

## **The Compliance and Ethics Program: Outsourcing Inspiration**

In the June issue of the Harvard Business Review is an article by Alan Grant entitled, “*How Customers Can Rally Your Troops*”. In this article Grant argues that “End users can energize your workforce better than your managers can.” His basic thesis is that employees are highly motivated and more effective when they are shown that their job performance has a positive impact on others.

This article had me wondering if such a concept could be translated into a company’s overall compliance and ethics program. The answer I came up with is a resounding yes, it can. The first question I had to think through was who are the end users of a compliance program? From a sales perspective the typical end user would be a customer, whether commercial or consumer. So I began to think about the customers of a company and how its compliance program might affect them. Most compliance practitioners do not normally think of their sales customers as people or entities who would be end users of a company’s compliance program.

However, the more I thought about it the more I realized that any company compliance program must take customers into consideration during an evaluation process. Most companies are aware of the mantra “Know Your Customer (KYC)” and put this phrase into action. My colleague Howard Sklar calls it “compliance convergence” but however you term it a company must be aware of whom it is doing business with in the areas of export control and anti-money laundering. Sufficient checks must be run on customers to satisfy Restrictive Party Screening in the export control area. In the anti-money laundering the various Department of Commerce and Department of Treasury lists should be screened before any transactions occur.

Nonetheless, it is clear that a wide variety of third parties could be the user of a company’s compliance program, either through a Code of Conduct, Compliance Policy or Compliance Procedure. This could be third parties in the sales channel such as sales representatives, agents, resellers or distributors. It could be business partners such as Joint Ventures partners or Teaming Partners, as well as services providers such as freight forwarders, visa expeditors or customs clearance providers. This listing is not exclusive there could be others.

In his article Grant identifies methods to use the required screening to improve and enhance a company’s overall compliance program by taking companies which are subjected to such screenings and using them as examples to your own company as motivational tools. He terms it “outsourcing inspiration” and that a company can bring in outsiders to speak about a company’s overall compliance effort and how such an effort positively impacted their company. He argued that there are three mechanisms of outsourced inspiration, they are (1) Impact - Company employees themselves can see how their compliance program positively benefited other organizations; (2) Appreciate - Compliance practitioners can see how other third parties appreciate their actions and move forward the overall compliance effort; and (3) Company

compliance practitioners develop a deeper understand of the issues third parties face when complying with overall compliance programs, procedures and obligations.

Grant also posits that strong leaders are very good at outsourcing inspiration, in a complimentary role to a leader's vision. A strong leader will use such outsourced inspiration to provide examples of his or her vision. Grant listed several specific techniques by which this can be accomplished. I have taken them and adapted them for a compliance and ethics program.

- Identify past, present and future end user - See who will be the company's end users and be prepared to communicate with them on the compliance and ethics program.
- Dig up feedback from past end users - Bring in third parties from outside the company to share their positive experiences in dealing with the company's compliance and ethics program.
- Set up event and meetings where end users can share their experiences.
- Turn employees into end users - Make employees beneficiaries of a compliance and ethics code so that they will understand what it means to stand in the shoes of a third party or customer under the code, compliance policy or procedures.
- Find end users inside the organization - The sales team on are the front lines of any compliance and ethics program when dealing with customers or other third parties. Use their experiences to help guide the company in training sessions.
- Engage employees who currently perform low impact work - Find a way to make compliance everyone's business. Even if an employee might not deal with a foreign business partner or other third party, have that employee communicate something about how the Code of Conduct has guided a business decision that he or she has made. If you invest all employees with ownership, they will certainly take it and embrace it.
- Spread the message - Communicate the message throughout the organization through a variety of media and mechanisms.
- Recognize impact contributions - Because leaders are often unaware of specific compliance actions taken insider a company, have a reward or acknowledgement system to bring such conduct up to the leader's attention so he/she can acknowledge it companywide.

The final example comes from personal experience so I hope that you will find it as powerful as I did. One of the first times I was required to contact a customer to ask some questions about the customer's compliance program was with Tyco, which had gone through their own compliance and ethics journey. I informed the transactional counsel I was working with that I needed to interview a person with knowledge about Tyco's compliance and ethics program. He transferred me to someone in Tyco's compliance department. That compliance officer proceeded to tell me, over one hour, the compliance problems that Tyco had sustained and the steps that they had taken to remedy the structural problems involved through a revamped Code of Conduct and completely rewritten compliance program. He fully answered any and all questions that I put to

him. I came away from this conversation thinking that this company was committed to compliance and more importantly for Tyco; it was a company that I wanted to do business with. That is outsourcing inspiration that you cannot pay a trainer to teach.

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