

## ***Barbara Tuchman and Compliance Programs***

One of my favorite historians is Barbara Tuchman. One of the first large volumes of history I read growing up was “The Guns of August”, her Pulitzer Prize-winning book about the outbreak of World War I. The Library of America has recently released two of Tuchman’s works, the aforementioned “The Guns of August” and “The Proud Tower” which details the pre-World War I era, together with the personalities and events which led to the ‘war to end all wars.’”

This love of history coupled with my interest in ethics and compliance was piqued by an article in the Saturday edition of the Wall Street Journal (WSJ), entitled “*A Heroine of Popular History*”, by Bruce Cole. The article discussed the work of Tuchman as a popular historian and contrasted the books she wrote with those written by historians with a more academic focus. He quoted the historian Catherine Drinker Bowen, who had the following quotation over her desk “Will the reader turn the page?” I thought this question had particular relevance in the arena of compliance programs; as compliance professionals continually try to get the message of compliance throughout a corporation. So here is some of the wisdom of writing history that Tuchman advocated and how it might help the compliance professional convey the essence of doing business in compliance across a corporation.

### ***Get out in the Field***

Tuchman stressed the importance of using primary sources and visiting the sites where ‘history was made’. She said that it was necessary to keep a historian from “soaring off the ground”. From this advice, I believe that the compliance professional needs to get out of the home office, wherever that is, and visit international locations. This is the best way to find out what is going on in the field. This ties to the second point of using primary sources. In the compliance arena, your primary sources are the employees in your own organization. Cole quoted Tuchman that you “arrive at a theory by way of the evidence, not the other way around”. This advice sounds like the guidance from the Department of Justice (DOJ) that your risk assessment should inform your compliance program, not the reverse.

### ***Study Your Company Culture***

In the field of history, Tuchman did not view nations or individuals as “helplessly swept along by forces of history beyond their control.” She viewed history as driven by human “foibles, flaws and occasional heroism, rather than by abstract systems.” This means that a compliance professional needs to understand how the cultures in your organization work and then create a compliance program to fit those needs. It does not mean a company can continue to do business with corrupt intent but if there is a culture of gift giving in a geographic area, you should determine a way to continue such courtesies, within the context of your overall compliance regime.

### ***Write Your Policies for Everyone***

This is probably Tuchman's greatest lesson, for both the historian and for the compliance practitioner. Tuchman never received a post-graduate degree in history so she never learned to write like a professional historian, beginning with a "footnote-laden dissertation-written strictly to be read by other scholars." Tuchman wrote for a wider reading popular audience. The same can be said for written compliance policies. In academia, a Professor's progress is measured by the judgment of his or her scholarship by peers. Unfortunately, those peers are steeped in the same academic training and therefore judge scholarship on the same criteria as that used to judge dissertations. Tuchman believed that by not pursuing a PhD in history, she was a better writer. She was quoted in the Cole article as having said, "It's what saved me, I think. If I had taken a doctoral degree it would have stifled my writing capacity."

Many times compliance policies are written by lawyers and can only be read and interpreted by other lawyers. It is really not our fault as we were all trained in law school to "think and write like a lawyer" but out there in the real world, such language does not always work for the intended audience. This point is even memorialized in the UK Ministry of Justice's Six Principles for Adequate Procedures which reminds compliance practitioners that anti-bribery compliance policies should be written in "plain English." While many lawyers, particularly outside counsel who have never practiced as in-house counsel, write like lawyers for other lawyers to read, such writing style does not work for most business people. Therefore in-house counsel should work with a business unit representative, or several, to make the language in written compliance programs accessible to people in the field who are trying to read and understand it.

Just as the Library of America celebrates Tuchman in its recent release of two her greatest works, we in the compliance field should celebrate her for the guidance that she provides in our discipline.

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