational determination. In the face of such a calculation, many employers are again surprised to be confronted with their past generosity as an argument for a larger severance package.

#### WHAT CAN EMPLOYERS DO?

Recognizing that bonus entitlements on termination can be contentious, there are steps that prudent employers can take to minimize these entitlements on the part of their dismissed employees:

- 1 Be realistic about the types of bonuses paid. We often find that employers use “discretionary” language to describe the bonus payments employees receive when in fact it is clear that employees are receiving bonuses as an integral part of their overall compensation. These true contractual bonus entitlements should be recognized as such, and distinguished from the one-time or highly intermittent, unpredictable discretionary payments that employees might receive.
- 2 Identify a true “discretionary” bonus as such. Employers can use supporting documentation to accompany a truly discretionary payment to make clear the unique nature of the award, confirm that the payment should not be considered a promise of any future award, and even explicitly state that the payment does not entitle the employee to any increased entitlement on termination.
- 3 Review language in bonus plans where they exist, and draft bonus plans where they do not. We find that, when these issues arise, some of our employers do not even have written documentation relating to their bonus payments, and those that do are often lacking the best legal language to protect their interests.
- 4 Make effective use of an employment contract. Even better than relying on the language in a bonus plan document (which the employee may never see and/or which may be unenforceable as a contractual term), consider the employee’s right to payment of bonus on termination and include reference to this right in the employee’s contract of employment, signed before they begin to work.

Taking some of the simple steps above can assist an employer in protecting its interests, while still allowing it to take advantage of an excellent motivational tool for its employees. ■

<sup>1</sup> (1997), D.L.R. (4<sup>th</sup>) 128 (Ont. Ct. Jus. (Gen. Div.), affd by (1999), 173 D.L.R. (4<sup>th</sup>) 577 (ONCA), leave to appeal to SCC dismissed (1999), 252 N.R. 394.

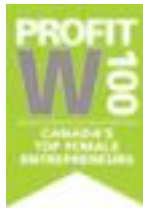
<sup>11</sup> (1997), D.L.R. (4<sup>th</sup>) 128 (Ont. Ct. Jus. (Gen. Div.) at para 223.



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